

The following is San Fernando Valley Audubon Society's comments related to the USACE's Technical Report sent to the LARWQCB on February 11, 2013 in reply to the Board's Investigative Order R4-2013-0001 dated January 10, 2013.

There are many factual errors and serious omissions in the Corp's Report, which we point out here by referencing the Item number in the Investigative Order.

#### Item

#4: The report states "1.25 acres of existing roads were graded" and "0.5 acres of new access roads in the East Parcel" were graded. In fact, the grading included all 0.67 miles of the pre-existing decomposed granite trail/road, 0.98 miles of new roads, a several acre area around the Pothole Pond, and several scraped areas in the Central Parcel.

#5: The report ignores the removal of vegetation in the Los Angeles River and Encino Creek where it joins the Los Angeles River just south of Burbank Boulevard. It also ignores the approximately 100 mature native trees that were in the East Parcel prior to the Project that are no longer on site.

#6: No trees were flagged for this Project, as acknowledged by USACE team, LA Times reporter Louis Sahagan, and others on December 28, 2012. Native trees remaining on site include *Populus fremontii*, *Populus trichocarpa*, *Quercus lobata*, *Quercus agrifolia*, *Acer negundo*, *Umbellularia californica*, willows, and native ash (sp?). Three non-native and more than 100 native mature trees (mostly cottonwoods and willows) were removed from the site during the project.

#7: The report states that the Los Angeles River "traverses the Project area". Therefore, work done within the River invert on the days work was performed on this Project, was actually a part of this Project.

Determining that the area is not wetlands only through soil tests, after significant disturbance of soils and removal of all vegetation (bulrushes and cattails), is not in compliance with their own (or any) protocol. Page 12 of the FONSI (Background) states that the Proposed Action Area "endures inundation on an annual basis, often for weeks at a time". This in itself, with its proximity in the floodplain of the Los Angeles River, is enough to define the area as a wetland. Map 25 in the 2011 Master Plan also marks the area as "Riparian". Maps 8, 16, and 24 mark the area as "Wildlife Area".

#8: Prior to the Project there was a dual purpose recreational trail/maintenance road (partially paid for by the City of Los Angeles) that came through the wildlife corridor under Burbank Blvd., went east to the Pothole Pond, and west to and along Haskell Creek to the Los Angeles River. That trail/road also extended across a foot bridge over Haskell Creek and to Burbank Blvd. along the east side of the Burbank Drainage channel. The entire length of this trail/road (0.67 miles) was made of decomposed granite lined with wood 2 by 4s.

The Project has widened that trail/road to about 20 feet and, in the process, destroyed the integrity of the decomposed granite and wooden barriers, as well as several concrete markers near the bridge. In addition to this disturbance/grading of soil, an L shaped maintenance road was installed through the middle of the Center Parcel, another maintenance road was installed along the north side of Haskell Creek in the Center Parcel, and 3 new maintenance roads were installed in the East Parcel. The total length of newly installed maintenance roads is 0.98 miles. There was also a pre-existing maintenance road along the toe of the dam that was not significantly impacted by the Project.

#9: The report states “there have been no restoration projects in the project area”. From 1979 through 1983 the USACE used its own biologist, contract employees, and volunteers to restore the area with native plants. Special emphasis was given to the Burbank Boulevard southern embankments and associated berm where coastal sage scrub was introduced, but planting of oak trees and other native plants took place throughout the South Reserve. During this same time period, the marsh in the South Reserve was delineated and dug. The depression is still visible approximately 200 feet southeast of the Pothole Pond. However, a source of water was never agreed upon and it was not filled.

Also, when the South Reserve was impacted by the extension of the Tillman Reclamation Plant effluent pipeline installation through the area, restoration was required by the USACE. They formulated re-vegetation plans “for the disturbance of 1.5 acres of **riparian** scrub” and required 3 to 1 mitigation (4.5 acres) outside of the affected area, as well as replanting of the disturbed area. A list of plants was even provided by the Corps.

#10: The 2011 Master Plan (page 4.2) says that Vegetative Management Lands “shall be managed for the protection and development of forest and vegetative cover”. Page 6.7 gives several recommendations for those areas. Nowhere is there any consideration of removing native plants, engaging in habitat conversion, eliminating the Pothole Pond, preventing endangered species from becoming established (see Engineering Technical Letter), introducing additional maintenance roads, or anything close to what was done under the guise of this Project.

The stated purpose and justification of this Project was to facilitate “visual inspection of the dam” and “engineering inspections of the facility”. Nothing that they said they were going to do, or actually did, will have any impact on their ability to inspect the dam or facilities.

The Engineering Technical Letter referenced as a justification for the Project does not apply to the Project area. It only applies to dams, levees, berms, embankments, and appurtenant structures – not flood plains. It in no way authorizes what they did.

The report states that they are trying to create an “oak-sycamore woodland savannah”. No such alliance or association exists in the more than 3000 alliances and associations listed in the Natural Communities List for California.

The report references several meetings where they allege that the community was providing input into the proposal. However, there are no agendas, minutes, or any documentation of these meetings, and there are only sign in sheets for 3 of them. Most of the same people were at all of them and all other interested parties were excluded. No community groups or other stakeholders participated. Attendees were either city agency employees, or representatives of city elected officials - who certainly would have expected the public to be informed of the Project before its implementation.

It should be noted that the letter from the LAPD officer was written at the specific request of the USACE after the fact, and her opinions are unsubstantiated. In fact, she was not an LAPD officer at the time of the Project implementation.

#11: The report states that there was no “earthen fill discharged into the pond”. Maybe nothing defined as “fill”, but there certainly was dirt bulldozed into the pond. The edges of the Pond were graded resulting in the removal of all vegetation associated with wetlands (apparent in before pictures). All of this dirt and vegetation (including trees with root-balls intact) was pushed into the pond.

#13: The maps provided in the report are incomplete and do not show 3 of the new roads that were created.

#14: The report says “no heavy equipment accessed the Los Angeles River invert”. Visual and photographic evidence shows otherwise. All of the vegetation was removed from that stretch of the River as well as Encino Creek and Haskell Creek where they join the Los Angeles River.

The report says that there was “no disturbance to earthen substrate within Haskell Creek”. Less than 1/4 of the disturbed banks of Haskell Creek were lined with concrete, the rest was earthen substrate where all vegetation was removed.

#15: There is no mention in the report of the vegetation removal that took place within the Los Angeles River invert. This was the second time in 6 months that the USACE bulldozed the vegetation from this section of the River. This was confirmed by USACE staff during our walk through with Colonel Toy on February 12, 2013.

#16: In the Wildlife Habitat section, observed species include Loggerhead Shrike and American White Pelican, both of which are California Bird Species of Special Concern. In the Rare, Threatened or Endangered Species section, they say that there are no State listed species in the area. Several other listed species are present later in the year including Bell’s Vireo, Vaux’s Swift, Yellow Warbler, and Yellow-breasted Chat. In the Wetlands section it says that wetlands vegetation was not found at the end of January. All wetland vegetation (including bulrush and cattail) was removed from the

Pothole Pond as part of the Project in December. Cattails are now re-growing around the pond (photo documentation).

#18: No water quality monitoring was performed.

#19: No habitat or biological assessments were made before the vegetation removal.

#21: The report states that “a large majority of the cottonwood trees in the East Parcel are dying or are completely dead”. Except for the 2 burnt and dead cottonwoods near the Wildlife Corridor, there are no dead cottonwoods in the area. They said they did not remove any native trees, so they should still be there. Apparently they are mistaking deciduous trees for dead trees.

Uprooted cottonwood and willow trees with root rot? Where are they? Willow trees thrive in fully saturated soils and are not subject to root rot.

Oak Sycamore woodland savannah is not a recognized ecosystem at all, let alone an “endangered ecosystem”.

#24: NEPA and the Corps own guidelines call for a 30 day public notice. There is no evidence that even the 15 day notice was ever posted on their web site. No comments were received because nobody knew of the Plan. The USFWS was not notified (as required) of the potential to disturb riparian or Bell’s Vireo habitat.

#25: There is no documentation to show that the 8 meetings mentioned relate in any way to the Vegetation Management Plan. There is no indication of who attended 5 of those meetings or what was discussed in any of the meetings. The only 3 meetings with sign in sheets show that the attendance was limited to very few agencies. Only 1 of these meetings took place after the Vegetation Management Plan was developed.