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tremendous amount and would not be very good to look at."

*Malissa McKeith, an attorney who lives just below the old levee and has spent tens of thousands of dollars of her own money in fighting to shore up the protections at Deer Creek, said she hoped the **fires** would lead local officials to reassess the flooding dangers.*

"Everyone has known there was a problem; they just hoped it did not occur on their watch," McKeith said. "Well, now the problem's here. At this point, I'm just hoping that someone will take a look at these schools. It's not too late to do something to protect them."

The flood control planning on the project is for a 50 year storm. These have a 2% chance of occurring in any year. These are more common and less in severity than a 100 year storm that has only a 1% chance of occurring in any year. Yet, the Los Angeles Times article indicates that even drainage systems designed to handle the flows of a normal 100 year storm will not be able to handle the flows of a 100 year storm with fire damage to the area. As the article indicates this debris flow danger could exist several years after the wildfire. **The 50 or 100 year storm does not have to immediately succeed the wildfire.**

So, even with the project designed to handle flows of a 50 year storm, the design is inadequate and represents an unmitigable significant impact if the drains and culverts are not designed to handle debris flow after a fire devastates the area in a 50 year or 100 year storm. Either the project will have to be redesigned to incorporate changes to handle such a situation or the EIR must state the unmitigable significant impact that the development poses to the area.

The debris flow problem after a fire and heavy storm is not an isolated event that happens rarely in Southern California. If you search local news papers for records of floods or debris flow problems after wildfires, you will have a large number of documented occurrences that have occurred in Southern California in the last century, even after flood control measures have been implemented.

When Interstate 210 was designed, it was probably not foreseen that a development would someday be above and below it. As such, the drains that go under the Interstate Freeway may not have been designed to handle the debris flow of a developed area that has been graded and denuded of its natural vegetation.

The drains may not have been especially designed for the situation where the area was developed and surrounding areas were additionally denuded from wildfires. The EIR must discuss these scenarios because it is not a question that these events will occur, it is a question when such as catastrophe will occur. As we have previously discussed in the geology and soils section, flooding after a wildfire can be worse than would normally be expected because resins in the burned vegetation melt into the soil, forming a waxy layer that impedes water absorption.

Also, not enough discussion on the adequacy of catch basins was discussed in the EIR. With the

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great potential for flooding in this area, especially after a major wildfire, catch basins must also be designed to handle the runoff from the burned areas and the developed areas where the water will no longer be absorbed into the soil. The location and size of these basins must be discussed in the EIR.

All drains, channels or other modifications made for the project area drainage must be non-erosive. They must not create new problems of soil erosion and other issues that might impact the stability of the project soil or lands.

There is a great potential for severe water flow in the project area with the presence of 8 blue-line streams and 23 drainage courses as reported in the EIR.

Both Development Areas A & B as parts of the 8 blue-line streams and 23 drainage courses transect these areas help in the recharge of a substantial amount groundwater. The development will result in a substantial amount of the area that may collect and rainwater and recharge it in natural watercourses. The development would result in diverting some of the rain water and other ground water into concrete drains which will no longer flow into any fresh water aquifers. The city of Los Angeles receives an important amount of its water supplies from San Fernando Valley aquifers.

The EIR does not even discuss the impact of the development on the San Fernando Valley aquifers. The EIR must discuss this and indicate whether there is a significant unmitigable impact on the watershed of this area. Also, as there are many projects in the region that also may impact the area watershed in this way, the cumulative impacts of this project and the others must be discussed for levels of significance. Otherwise, we might conclude that there is a significant impact.

The report does not discuss that amount of groundwater that may be found in the project area. The seeps and springs that exist on the project site were not found by the consultants or even looked for in fieldwork. The consultant must discuss groundwater recharge potential. The impact on ground water recharge remains a significant impact.

Additionally, this section of the EIR must discuss how this project meets or does not meet the goals and objectives set forth in the City of Los Angeles General Plan Regarding Stormwater. We have including these goals and objectives of the City of Los Angeles General Plan and a discussion of the issue from it.

Stormwater

The 1994 Los Angeles Regional Water Quality Control Board's Basin Plan is the document that outlines the regulatory process for the protection of the beneficial uses of all regional waters. According to the Basin Plan, the City is located within three of the four major watersheds that make up the Los Angeles-San Gabriel Hydrologic Unit: the Ballona Creek, Dominguez Channel and the Los Angeles River. The revised Basin Plan also recognized the Santa Monica Bay Watershed Management Area which is comprised of the Ballona Creek and Malibu Creek

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watersheds (consistent with the Santa Monica Bay Restoration Project boundary). Storm drains within the City are constructed by both the City and the Los Angeles County Flood Control District (LACFCD), managed by the Los Angeles County Department of Public Works. The LACFCD constructs the major storm drains and open flood control channels, and the City constructs local interconnecting tributary drains. The City designs the storm drain system so that flows from a 10-year event will not exceed the curb height, and flows from a 50-year event will be within the street right-of-way, while the County designs for a 50-year storm event and the Federal government (Army Corps of Engineers) designs for a 100-year event.

While a comprehensive list of local storm drain deficiencies has not been compiled for the Framework Element, the current list of capital improvements provides some understanding as to where problems exist. Most significantly, two large district-proposed drainage projects would reduce existing flood hazard areas. The Army Corps of Engineers/County "LACDA" project would provide flood reduction benefits along the Los Angeles River, largely outside of the City limits. The County's Hollyhills drain project would reduce/eliminate existing flood hazards in the West Los Angeles area from the Ballona Creek northwards into West Los Angeles and the City of Beverly Hills. The County's Project 9250 would reduce the large 100-year flood plain area that lies north of Wentworth Street and south of Foothill Boulevard.

Stormwater Management Options

Onsite capture of stormwater runoff through improved management of the urban forest offers still another source reduction within one infrastructure system (stormwater) that results in a transfer of

a usable volume of material to another infrastructure system (water supply).

In urban areas barren of trees, rainfall runoff builds up more quickly, requiring more expensive drainage systems, to prevent local flooding and soil erosion. In neighborhoods where trees are well established, this process can be slowed, thereby allowing the stormwater a greater chance to soak into the soil, replenishing both surface moisture levels and underground water tables, and potentially reducing the flood hazard caused by the rapid flow of runoff into the stormwater catch basins and channels.

STORMWATER

GOAL 9B

A stormwater management program that minimizes flood hazards and protects water quality by employing watershed-based approaches that balance environmental, economic and engineering considerations.

Objective 9.5

Ensure that all properties are protected from flood hazards in accordance with applicable standards and that existing drainage systems are adequately maintained.

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Policies

- 9.5.1 Develop a stormwater management system that has adequate capacity to protect its citizens and property from flooding which results from a 10-year storm (or a 50-year storm in sump areas). (P8)
- 9.5.2 Assign the cost of stormwater system improvements proportionately to reflect the level of runoff generated and benefits. (P8, P66)
- 9.5.3 Implement programs to correct any existing deficiencies in the stormwater collection system. (P8)
- 9.5.4 Ensure that the City's drainage system is adequately maintained. (P8, P42)

Objective 9.6

Pursue effective and efficient approaches to reducing stormwater runoff and protecting water quality.

Policies

- 9.6.1 Pursue funding strategies which link the sources of revenues for stormwater system improvement to relevant factors including sources of runoff and project beneficiaries. (P9)
- 9.6.2 Establish standards and/or incentives for the use of structural and non-structural techniques which mitigate flood-hazards and manage stormwater pollution. (P8)

9.6.3

The City's watershed-based approach to stormwater management will consider a range of strategies designed to reduce flood hazards and manage stormwater pollution. The strategies considered will include, but not necessarily be limited to: (P8)

- a. Support regional and City programs which intercept runoff for beneficial uses including groundwater recharge;
- b. Protect and enhance the environmental quality of natural drainage features;
- c. Create stormwater detention and/or retention facilities which incorporate multiple-uses such as recreation and/or habitat;
- d. On-site detention/retention and reuse of runoff;
- e. Mitigate existing flood hazards through structural modifications (floodproofing) or property by-out;
- f. Incorporate site design features which enhance the quality of offsite runoff; and
- g. Use land use authority and redevelopment to free floodways and sumps of inappropriate structures which are threatened by flooding and establish appropriate land uses which benefit or experience minimal damages from flooding.

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- 9.6.4 Proactively participate in inter-agency efforts to manage regional water resources, such as the Santa Monica Bay Restoration Project, the Los Angeles River Master Plan, the Los Angeles River Parkway Project and the Los Angeles County Drainage Area Water Conservation and Supply Feasibility Study. (P8, P65)

Objective 9.7

Continue to develop and implement a management practices based stormwater program which maintains and improves water quality.

Policy

- 9.7.1 Continue the City's active involvement in the regional NPDES municipal stormwater permit. (P8, P65)
- 9.7.2 Continue to aggressively develop and implement educational outreach programs designed to foster an environmentally-aware citizenry. (P8)
- 9.7.3 Investigate management practices which reduce stormwater pollution to identify technically feasible and cost effective-approaches, through: (P8)
- a. Investigation of sources of pollution using monitoring, modeling and special studies;
 - b. Prioritization of pollutants and sources;
 - c. Conducting research and pilot projects to study specific management practices for the development of standards; and
 - d. Developing requirements which establish implementation standards for effective management practices.

Water Supply

The Department of Water and Power manages the water supply for Los Angeles. Its goal is to insure that the City's water quality and demand are met by available water supplies. The City obtains its water from the Los Angeles Aqueduct, local wells, purchases from the Metropolitan Water District, and use of reclaimed wastewater. The quantities of water obtained from these sources vary from year to year and are dependent on weather conditions and water demand.

In recent years, the long-term water supply available from the Los Angeles Aqueduct has become uncertain, and the City has committed itself to increasing the reliability of its water supply. Future increases in the use of reclaimed wastewater will help make the total water supply more reliable. The Los Angeles City Council has established a goal for the reuse of 40 percent of its wastewater by the year 2010. Reclaimed wastewater will be used for groundwater recharge, agriculture, recreation, landscaping, industry, sea water intrusion barriers, and environmental enhancement. The use of reclaimed wastewater will displace or supplement potable water supplies and therefore increase the reliability of the City's water supply.

Through a combination of continued demand side management and increased use of reclaimed wastewater, Los Angeles' future water demands can be reliably met with available water supplies.

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WATER SUPPLY

GOAL 9C

Adequate water supply, storage facilities, and delivery system to serve the needs of existing and future residents and businesses.

Objective 9.8

Monitor and forecast water demand based upon actual and predicted growth.

Policy

- 9.8.1 Monitor water usage and population and job forecast to project future water needs. (P42, P43)

Objective 9.9

Manage and expand the City's water resources, storage facilities, and water lines to accommodate projected population increases and new or expanded industries and businesses.

Policies

- 9.9.1 Pursue all economically efficient water conservation measures at the local and statewide level. (P9, P63)
- 9.9.2 Develop reliable and cost-effective sources of alternative water supplies, including water reclamation and exchanges and transfers. (P9)
- 9.9.3 Protect existing water supplies from contamination, and clean up groundwater supplies so those resources can be more fully utilized. (P9)
- 9.9.4 Work to improve water quality and reliability of supply from the State Water Project and other sources. (P9)
- 9.9.5 Maintain existing rights to groundwater and ensure continued groundwater pumping availability. (P9)
- 9.9.6 Identify the needs for land and facilities necessary to provide an adequate and reliable water supply and develop those facilities in an environmentally and socially sensitive way. (P9)
- 9.9.7 Incorporate water conservation practices in the design of new projects so as not to impede the City's ability to supply water to its other users or overdraft its groundwater basins. (P7, P63)
- 9.9.8 Design projects located in hillside areas so as to maintain the City's ability to suppress wildfires. (P18, P24)
- 9.9.9 Clean or replace where necessary, deficient water distribution lines in the City. (P9)

Objective 9.10

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Ensure that water supply, storage, and delivery systems are adequate to support planned development.

Policies

- 9.10.1 Evaluate the water system's capability to meet water demand resulting from the Framework Element's land use patterns. (P9)
- 9.10.2 Solicit public involvement, when appropriate, in evaluating options for the construction of new and/or expansion of existing water facilities. (P9)

Objective 9.11

Ensure, to the extent possible, the continued provision of water capacity, quality and delivery after an earthquake or other emergency.

Policy

- 9.11.1 Provide for the prompt resumption of water service with adequate quantity and quality of water after an emergency. (P64)

The EIR does not discuss use of potentially hazardous materials to the environment such as use of pesticides, fertilizers, and other yard care chemicals. These chemicals may be used in the project landscaping and also in the landscaping of these lots. Hazards such as these must be identified and mitigation measures must be recommended to minimize the impact of these. If there are no adequate mitigation measures that can be recommended, the EIR must make the finding that the project will have a significant impact regarding the project's impact on water quality.

The EIR must recommend mitigation measures to minimize pollutants that may enter the project drainage systems. The EIR may recommend systems or devices that prevent pollutants from entering the drainage systems or trap pollutants in places that can be removed from the project area without them becoming contaminants in our water system.

Either the project will have to be redesigned to incorporate changes to handle debris flows after a wildfire or the EIR must state the unmitigable significant impact that the development poses to the area. The EIR must discuss the impact of the development on the watershed and aquifer areas of the San Fernando Valley and the cumulative impacts of this project and others on it. The EIR must also discuss how the project meets or does not meet the goals and objectives of the Los Angeles General Plan.

Section IV. D.1. BIOLOGICAL RESOURCES-FLORA AND FAUNA

The Biological Surveys were conducted from March 2002 to February 2003. The number of days when observations were made, how long each day's observation was made, and dates were not disclosed in the study. Also, the report notes that observations were made during a significantly low rainfall year which would also impact observations. The study may not be adequate because too few observations were made. However, information valuable to the

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determination of the adequacy of the Biological Surveys has not been disclosed or discussed.

The observation methods and techniques do not indicate that any night surveys or use of night surveillance equipment was used to determine the presence of animals. The surveys missed a lot of common large mammals that would be expected to be found on site. Many of these animals are nocturnal and would only be expected to be detected from night surveys or use of night surveillance equipment. That may also mean that rare, endangered or threatened amphibians also could have been missed because many of these animals are also nocturnal.

The EIR indicates that the project biologists searching for the California Gnatcatcher conducted 6 surveys on 6 different days between April 29, 2002 and June 5, 2002. The information disclosed indicates that all surveys were completed by 12 pm and each biologist surveyed less than 80 acres each observation day. The EIR needs to disclose the amount of time each biologist spent in the field, dates that the surveys were done, and the actual amount area surveyed each day. It does not seem that for this survey work that was completed by 12 pm that the biologists would have actually covered close to 80 acres of territory especially with the terrain and vegetation conditions that exist on site.

Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. This information must be disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone.

The EIR indicates that the project biologists searching for the Least Bell's Vireo conducted 8 surveys on 8 different days between April 10, 2002 and July 31, 2002. The information disclosed indicates that all surveys were about 5 hours in length. The EIR needs to disclose the dates that the surveys were done and the actual amount area surveyed each day. Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. We do not know if the biologists were even searching for the Least Bell's Vireo in the proper habitat. This information must be disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone.

The EIR indicates that the project biologists searching for the Sensitive Reptile species conducted surveys in the Spring and Summer of 2002. The EIR does not disclose the dates the surveys were done, the times of observation, and the areas explored. The EIR needs to disclose the amount of time each biologist spent in the field, dates that the surveys were done, and the actual amount area surveyed each day. If the same survey techniques were used for sensitive reptile species as was done with the wildlife corridor survey, this survey would be inadequate for not searching an adequate area within the project site besides other factors that limit the scope of the biologists survey work.

Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. This information must be

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disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone.

We will discuss numerous examples of the inadequacy of the biological survey. The inventory of biological resources on the project site has been consistently understated. Inaccurate information can lead to an incorrect conclusion about the impacts of this project by decision makers.

The surveys also focused on looking for the presence of some species to the exclusion of determining if other important species were present. We believe that important rare animal species were missed as a result of the survey work. Accurate survey work must be done and surveys must be conducted again to make the information in the EIR accurate in order to understand what flora and fauna will be lost and the significance of the project's impact on wildlife.

The survey also missed the presence of mountain lions or cougars. The report doubted that they could exist in this area because they claim that this is a fragmented habitat being cut by an interstate freeway and other obstacles to link this area as part of a wildlife corridor. However, numerous area residents did observe recently a mountain lion or lions. There were multiple observations of a single mountain lion which could be observation of the same individual or multiple observations of different single individuals. Though mountain lions are not endangered or threatened, they are a rare species in the Verdugos and possibly the project site.

The biologists also missed detecting or sighting deer or bobcats which residents claim are common in the project areas. This is another indication that the biology surveys were inadequate. There are many possible reasons why these more common animals were not detected.

The biology surveys must be redone with more time spent and other search methods including ones that we have recommended in our response to the EIR.

It is unclear if the project biologist observed any reptiles or amphibians on the project site. The Duke project biologists did observe several different species of reptiles and indications of the San Diego Horned Lizard on that project site. Starting on Page 92 of Appendix G, the Biological Technical Report it lists pages of animals that the report indicates were observed. However, there is no corroborating data indicating any locations that these animals were found. Also, if these animals were found, some are California Species of Special Concern that deserve mentioning in the EIR as found on the project site. These are rare or sensitive species.

The Duke biologists also observed a number of bird species on that project site that were not observed on the Canyon Hills project area. These include the Cooper's Hawk (State Species of Special Concern), acorn woodpecker, and great horned owl.

Residents have also indicated that other rare or sensitive species have been observed in the project area that were not found in the surveys conducted by the project biologists. These include the peregrine falcon, silvery legless lizard and Cooper's hawk. The Peregrine Falcon is a State Endangered species. Though none of these species is federally endangered, it does indicate the biological surveys of the project site were neither thorough nor adequate. The

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surveys conducted does not adequately assess the inventory of important biological resources that will be lost with this development. We might expect that there are San Diego Coast Horned Lizards and Two Striped Garter Snakes that exist on site. These species have been observed at other sites in the Verdugos that are much more fragmented areas from connections with other wild areas than the project area on this site.

The project biologists did not do adequate raptor surveys looking for Cooper's Hawks and other Raptors and their nest sites. Also, there were not adequate surveys for other Species of Special Concern Found on site.

The project area also does contain potential habitat area for the Least Bell's Vireo and the Coastal California Gnatcatcher as well as other rare, endangered, or threatened animal species that might be expected to live in or near the project area. The EIR under CEQA must fairly and accurately disclose what would be lost with this development and whether these are significant and mitigable.

The project biologists in their wildlife surveys did apparently look for raptors but did not find any. This seems unusual that the project biologists did not find raptors or Cooper's Hawks on the project site as the biologist for the Duke Development did spot this sensitive species. The Duke Development biologist believed that the Cooper's Hawks do breed in the area. The biologists do seem to be aware of California's laws concerning the disturbance of raptors and their nests. We have listed excerpts from California fish and game laws concerning this.

3503.5. It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

The fine for a violation under California Fish and Game Code Section 3503.5 is listed below:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000), imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars (\$2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

- (1) Section 1059.
- (2) Subdivision (d) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.
- (7) Section 3005.9.
- (8) A violation of commission regulations that is discovered pursuant to Section 3005.91 or 3005.92.
- (9) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the

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punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or both that fine and that imprisonment.

(d) (1) A license or permit issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended. The license or permit shall not be reinstated or renewed, and no other license or permit shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 3005.9, 3005.91, 3005.92, 5650, 5653.9, 6454, 6650, or 6653.5.

All raptor nesting sites need to be found and project work cease in the area if the raptor nests are found. The raptor nests cannot be destroyed by the project activity and must be preserved.

Another inadequacy with the biological surveys was the survey of sensitive plant species. In the EIR, Figure IV.D-2 lists sensitive species found on the project site. In Development Area A, the map lists 5 Ocellated Humboldt Lilies that are found in drainage 4 or its tributaries. On December 6, 2003, we found 7 individual Humboldt Lilies near an area where the map lists 1 individual. In another area that was part of the drainage 4, we found over 20 individual Humboldt Lilies near an area where the map lists 3 individuals. In nearby tributary 4.19, we found 31 individual Humboldt Lilies where the map lists none. This is a gross understatement of some of the sensitive species on the project site. There are at least 60 Ocellated Humboldt Lily plants in an area that only 5 individuals are noted in the EIR survey map. However, in the EIR on Page IV.D-58, it does indicate that there are 134 Ocellated Humboldt Lilies on the project site and 78 will be lost by the development. The sensitive species map, Figure IV.D-2 does not show this many individuals. The EIR does not disclose where the 134 Humboldt Lilies are and where the 78 will be lost. So, this problem between the map and text must be corrected. If you look at the map you cannot tell how many Ocellated Humboldt Lilies will be lost. If you look at the text in the EIR, you cannot tell where the Ocellated Humboldt Lilies will be lost.

The Vegetation or Habitat Map that is Figure IV.D-1 does contain some inaccuracies. Drainage 4 runs through a significant part of the Project Area A. From the point where Tributary 4.6 intersects Drainage 4 and Tributary 4.9 intersects Drainage 4, we observed that the entire length of Drainage 4 is be some type of riparian habitat such as the Southern Mixed Riparian habitat. The map shows a gap in the riparian habitat between the points mentioned in the previous sentence. It is incorrect that it is not being shown as being a riparian habitat. This error should be corrected and if field work is required to make a determination about the type of habitat that must be done.

I have found additional Southern Coast Oak Riparian habitat is missing from the Figure IV.D-3 and D-5. This habitat would be eliminated when the development is built. It's loss is not noted in the EIR. In tributary 4.35, below the confluence of tributaries 4.1 and 4.38, before it reaches drainage 4, this is where this riparian habitat is located. The trees in the riparian habitat are seen in the EIR Figure IV.D-10 which is the N4 Tree Detail map. Trees 286-290 are located in this