

9.0 Attachments

Attachment A - Flow Easement Document

Attachment B – October 21, 2009 Letter to the USACE from City

Attachment C – December 18, 2009 Letter to the USACE from City

Attachment D – July 29, 2011 Letter from the USACE to City

Attachment E – November 4, 2011 Letter from the USACE to City

Attachment F – Letters of Support for the Modification

FILED

JUL 7 1955

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
G. A. Simmons

1 LAUGHLIN E. WATERS
United States Attorney
2 ALBERT H. MINTON
Assistant U. S. Attorney
3 821 Federal Building
Los Angeles 12, California
4 RAdison 5-7411, Ext. 699

5 Attorneys for Plaintiff

JUDGMENT
DECKETED AND ENTERED

JUL 7 1955

CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
G. A. Simmons

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12
13 VE.
14 CERTAIN PARCELS OF LAND IN THE
COUNTY OF LOS ANGELES, STATE
OF CALIFORNIA, etc., et al.,
15 Defendants.

No. 9103-WM. Civil
INTERLOCUTORY JUDGMENT
(As to Tract No. Q-1409 only)

16
17 There having been filed and presented to the Court in
18 the above entitled cause a Stipulation Relative to Modification of
19 Radio Broadcasting Facilities and for Flowage Easement, as to the
20 real property herein and in these proceedings designated, described,
21 and referred to as Tract No. Q-1409 of the Whittier Narrows Flood
22 Control Basin project, which said stipulation is dated January 18,
23 1955, and is executed by the plaintiff, United States of America,
24 by Laughlin E. Waters, United States Attorney, and Albert H. Minton,
25 Assistant United States Attorney, for the Southern District of Cali-
26 fornia, and by the defendant, Pacific Coast Broadcasting Company, a
27 corporation, record owner of said property so designated, described,
28 and referred to, and the said parties having stipulated and agreed
29 in writing, among other things:

30 1. That, for and in consideration of the payment by
31 plaintiff to the said defendant, Pacific Coast Broadcasting Company,
32 a corporation, of the total sum of \$85,959.46, defendant broadcast-

ANM:ed
6/27/55

*File
7/6*

Encl 3

ing company shall:

1
2 a. Modify, relocate, and reconstruct the facilities of said defendant, as set forth in said stipulation;

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4 b. Furnish the services, labor, materials, tools, and equipment necessary to perform the work specified in said stipulation;

5
6
7 c. Procure the necessary permits and licenses to perform the work and obey and abide by all applicable laws, regulations, ordinances, and other rules of the duly constituted public authorities wherein the work is to be done; and,

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11 d. Accept the sum of \$38,600.00 as the fair, just, and adequate compensation, inclusive of interest, to be paid for the condemnation and taking by plaintiff of the estate and interest in the aforesaid real property as described in paragraph VIII of said stipulation and as set forth in paragraphs IX and X thereof, and the further sum of \$47,339.46 as full and complete reimbursement to said defendant for the modification, relocation, and reconstruction of its facilities;

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19 2. That there shall be taken and condemned herein plaintiff, under the terms and conditions hereinafter set forth, the hereinafter described interests and estates in the above described and referred to real property;

20
21
22 and the Court being fully advised in the premises,

23
24 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED by the Court:

25
26 I,

27 That, on January 13, 1949, a Complaint in Condemnation, and on March 30, 1951, an Amended Complaint in Condemnation, both of which included the real property herein and in these proceedings designated, described, and referred to as **Tract No. Q-1/100** of the Whittier Narrows Flood Control Basin project, were filed herein by plaintiff, at the request of the Secretary of the Army of the United

1 States, the authority empowered by law to acquire the lands de-
2 scribed in said Complaint and in said Amended Complaint, and under
3 the direction of the Attorney General of the United States;

4 II.

5 That in said Complaint and in said Amended Complaint
6 a statement of the authority under which and the public use for
7 which the said lands were taken is set out; that the Secretary of
8 the Army of the United States is the person duly authorized and
9 empowered by law to acquire the lands such as are described in the
10 said Complaint and in the said Amended Complaint for the purposes
11 aforesaid, and the Attorney General of the United States is the per-
12 son authorized by law to direct the institution of said condemna-
13 tion proceedings, and that the United States of America is entitled
14 to acquire property by Eminent Domain for use in connection with
15 the Whittier Narrows Flood Control Basin project in California;

16 III.

17 That the estate taken and condemned herein by the plain-
18 tiff, United States of America, in the said real property so desig-
19 nated, described, and referred to as Tract No. Q-1409 of the Whittier
20 Narrows Flood Control Basin project, and which plaintiff shall have
21 therein, in a perpetual right and easement to overflow, flood, and
22 submerge said land in furtherance of the construction, operation,
23 and maintenance of the project, together with the right to the
24 reasonable and beneficial use of the surface and subsurface water
25 for domestic, agricultural and horticultural purposes on the land,
26 and together with the right to prohibit human habitation upon the
27 land and/or the construction and maintenance thereon of structures
28 for human habitation or the construction and maintenance thereon of
29 other structures which would result in floatable debris on which
30 would interfere with the operation of the project, and to prohibit
31 any use or occupation of the land which would cause pollution of
32 the soils and/or waters of the Whittier Narrows Flood Control Basin,

1 excepting and reserving, however, to the defendant, Pacific Coast
2 Broadcasting Company, all such rights and privileges as may be used
3 and enjoyed without interfering with or abridging the rights and
4 easements so taken and condemned by plaintiff, provided, however,
5 that in the exercise of such rights and privileges the written
6 consent of the representative of the United States in charge of the
7 project shall be obtained for the type and location of any structure
8 and/or appurtenances thereto now existing or hereafter to be
9 erected or constructed upon said Tract No. Q-1409, and provided
10 further that plaintiff shall operate the outlet works gates of the
11 project in such a manner as to insure the minimum pooling in the
12 reservoir area of the project and to that end shall maintain said
13 gates generally in a wide open position in order to discharge up
14 to a maximum of 40,000 cubic feet of water per second, and at such
15 times during flood periods as the reservoir water surface rises to
16 an elevation which would produce outflow in excess of 40,000 cubic
17 feet per second, the gate openings shall be reduced or adjusted so
18 as to maintain the outflow at the maximum of 40,000 cubic feet per
19 second;

20 IV.

21 That the defendant, Pacific Coast Broadcasting Company,
22 a corporation, shall:

23 a. Modify, relocate, and reconstruct the facilities of
24 said defendant located upon the above described property pursuant to
25 and in accordance with those certain plans heretofore submitted by
26 the said defendant to plaintiff and heretofore approved by plain-
27 tiff through its Los Angeles District Engineer, Corps of Engineers,
28 Department of the Army, a copy whereof is attached to the said
29 stipulation as Exhibit "A" thereof and made a part of said stipula-
30 tion, reference to which said exhibit is hereby made for a more
31 particular recital of the things to be done by said defendant in
32 said modification, relocation, and reconstruction of its said

facilities and the manner in which the work is to be done;

b. Furnish all services, labor, materials, tools, and equipment necessary to perform the aforesaid work of modifying, relocating, and reconstructing said defendant's said facilities;

c. Procure all necessary permits and licenses required to do the work and in the performance of the work obey and abide by all applicable laws, regulations, ordinances, and other rules of the United States of America, the State of California, and/or of any political subdivision thereof wherein the work is done, and/or of any other duly constituted public authority;

V.

That plaintiff, United States of America, as soon as it conveniently can in the orderly processes of Government shall deposit into the Registry of this Court the compensation above provided for, to-wit, the said sum of \$85,959.46, which shall be payable to the said defendant, Pacific Coast Broadcasting Company, as follows:

The sum of \$38,600.00, being the fair, just, and adequate compensation, inclusive of interest, to be paid by plaintiff for the condemnation and taking by it of the estates and interest in the above described land of said defendant, Pacific Coast Broadcasting Company, as above set forth, forthwith upon the deposit into the Registry of this Court of the total compensation hereinabove provided;

The remainder of the said compensation, to-wit, the sum of \$47,359.46, being the full and complete reimbursement of the said defendant, Pacific Coast Broadcasting Company, for the aforesaid modification, relocation, and reconstruction of its said facilities, upon completion of the work, provided, however, that partial payments out of said sum may be made to said defendant, Pacific Coast Broadcasting Company, from time to time as the work progresses and for the work performed and completed by it, at intervals as determined by the District Engineer, Los Angeles Dis-

1 trict, Corps of Engineers, Department of the Army, or by his duly
2 authorized representative, upon the following terms and conditions:

3 a. The defendant, Pacific Coast Broadcasting Company,
4 shall submit to the aforesaid District Engineer an estimate of
5 costs incurred in performing the work for which partial payment is
6 sought;

7 b. The District Engineer, at his discretion, may ap-
8 prove, as a partial payment, the payment to the defendant, Pacific
9 Coast Broadcasting Company, of 90% of such cost so estimated, to
10 the end that there shall be retained in the Registry of this Court,
11 until 50% of the work has been completed, at least 10% of the aggre-
12 gate costs incurred by said defendant for which partial payment is
13 sought by it;

14 c. At such time as the said District Engineer shall
15 determine that not less than 50% of the work of modification, re-
16 location and reconstruction has been completed, the said District
17 Engineer may authorize reimbursement to the said defendant, Pacific
18 Coast Broadcasting Company, in full, if it appears to him that
19 satisfactory progress in performance of the work is being made;

20 d. When the said District Engineer has determined that
21 the work is substantially completed he may authorize the release to
22 the said defendant, Pacific Coast Broadcasting Company, of so much
23 of the funds retained in the Registry of the Court as he may deem
24 unnecessary to the full protection of plaintiff;

25 e. Partial payments out of said fund shall be made by
26 the filing with the United States Attorney for the Southern District
27 of California, of a Direction to Disburse Sums, which shall be duly
28 executed by the defendant, Pacific Coast Broadcasting Company, and
29 by the said District Engineer, Los Angeles District, Corps of Engi-
30 neers, Department of the Army, whereupon the said United States
31 Attorney shall instruct the Clerk of the Court, in accordance with
32 the forms and procedures in such cases made and provided, to draw

1 the required check on the Registry of the Court, and shall deliver
2 said check to said defendant upon the condition that the said de-
3 fendant shall execute and mail to such United States Attorney a
4 good and sufficient Receipt and Partial Satisfaction of Judgment
5 upon the form to be supplied by said United States Attorney;

6 VI.

7 That the defendant, Pacific Coast Broadcasting Company,
8 shall commence the work provided herein to be performed by it
9 within thirty days after the above sum of \$85,959.46 is deposited
10 into the Registry of this Court, and shall complete such work
11 within one hundred and twenty days thereafter, provided, however,
12 that if the defendant, Pacific Coast Broadcasting Company, shall
13 commence the work and, thereafter, if the work shall be stopped for
14 a continuous period of thirty days without fault on the part of the
15 said defendant, Pacific Coast Broadcasting Company, before the work
16 is completed, the plaintiff shall pay only the actual cost of the
17 work done up to the time the work was so stopped, and provided
18 further that the said defendant, Pacific Coast Broadcasting Company,
19 shall resume the work within a reasonable time after the cause of
20 such stoppage of the work has ceased to exist unless plaintiff shall
21 abandon these proceedings in condemnation, provided further that
22 should plaintiff abandon these proceedings the said defendant,
23 Pacific Coast Broadcasting Company, may, at the time of such abandon-
24 ment, stop the work and such stoppage shall be considered "without
25 fault on the part of the said defendant, Pacific Coast Broadcasting
26 Company";

27 VII.

28 That the District Engineer shall have the right to in-
29 spect the work at any time during its progress and to make final
30 inspection upon the completion thereof;

31 VIII.

32 That, upon receipt of written notice from the defendant,

1 Pacific Coast Broadcasting Company, to the effect that the work is
2 completed, the said District Engineer shall, within twenty days:

3 a. Certify that the work has been completed to the
4 satisfaction of plaintiff and execute a Direction to Disburse to
5 the said defendant, Pacific Coast Broadcasting Company, all that
6 portion of the aforesaid funds remaining in the Registry of the
7 Court; or,

8 b. Direct the said defendant, Pacific Coast Broad-
9 casting Company, to conform the work to the plans and specifica-
10 tions set out in said Exhibit "A", attached to and made a part of
11 the aforesaid stipulation executed by plaintiff and said defendant,
12 Pacific Coast Broadcasting Company, as aforesaid, which said plans
13 and specifications are hereby referred to and by such reference in-
14 corporated herein the same as if herein specifically set forth,
15 pointing out to said defendant the things necessary to be done by
16 it so to conform the work to said plans and specifications; and,

17 c. When and if the work is so conformed to such plans
18 and specifications, to execute a Direction to Disburse to said de-
19 fendant, Pacific Coast Broadcasting Company, the funds then remain-
20 ing on deposit in the Registry of this Court, as aforesaid;

21 IX.

22 That the defendant, Pacific Coast Broadcasting Company,
23 shall perform all work required to be done and performed by it under
24 the aforesaid stipulation and/or under this judgment in a manner
25 which will not unduly or unreasonably impede, hamper, or interfere
26 with the construction, maintenance, and operation of the Whittier
27 Harrows Flood Control Basin project by plaintiff or by its con-
28 tractors or subcontractors;

29 X.

30 That the plaintiff hereby shall acquire no interest
31 whatsoever in the facilities of the defendant, Pacific Coast Broad-
32 casting Company, as modified, relocated, or reconstructed by it,

1 as provided herein, but the said defendant, Pacific Coast Broad-
2 casting Company, nevertheless, shall operate and maintain its said
3 facilities subject to the restrictions imposed upon and pursuant
4 to the rights reserved by it, as above set forth;

5 XI.

6 That the payment to the said defendant, Pacific Coast
7 Broadcasting Company, of the sums hereinabove provided for to be
8 paid to it by plaintiff, as aforesaid, shall constitute full and
9 just compensation to the said defendant for the damages to it and
10 to its said facilities occasioned by the development, construction,
11 operation, and maintenance of the Whittier Narrows Flood Control
12 Basin project by plaintiff, including but not limited to the exer-
13 cise by plaintiff of its right to flood and submerge the land as
14 such right is more fully set forth above, but exclusive, however,
15 of any damages that may in the future be suffered by said de-
16 fendant, Pacific Coast Broadcasting Company, by reason of
17 any modification, relocation, or reconstruction of the facilities
18 that the plaintiff may require to be done, other than an addition
19 to the modifications, relocation, and reconstruction herein con-
20 templated and as set out in the said Exhibit "A", attached to and
21 made a part of the above described stipulation, as aforesaid;

22 XII.

23 That the defendant, Pacific Coast Broadcasting Company,
24 shall hold and save plaintiff, United States of America, its offi-
25 cers, agents, and employees free and harmless of and from any and
26 all causes of action, suits at law or equity, claims, demands, or
27 liability of any nature whatsoever arising from the performance of
28 the work herein agreed to be performed;

29 XIII.

30 That, simultaneously with the payment by plaintiff,
31 United States of America, into the Registry of the Court of the
32 said sum of \$85,959.46, above specified, title to the estates and

1 interests taken and condemned by plaintiff in and to the said Tract
2 No. Q-1409, as hereinabove set forth, shall pass to and vest in
3 plaintiff, and all valid liens and claims against said tract not
4 subject to which the aforesaid interests and estates are so taken
5 and condemned, shall be transferred from said property to the said
6 fund so deposited into the Registry of the Court, to the end that
7 the plaintiff, United States of America, shall take and have an un-
8 encumbered title to the said estates and interests so taken and con-
9 demned herein, subject only to the exceptions and reservations above
10 set

11 XIV.

12 That plaintiff's Amended Complaint in Condemnation, as
13 amended, and all pertinent paper or papers, document or documents,
14 here pertaining to said Tract No. Q-1409 shall be and the same are
15 hereby deemed and ordered to be amended to conform to this judgment;

16 XV.

17 That plaintiff and the said defendant, Pacific Coast
18 Broadcasting Company, shall enter into a lease by and with each
19 other covering that certain parcel of real property adjoining said
20 Tract No. Q-1409, a copy of which said lease is attached to and
21 made a part of the above described stipulation as Exhibit "B"
22 thereof, reference to which said exhibit is hereby made for the
23 particular terms and conditions of said lease and for the descrip-
24 tion of the real property covered thereby;

25 XVI.

26 That the real property herein and in these proceedings
27 designated, described, and referred to as said Tract No. Q-1409 is
28 situated in the County of Los Angeles, State of California, and is
29 more particularly described in the above described stipulation and
30 in plaintiff's amended complaint on file herein, reference to such
31 documents is hereby made and by such reference the description of
32 said tract is incorporated herein the same as if herein specifically

1 set out;

2 XVII.

3 That this judgment and the stipulation pursuant to
4 which it is made and entered shall be binding upon the successors
5 and assigns of the parties hereto;

6 XVIII.

7 That notice of and a reasonable opportunity to be heard
8 on all petitions presented to the Court by either party to the
9 aforesaid stipulation shall be given to the other party hereto in
10 accordance with the rules of this Court;

11 XIX.

12 That jurisdiction is reserved by the Court to enter
13 such judgments, decrees, and orders herein as may be necessary and
14 proper in the premises.

15 DATED: This 5 day of July, 1955.

16
17
18 W. C. MATHEW

19 United States District Judge

20 Presented by:

21 LAUGHLIN E. WATERS
22 United States Attorney

23 ALBERT N. MINTON
24 Assistant U. S. Attorney

25 By Albert N. Minton
ALBERT N. MINTON

26 Attorneys for Plaintiff

27
28
29
30
31 A TRUE COPY JUL 7 1955
32 ATTEST, ETC.
Clerk U. S. District Court
District of California
By [Signature] Deputy



CITY OF SOUTH EL MONTE

1415 N. SANTA ANITA AVENUE
SOUTH EL MONTE, CALIFORNIA 91733
(626) 579-6540 • FAX (626) 579-2107



October 21, 2009

Army Corps of Engineers
Attn: Lieutenant Colonel Anthony G. Reed
Deputy Commander and Deputy District Engineer
915 Wilshire Boulevard, Ste. 1550
P.O. Box 532711
Los Angeles, CA 90053-2325

Re: Future Development of the 28-acres located south of the Pomona Freeway (SR60) and east of Santa Anita Avenue

Dear: Lieutenant Colonel Anthony G. Reed:

It was a pleasure meeting with your colleagues on October 1, 2009 regarding the potential uses for the vacant 28 acre parcel on Santa Anita Avenue. As you may have been informed, our City proposed various options pertaining to the development of said site, taking into account the parameters set forth by your office prior to our meeting.

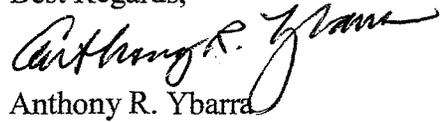
During the meeting, your colleagues explained in detail the issues and concerns that the Army Corps of Engineers has with the development of the site. Unfortunately, some of the development options that were presented by our Staff posed questions that could not be answered by your team with the limited time and information they had on hand. Consequently, we are still uncertain about the parameters that would allow for the development of said site.

The City of South El Monte would like to further evaluate the possibility of developing the site. An alternative option may seek to develop either 21 acres or 14 acres of this site with a combination of both commercial and open space uses within the project area. This compromise of only utilizing a portion of the site for development addresses both the Corps' need for flood control and the City's desire to develop the site.

We look forward to discuss the potential development of the site in further detail with you and your colleagues. Please provide me with your availability to meet and further contemplate our proposed project on the aforementioned site.

If you have any questions or concerns, please feel free to contact me at your convenience at (626) 579-6540. I look forward to your positive response.

Best Regards,



Anthony R. Ybarra
City Manager

cc: City Council

Alina Bokde, RMC

Phil Serpa, U.S. Army Corps of Engineers

Alex Hernandez, Hydraulic Engineer

Jane Kulik, Wenk Associates



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

DECEMBER 18, 2009

Asset Management Division

Anthony Ybarra
City Manager
City of South El Monte
1415 N. Santa Anita Avenue
South El Monte, California 91733

Dear Mr. Ybarra:

This is in response to your letter dated October 27, 2009 regarding Future Development of the 28-acre parcel located south of the Pomona Freeway (SR60) and east of Santa Anita Ave. within our Whittier Narrows Flood Control Basin. I appreciate your interest in working with the U.S. Army Corps of Engineers (Corps) to evaluate the possibility of developing the 28-acre parcel.

As you may be aware, the Corps is the fee title holder for only 7-acres of the subject property and has a flowage easement on the remaining 21-acres. Our ability to discuss potential development of property in which we only have flowage easement rights is limited to dealings with the owner of record. The Corps' ability to permit development is limited to the 7-acres owned in fee by the United States of America should you desire to develop the parcel.

In your letter, you mention that the City is still uncertain about the parameters that would allow for the development of the site. My staff has previously provided you with our policy guidance for land development proposals at Corps reservoir projects. Enclosed herewith for your reference are two documents: (1) Policy Guidance Letter No. 32, Use of Corps Reservoir Flowage Easement Lands; and (2) CESP Regulation No. 1110-2-1, Land Development Proposals at Corps Reservoir Projects. These documents are most frequently relied upon when asked to approve development on land encumbered by flowage easement owned by the United States. The information included with this letter serves as a starting point to understanding the types of uses and developments that are compatible with Corps missions.

First and foremost, the language of the flowage easement is central to our evaluation of any proposed use of land that is encumbered by a flowage easement owned by the United States. You may find the flowage easement language for any parcel of land by searching the local property records. This language prohibits both "structures for human habitation" and "structures of other types which may result in floatable debris or cause pollution of the soils and waters." If any future proposal would include development on the 21-acres for which the Corps purchased and currently holds flowage easement, the owner of record would have to obtain the Corps' consent before starting construction.

We would be happy to meet with you and your staff to discuss the potential development of the site further. If you have any questions or require additional information, please contact Mr. Phil Serpa, Outdoor Recreation Planner at (213) 452-3402, or you can reach me at (213) 452-3961.

Sincerely,

A J Reed
For Thomas H. Magness
Colonel, US Army
District Commander

Enclosures



CITY OF SOUTH EL MONTE

1415 N. SANTA ANITA AVENUE
SOUTH EL MONTE, CALIFORNIA 91733
(626) 579-6540 • FAX (626) 579-2107



July 29, 2011
Army Corps of Engineers
Attn: Lieutenant Colonel Steve Sigloff
915 Wilshire Boulevard, Ste 1550
PO Box 532711
Los Angeles, CA 90053-2325

Re: Summary of meeting between the City of South El Monte team and the US Army of Corp of Engineers regarding development of the approximately 29.6-acre site located south of the Pomona Freeway (SR 60) and east of the Santa Anita Ave.

Introduction

On July 28, 2011 at 10AM representatives from the City of South EL Monte (City or Team), Metro, Congresswomen Judy Chu's office, and City consultants met with representatives of the US Army Corp of Engineers (USACOE) at their offices in Los Angeles (see List of Attendees Attachment A). The USACOE meeting participants included representatives from District command, Legal, Asset Management, Engineering, (get exact departments who were there). The purpose of the meeting was to follow-up on previous meetings and discussions with USACE with regard to determination of the key requirements for development of the approximately 29.6-acre parcel located at 825 N. Santa Anita Avenue, South El Monte (Site). USACOE currently maintains flood control authority over the Site (Whittier Narrows Flood Risk Management Project) by means of fee title for approximately 7 acres of the subject property, and a flowage easement on the remaining privately owned 22(+/-) acres.

In conjunction with a planning study sponsored by the SR 60 Coalition of Cities for the Southern California Association of Governments (SCAG) Compass Blueprint Demonstration Project, conceptual Transit Oriented Development (TOD) Plans were prepared for the subject Site in conjunction with the proposed Eastside Goldline Transit line extension. These concept plans were previously presented to the USACE. At those prior meetings, the USACOE provided general policy guidance that outlined the critical requirements for development of the subject site. The City of South El Monte subsequently agreed to revise the concept plans to meet our understanding of those critical requirements for development conveyed to us by USACOE.

The (Key) requirements conveyed to the city by USACOE are generally summarized as follows:

- Prohibition of structures for human habitation within the entire 28-acre flood control site.
- No commercial development within the 7-acre USACE site
- Establishing a finished elevation at or above the 100-year floodplain. The 100 year bench mark is established at 225.3 feet however the City was advised to meet the Maximum Flood Control Pool elevation of no less than 228.5 feet above sea level for the entire development area. (see Attachment B)
- No reduction of the existing current flowage easement area over the 29.6- acre Site is permitted.

Discussion

The City subsequently revised its TOD concept plans to conform to the key USACOE prescribed requirements that prohibit commercial development (see Attachment C). This concept and other alternatives were presented and discussed at the July 28, 2011 subject meeting. The City team explained that the Key requirements above were all met with the Concept (C) alternative that does not include any development, except the SR 60 transit station within the USACOE 7-acre parcel. In addition, the Team explained that Concept (C) actually increased the existing flowage easement capacity by $(\pm)7.2$ acre feet based on our preliminary calculations. The City team also explained possible drainage concepts.

Conclusion

While the City team made clear it was not requesting specific approval of any Concept Plans, it was requesting definitive statements and conclusions as to the permissibility of commercial development on the remaining $(\pm)22$ -acre private site upon which the USACE maintains a flowage easement. The City team and the District Commander clearly asked from the USACOE staff members (including legal counsel) for a definitive answer as to whether commercial development could be permitted on the subject Site if the applicant met the above Key requirements and normal processing procedures. The USACOE staff team agreed that commercial development was permissible on the $(\pm)22$ -acre easement area on the condition that it met the above Key requirements and other standard requirements and normal processing procedures. The USACOE clarified their position that in order to obtain approval for any proposed plans, they would have to be built to the 228.5 feet above sea level.

The city also conveyed that time was of essence with regard to reaching a conclusion as to the permissibility of allowing commercial development on the $(\pm)22$ -acre site for several reasons. One reason is that Metro will soon be making a decision as to selection of a preferred transit route for the Eastside Goldline Transit Line Extension. One route alternative is the SR 60 which includes a transit station and possible TOD development at the subject Site. To the extent commercial development is permissible near the station (outside the USACOE 7-acre area), the City and SR 60 Coalition feel that this station site and route alternative will have greater viability. Notwithstanding the SR 60 transit line, the City is also anxious to proceed with economic development and redevelopment of the subject site for the benefit of its community and the region.

The District Sub-Commander Lt. Colonel Sigloff and USACOE attendees at the meeting agreed to receive a letter from the City memorializing a summary of the meeting and conclusions. The District Sub-Commander Lt. Colonel Sigloff also agreed to send to the City a response letter confirming the meeting summary and affirming the conclusion that the USACOE would permit commercial development on the $(\pm)22$ -acre Site subject to meeting the above Key requirements (to the satisfaction of the USACOE) and other typical application procedures.

Sincerely



Luis "Louie" Aguiñaga
Mayor
City of South El Monte

Attachment (A) Attendees

- 1. City of South El Monte City Manager**
- 2. City of South El Monte Mayor**
- 3. City of South El Monte Councilmen**
- 4. Congresswomen Judy Chu Deputy**
- 5. Bruno Callu, City Engineer**
- 6. Mr. John Ek, Pacific- Atlantic Partners**
- 7. Omar E Hernandez, Arroyo Strategy Group**
- 8. Henry Madrid- Madrid Consulting Group, LLC**
- 9. Michael Metcalfe (architect) Madrid Consulting Group, LLC**
- 10. Dr. Steven Mutschenbacher (civil engineer) Madrid Consulting Group, LLC**

Attachment (B)





REPLY TO
ATTENTION OF

Office of the Commander
and District Engineer

DEPARTMENT OF THE ARMY

LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

November 4, 2011

Mr. Luis Aguinaga
Mayor
City of South El Monte
1415 N. Santa Anita Avenue
South El Monte, California 91733

Dear Mr. Aguinaga:

Thank you for your letter dated July 29, 2011 regarding our July 28, 2011 meeting to discuss development of the approximately 29.6 acre parcel located at 825 N. Santa Anita Avenue, South El Monte (Site), within the Whittier Narrows Dam Flood Control Basin (Project) to which the United States holds a flowage easement over approximately 22-acres and fee ownership of approximately 7-acres. Please accept my apology for the delay in responding to your inquiry.

You requested that the US Army Corps of Engineers (Corps) provide written confirmation of certain key points you identified in your meeting summary. This letter confirms that the Corps could assent to certain limited commercial development on the approximately 22-acre easement area to the extent that the proposed development is not contrary to the perpetual right and easement acquired by the United States for operation of the Project. The United States' rights include submerging the easement area, prohibiting structures for human habitation or those that would result in floatable debris, pollution of the soils or interference with operation of the Project. The Corps construes these rights broadly in order to fulfill its mission to manage the flood risk throughout the Los Angeles County Drainage Area system. The development of lands held in fee ownership are subject to additional developmental constraints, some of which may be found in SPD Regulation 1110-2-1, Land Development Proposals at Corps Reservoir Projects, dated November 2001.

In response to your information request, I provide the following responses:

1. Prohibition of structures for human habitation within the entire Site.

Response: The Corps, on behalf of the United States, acquired the respective interests in real estate as required by the Whittier Narrows Flood Control Project for Project operational purposes. Utilization of the site for human habitation is contrary to the easement and fee interests as it would be adverse to Corps Project operations and would place an unacceptable level of risk on potential future inhabitants.¹

2. No commercial development within the 7-acre USACE site.

Response: The Corps cannot agree to any commercial development on fee-owned land. Corps policy, as articulated in the Memorandum for Distribution, *Non-Recreational Outgrant Policy*, dated March 30, 2009, states that "permanent commercial ventures and private residences are prohibited" on Civil Works lands or waters.

¹ Reference 43 CFR Part 8 "JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS"

3. Establishing a finished elevation at or above the 100-year floodplain. The 100-year benchmark is established at 225.3 feet however the City was advised to meet the Maximum Flood Control Pool elevation of no less than 228.5 feet above sea level for the entire development area.

Response: The 100-year flood elevation is primarily used in flood insurance and flood plain mapping applications. Within the flood control reservoir, any development that "...would interfere with the operation of the project", is prohibited as defined in the language of the United States' easement. This is not conditioned on any inundation frequency. Given that Whittier Narrows Dam is under-designed compared to current design standards and interim risk reduction measures are currently being evaluated, it is difficult to assign a definite elevation above which commercial development can be freely pursued. The United States reserves the right to inundate the easement area to whatever elevation is necessary to provide adequate flood risk management to the communities along the Rio Hondo, Los Angeles and San Gabriel Rivers.

4. Reduction of the existing current flowage easement area over the 29.6-acre site is not permitted.

Response: Flowage easement acreage is approximately 22-acres not 29.6 acres. Reduction or disposal of any of the easement area is not feasible at this time. The Corps continues to require the easement area in its entirety for Project purposes and is required by law to retain the real estate interests necessary for the Project in perpetuity or until the Project is deauthorized by Congress.

Your letter states that the City is not requesting specific approval of any plans it may be considering. In this regard, and on behalf of the District Commander, I must withhold judgment as to the "approvability" of the City's proposed development of the Site until a specific plan is submitted through the standard application process. It would be irresponsible and potentially misleading to provide incremental approval or concurrence as to a conceptual plan and/or portions of a proposed development proposal which might differ substantially from the specific development proposal you select/choose to submit.

I appreciate your recognition and acknowledgement of the substantial conditions and requirements arising out of the United States' real property interests and the Whittier Narrows Flood Control Project. If you have any questions or concerns regarding this or any other Corps of Engineers program, you may contact me at (213) 452-3962 or you may contact my Asset Management Division Chief, Ms. Theresa Kaplan at (213) 452-3118.

"Building Strong and Taking Care of People!"

Sincerely,



Steven B. Sigloch, Jr.
Lieutenant Colonel, US Army
Deputy Commander and Deputy District Engineer

PART 8—JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS

Sec.

- 8.0 Acquisition of lands for reservoir projects.
- 8.1 Lands for reservoir construction and operation.
- 8.2 Additional lands for correlative purposes.
- 8.3 Easements.
- 8.4 Blocking out.
- 8.5 Mineral rights.
- 8.6 Buildings.

AUTHORITY: Sec. 7, 32 Stat. 389, sec. 14, 53 Stat. 1197; 43 U.S.C. 421, 389.

SOURCE: 31 FR 9108, July 2, 1966, unless otherwise noted.

§ 8.0 Acquisition of lands for reservoir projects.

In so far as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construction, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

§ 8.1 Lands for reservoir construction and operation.

The fee title will be acquired to the following:

- (a) Lands necessary for permanent structures.
- (b) Lands below the maximum flowage line of the reservoir including lands below a selected freeboard where necessary to safeguard against the effects of saturation, wave action, and bank erosion and the permit induced surcharge operation.
- (c) Lands needed to provide for public access to the maximum flowage line as described in paragraph (b) of this section, or for operation and maintenance of the project.

§ 8.2 Additional lands for correlative purposes.

The fee title will be acquired for the following:

(a) Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

(b) Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

§ 8.3 Easements.

Easements in lieu of fee title may be taken only for lands that meet all of the following conditions:

- (a) Lands lying above the storage pool.
- (b) Lands in remote portions of the project area.
- (c) Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.
- (d) It is to the financial advantage of the Government to take easements in lieu of fee title.

§ 8.4 Blocking out.

Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally land will not be acquired to avoid severance damage if the owner will waive such damage.

§ 8.5 Mineral rights.

Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

§ 8.6 Buildings.

Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

California State Senate

STATE CAPITOL
ROOM 2080
SACRAMENTO, CA 95814
TEL (916) 651-4022
FAX (916) 651-4922

SENATOR
ED HERNANDEZ, O.D.
TWENTY-SECOND SENATE DISTRICT

100 S. VINCENT AVENUE
SUITE 401
WEST COVINA, CA 91790
TEL (626) 430-2499
FAX (626) 430-2494



December 1, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Hernandez", written over a horizontal line.

SENATOR ED HERNANDEZ, O.D.
22th District



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Unincorporated Communities
Fourth District, LA County
Unincorporated Communities
Fifth District, LA County
Unincorporated Communities
SGV Water Districts

December 1, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

RE: South El Monte Parcel Development

Dear Representative Sanchez:

On behalf of the San Gabriel Valley Council of Governments (SGVCOG), I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, the SGVCOG would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Thank you for your consideration of this matter. Should you have any questions regarding our support for this initiative, please do not hesitate to contact me at (626) 457-1800.

Sincerely,

Andrea M. Miller
Executive Director



Enrich the quality of life and
economic vitality of the San Gabriel Valley

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Foothill Transit

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Rene Martinez
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MHI

Kristen Pugh
City of Hope

Wayne Ratkovich
The Ratkovich Company

Dwight Richards
FAIRPLEX

Don Sachs
Industry Manufacturers Council

Bill Scroggins
Mt. SAC

Helen Romero Shaw
So. Cal. Gas Company

Susan Stel
LAEDC

Anthony Tang
Cathay Bank

Lupe Valdez
Union Pacific

Glenn Wallmark
Lucas, Horsfall, Murphy & Pindroh

David Wigney
Verizon

December 1, 2014

The Honorable Linda Sanchez
United States House of Representatives
2423 Rayburn Building
Washington, DC 20515

RE: Support for the City of South El Monte's request to remove an Army Corps of Engineers easement

Dear Congresswoman Sanchez,

On behalf of the San Gabriel Valley Economic Partnership, I am writing in support of the City of South El Monte in its request to remove a property easement held by the United States Army Corps of Engineers. The Partnership is a regional business organization dedicated to increasing economic growth and improving the quality of life in the San Gabriel Valley.

The easement in question lies on an undeveloped parcel that holds a great deal of economic potential for the City of South El Monte. As you know, plans are underway for an east side light rail extension of the Gold Line, either along the SR60 to the 605 freeway or into Whittier along Washington Boulevard. There is substantial new development potential in the cities along the SR60 route, especially in South El Monte. The SR60 route has more vacant property readily available and the overall impact of the light rail line will be more easily mitigated than along the Washington Boulevard alternative. New residential and business developments can be built quickly along the SR60 route in anticipation of easy access to light rail in the years ahead.

The Partnership believes that there are ways to meet the key objectives of the Corps of Engineers while allowing for a more economically productive use of the property in question. Removal of the easement will allow new development to bring vital jobs and boost economic growth in the region. New growth and economic opportunity is critical in a community such as South El Monte which has struggled with high unemployment during the recent recession.

We appreciate your efforts to assist the City of South El Monte in this matter and your strong support for the San Gabriel Valley.

Sincerely,

Cynthia J. Kurtz
President & CEO

SAN GABRIEL VALLEY ECONOMIC PARTNERSHIP

4900 Rivergrade Road, Suite B130, Irwindale, CA 91706 | Phone (626) 856-3400 Fax (626) 856-5115 | www.valleyconnect.com

City of Alhambra
Office of the Mayor and City Council

November 21, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515



Gateway
to the
San Gabriel Valley

111
South First Street
Alhambra
California
91801

626
570-5010

FAX
281-2248

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

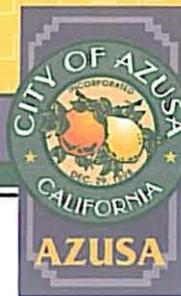
As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Sincerely,

A handwritten signature in black ink, appearing to read "Luis Ayala".

Luis Ayala
Vice Mayor
City of Alhambra





The Canyon City — Gateway to the American Dream

October 22, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Sincerely,

A handwritten signature in black ink that reads "Angel A. Carrillo". The signature is fluid and cursive.

Angel A. Carrillo, Council Member
City of Azusa

Angel A. Carrillo, Council Member
213 E. Foothill Blvd., Azusa, CA 91702
acarrillo@ci.azusa.ca.us



**El Monte/South El Monte
Chamber of Commerce**

November 20, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Best personal regards,

Ken Rausch
Executive Director

**10505 VALLEY BLVD., SUITE 212, EL MONTE, CA 91731
P.O. Box 5866, EL MONTE, CA 91734**

PHONE: 626.443.0180

FAX: 626.443.0463

CHAMBER@EMSEM.BIZ

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**SAN GABRIEL VALLEY
CONSERVATION CORPS**

3629 Cypress Ave, El Monte CA 91731
Office (626) 579-2484 • Fax (626) 444-5339

November 28, 2014
Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Oaxaca".

Daniel Oaxaca
Executive Director

Office (626) 579- 2484
Cell (909) 437-4996
Doaxaca@sgvcorps.org
www.sgvcorps.org

Building Dreams... Transforming Lives...

SAN GABRIEL VALLEY WATER COMPANY

11142 GARVEY AVENUE ~ POST OFFICE BOX 6010
EL MONTE, CALIFORNIA 91734-2010

MICHAEL L. WHITEHEAD
CHAIRMAN OF THE BOARD AND
CHIEF EXECUTIVE OFFICER

(626) 448-6183
mlwhitehead@sgwater.com

October 30, 2014

The Honorable Linda Sanchez
U. S. House of Representatives
2423 Rayburn Building
Washington, D.C. 20515

Re: Support for Limiting Corps of Engineers Easement
Restrictions in South El Monte

Dear Congresswoman Sanchez:

I am writing on behalf of San Gabriel Valley Water Company which is the public utility that provides water service to the residents and businesses in South El Monte, California. We strongly support the city's efforts to allow development of a parcel of land which currently is restricted by a United States Army Corps of Engineers' easement. This property is vital to the future of the region's transportation, infrastructure, and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act to assist communities in moving job-creating projects forward. Congress will also soon consider the surface transportation reauthorization bill. Either of these two legislative vehicles could provide South El Monte and the region with the tools and resources necessary to enhance the ability to thrive economically.

As a strong supporter of South El Monte's efforts to promote job creation and economic prosperity, I would like to request your full support for having the Corps of Engineers eliminate the unnecessary easement restrictions on this vital project. Thank you for your time and support for this very worthy regional project.

Very truly yours,



Michael L. Whitehead

MLW:lc



14048 Valley Blvd.
P.O. Box 60009
City of Industry, CA 91716-0009
Fax (626) 330-4686
(626) 336-3636

October 22, 2014

Honorable Representative Linda Sanchez
2423 Rayburn Building
Washington, DC 20515

Dear Representative Sanchez:

I am writing to express my strong support for efforts to allow the development of a parcel of land in South El Monte, CA currently restricted by a United States Army Corps of Engineers easement. This property is vital to the future of the region's transportation, infrastructure and economic development plans.

As you are aware, Congress has enacted the Water Resource Reform and Development Act ("WRRDA") to assist communities in moving job creating projects forward. Subsequently, Congress will also soon begin consideration of the surface transportation reauthorization bill. We hope that these two legislative vehicles will provide our city and region with the tools and resources necessary to enhance our ability to thrive economically.

As a strong supporter of job creation and economic prosperity, I would like to request your full support in advancing this regionally vital project forward. Thank you for your time and support, and I look forward to collaborating with you as you strive to improve the lives of the residents of the region.

Sincerely,

Gary M. Clifford II
Executive Vice President, Athens Services
Former Mayor, City of Glendora, California.