



San Fernando Valley Audubon Society

Incorporated as California Audubon Society 1913

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“For nature education and the conservation of wildlife”

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COMMENTS ON ANGELFEST DRAFT ENVIRONMENTAL ASSESSMENT

INTRODUCTION AND BACKGROUND

The San Fernando Valley Audubon Society (SFVAS), an 1800 plus member charity organized under Section 501c(3) of the Internal Revenue Code, with a long history of intense involvement in Sepulveda Basin, submits these comments on the Draft Environmental Assessment (EA) regarding AngelFest.

PURPOSE AND NEED

At the outset, it must be noted that no purpose *or* need, let alone purpose *and* need, as defined pursuant to the National Environmental Policy Act (NEPA), was articulated in the EA in any manner that rationally connects the Corps’ or federal government’s interests, responsibilities, or obligations with AngelFest. The EA’s section on Purpose and Need merely describes the event and its genesis without reference to any law, rule, or regulation that either requires or allows the holding of this event on Corps land. There is nothing in the section that explicitly describes any purpose consistent with the Corps’ purposes. Likewise, there is no need described that fulfills any cognizable need of the Corps or of the public. It is not the Corps’ responsibility to assure the economic viability of the City of Los Angeles, any of its governmental agencies, or companies that do business with it. Yet, that is the gist of what is being asked for in this case. The statement of purpose and need is deficient, as it fails to consider the many ways, other than by holding this event in Sepulveda Basin, the City can raise money for Sepulveda Basin Parks, such as through bond measures, VIP dinners (to which the project promoter, Make Good Group (MGG), executives, Tim Sexton and Matt Walden, would surely buy tickets), raffles, and so forth. Some of these efforts could be accomplished through the Los Angeles Parks Foundation, which, according to the EA is the intended recipient of funds from AngelFest ticket sales to be transferred to the Los Angeles Department of Recreation and Parks (RAP) for use exclusively at Sepulveda Basin.

The inclusion of an explicit description of the need for a project is mandated by

Council on Environmental Quality regulations, specifically Section 1508.9 (b). The section states that an Environmental Assessment “shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2) (E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.” (See below for additional discussion of the consideration of alternatives.) Therefore, the EA is deficient in not meeting this regulatory requirement or providing the public with a clear rationale for the project. A demonstration of need can be made in numerous ways; however one way to achieve this is found in the Corps’ own regulations. The Corps’ Project Operations branch RECREATION OPERATIONS AND MAINTENANCE POLICIES, regulation ER 1130-2-550, 1 October 1999, Appendix C-1, which is reproduced in the Master Plan for Sepulveda Basin ix “C-1. Market Study a.” states the following:

"C-1. Market Study

a. A market study is contingent upon developing an inventory of the supply of existing types of recreational resources within a given area. The study must also include a recreational demand analysis that provides an indication of what people do, feel, and want concerning recreational facilities (e.g., public demand). By comparing the inventory and the demand analysis it is possible to determine the types and amount of additional recreational facilities that are needed now or in the future. At a minimum, proposed recreation development by Federally recognized Indian Tribes, public (Federal, state and local), private sector and quasi-public entities and individuals will demonstrate a demand for the type of facilities proposed and a current or near future *need* (emphasis added by commenter) for the type of facility being proposed."

No such “market study” has been produced or referenced in the EA. Nor has any demand for the types of facilities being proposed for AngelFest been demonstrated for current or near future need.

To add further emphasis, in *Citizens against Burlington, Inc. v. Busey*, 938 F.2d 190, 1991 an appellate court found “An agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency’s power would accomplish the goals of the agency’s action, and the EIS would become a foreordained formality. Nor may an agency frame its goals in terms so unreasonably broad that an infinite number of alternatives would accomplish these goals and the project would collapse under the weight of the possibilities.” In the current instance, the narrow range of alternatives presented in the EA does foreordain the approval of AngelFest taking place in Sepulveda Dam Basin. This is because no alternatives to the means of fund raising for RAP other than by AngelFest, regardless of the location, were considered! This issue is bound to the true purpose of AngelFest discussed more below.

Furthermore, the Corps must select the contractor for the EA, not the applicant. It is not clear how the contractor was selected in this case. Thus, the purpose and need for this project fails on a number of levels. Without a clear demonstration of need, the project cannot be approved.

THE ENTIRE ENVIRONMENTAL ASSESSMENT IS A PRETEXT RATHER THAN AN HONEST ASSESSMENT

The entire EA is an elaborate pretext designed to promote a large, commercial, profit-making venture by MGG, (which has limited experience in promoting or producing large scale music festivals). MGG bills itself as an organization, which, by staging this event, will help the environment. There is no logical basis for such an assertion. While their recycling and clean-up programs during and following the event may mitigate or offset some of the environmental damage from the event itself that would result without those programs, there is no net benefit to the environment from holding this event with such programs. There is no possibility that litter control or clean-up efforts will prevent litter (in the form of plastic bottles, food wrappers and other containers, and various other forms of refuse generated from the sales of food, beverages, and souvenirs, micro-trash, especially from tobacco and other smoking products, etc.) from being dropped, blown, or, in the case of rain, washed into Haskell Creek, where some of it will either be flushed downstream before clean-up or else will accumulate in an unsightly mess in the creek between the event staging area and the Sepulveda Dam floodgates. A portion of this waste, generated by an estimated 2.2 *million* visitor hours, not to mention that generated during set up and take down, will find its way all the way to the Lower Los Angeles River, where it will defeat efforts to meet mandated water quality goals under the Environment Protection Agency's (EPA's) Total Maximum Daily Load rules. Thus, the City of Los Angeles could be subjected, justifiably, to fines, since a city agency is promoting this event solely for its own economic benefit.

In addition, toxins will be exuded, emitted, or discharged from a variety of electronic equipment components on a scale never before seen at this location. The quantities of these releases will be depend on temperature, humidity, and other factors; however, the sheer variety of types of equipment (cables, cabinets, lighting fixtures, broken bulbs, metallic support systems [with or without special coatings], microphones, speakers, pre-amplifiers, signal processors, amplifiers, etc.) with components manufactured from a plethora of exotic chemicals will make toxic releases impossible to estimate or control. Most of this will be deposited unseen on lawns, where people and animals will be exposed and where these releases will persist in the environment for an unknown period of time before being washed into Haskell Creek during light to moderate rainfall events or into the Los Angeles River via Haskell Creek or from flood control back-ups into the Basin.

None of these issues are given adequate attention in the EA, and control measures are not discussed at all beyond recycling and clean-up assertions that are, in themselves, deficient.

THE EA DOES NOT ADEQUATELY DESCRIBE THE CONTEXT WITHIN WHICH THE EVENTS WILL OCCUR, WHEREIN THE HABITATS OF SEPULVEDA DAM BASIN HAVE BECOME RARE HABITAT ISLANDS IN A SEA OF URBAN DEVELOPMENT NOT CONDUCTIVE TO WILDLIFE PRESENCE

The importance of the Basin to wildlife has been magnified many times over by the loss of suitable habitat elsewhere in the San Fernando Valley and City of Los Angeles in general. More than ninety percent of the land comprising the valley has already been developed, and development is continuing both on the floor of the valley and in the surrounding foothills. Thus, the Basin has become an island of relatively suitable habitat for a multitude of species that would otherwise disappear entirely from the unsuitable environment of a sea of unquenchable urban development. This phenomenon can be readily verified from comprehensive studies of birds by a number of investigators, for example, Willett (1912), Grinnell and Miller (1944), and Garrett and Dunn (1981). All of these

comprehensive studies note the disappearance or sharp reduction of many bird species historically present throughout southern California. Apparently, none of these references or any descriptions or accounts of avian usage of the Basin were consulted for the preparation of the EA. Nor were any local avian experts associated with the San Fernando Audubon Society, which has had regular and intense involvement with the Basin for more than forty years, consulted. Even the comments, previously submitted during the week of March 7, 2016 by Kris Ohlenkamp under the document title "Avian Impacts," were apparently ignored during the preparation of the EA, which contains no reference to it. The document, "Avian Impacts" has been updated twice since the original submission, the new document dates being May 9 and May 16, 2016. The May 16, 2016 version is herein incorporated fully and completely by reference Attachment 1. As noted therein, the federally endangered Southwestern Willow Flycatcher and the California threatened Swainson's Hawk have both been present in the proposed project area and time frame for each of the past three years. The Corps should have been aware of this, and its significance should have been thoroughly discussed in the EA. This failure to include this critical information represents another very serious flaw in the EA.

At the same time, drought has exacerbated water shortages throughout the area resulting in less (or no) water for wildlife in the few other locations in the city normally capable of supporting a diverse assemblage of species; for example, Hansen Dam and Chatsworth Nature Preserve/Reservoir. Moreover, open finished drinking water reservoirs (Encino, Lower Stone Canyon, Upper Hollywood, Lower Hollywood, Los Angeles, Silverlake, Elysian, and Santa Ynez Reservoirs) operated by the Los Angeles Department of Water and Power within the city have either been taken out of service and drained or maintained with sharply reduced water levels and water surface areas, or they have been covered or had shade balls dispersed in them. Consequently, the area of open water available for water-associated birds has been reduced by more than half. At the same time, habitats adjacent to these reservoirs that were once attractive to water associated birds for nesting no longer serve that function, and those same habitats, which supported diverse assemblages of terrestrial birds, are no longer as suitable for that function

To be more precise, the vast majority of the 250 or so species of birds that have been found in Sepulveda Basin are commonly found nowhere else in the valley with the exception of two other habitat islands – Hansen Dam and Chatsworth Nature Preserve on opposite ends of the valley. This has been well documented by Christmas Bird Counts, eBird records, a variety of special studies, hundreds of bird walks, and the fact that birders flock to these few remaining open spaces to observe species that cannot be observed elsewhere. The EA is shamefully inadequate in discussing these issues, and allowing AngelFest to take place will exacerbate these adverse impacts well beyond what the EA postulates. To make matters worse, the EA shamefully asserts without any evidence, in order to support a conclusion of no significant impact on birds, that the "developed" portions of Woodley Park support only "common neighborhood birds." No list or even examples of such common neighborhood birds is provided, nor is any evidence of the birds found in Woodley Park presented that they are commonly found in San Fernando Valley neighborhoods. Where, for example, is the migratory American Pipit, which utilizes Woodley Park habitats in the fall, commonly found in San Fernando Valley neighborhoods? Many such examples could be cited.

Perhaps the most egregious failure of the EA is the reliance upon a single site visit to survey the bird and other wildlife at the Basin. This failure falls squarely on the backs of the consultants of ESA under the direction of Project Manager, Addie Farrell, who spoke in

support of the project at the May 10 meeting. These consultants must have known full well that a single such survey cannot possibly reveal anything approaching the full suite of birds or other wildlife present in the Basin during the period of time proposed for the project. Yet, the EA concludes, without appropriate background information, that there will be no significant impact on the birds of the Basin from the project. Under the circumstances, such conclusions must be regarded as deliberately deceptive and, perhaps, motivated by a continuing desire to secure City of Los Angeles environmental consulting contracts.

In addition, the EA fails to discuss the Basin in terms of its regional, statewide, national, and international importance as habitat for migratory birds. Once again, the consultant's motivation is implicated. The bird species present at Sepulveda Basin in late-September and early to mid-October, the period of time for which AngelFest is planned, fall into certain mostly distinct residency categories. These are 1) year-round residents, including those whose populations are augmented to some extent by fall migrants, 2) fall passage migrants, and 3) fall/winter residents.

Category 1): Year-round residents will be completely driven out of the AngelFest venue area and supporting areas. There are no suitable habitats in the area into which these species, which are generally capable of dispersing only relatively short distances, can move, as AngelFest activities will physically usurp the entire area with stages, exhibition areas, refreshment stands, souvenir shops, and the presence of throngs of densely packed screaming spectators, workers, and performers. In addition, loud sounds from performance venues will penetrate to varying degrees (up to 83dB according to the EA) into the wildlife reserve disrupting wildlife there (see below for a discussion of noise impacts). Some species in this category are Cooper's Hawk, Great-Horned Owl, Allen's Hummingbird, Anna's Hummingbird, California Towhee, Western Bluebird, Nuttall's Woodpecker, Downy Woodpecker, Red-shafted Flicker, Mourning Dove, California Thrasher, Black Phoebe, Bushtit, Lesser Goldfinch, American Goldfinch, House Finch, Great Blue Heron, and Great Egret. All of these species are directly dependent for forage on the areas to be occupied by AngelFest and rest or roost in immediately adjacent areas.

Category 2): Fall passage migrants are utterly dependent on the area as a re-fueling and rest stop along their predominantly southward migration route. As with Category 1) species, these will be driven out of the area, if they have settled, or will be prevented from settling, by AngelFest activities. Many of these species, especially those that migrate at night, will most likely not even alight in the area with all the noise, light, and human and mechanical activity. Contrary to what is stated in section 4.5.2, the result for these and other migratory species is that they will have to hopscotch over the area to find suitable areas for survival activities and are unlikely to find them in close proximity. The result will be increased mortality from starvation, inability to escape predation in a weakened condition, or reduced disease resistance. Examples of species included in this category are some populations of Turkey Vulture, Swainson's Hawk, Red-tailed Hawk, Sharp-shinned Hawk, Peregrine Falcon, Merlin, American Kestrel, Western Kingbird, Cassin's Kingbird, White-faced Ibis, Barn Swallow, Cliff Swallow, Northern Rough-winged Swallow, Tree Swallow, Violet-Green Swallow, Yellow Warbler, and numerous other species. This assemblage includes some populations that also fall into Category 1.

Category 3): Fall/winter residents will be affected in the same manner as year round residents, as they will be unable to find suitable habitat and will be forced to migrate farther than usual to new and uncertain destinations. This includes such species as Osprey, Lark

Sparrow, Chipping Sparrow, Gambel's White-crowned Sparrow, American Pipit, Western Meadowlark, Yellow-rumped Warbler, and others.

An additional category could be added to include numerous species that are considered rare, casual, or accidental. These include individuals of species not normally found in the Basin but which have been blown off course, lost their way, or got separated from their flock during migration. All of these species, which have great aesthetic appeal to birders, will be eliminated from the event area during AngelFest. The result of this will be reduced usage of the area by birders and, as a consequence, less information made available to the public and researchers, including the California Natural Diversity Database, regarding the area's wildlife.

These impacts cannot, in summary, be considered "less than significant." Furthermore, there is no way to mitigate for these impacts, short of creating an entirely new wildlife area in proximity to that being impacted.

UNDERLYING CLAIMS OF FINANCIAL BENEFIT TO SEPULVEDA BASIN FROM ANGELFEST ARE NOT SUPPORTED BY ANY VERIFIABLE STATEMENT OR OTHER EVIDENCE

The EA asserts, without any supporting documentation or other evidence, that a portion of ticket sales will be donated to the Los Angeles Parks Foundation or, otherwise, that any revenues generated will be used to support, improve, enhance or otherwise benefit the parks or any other function of Sepulveda Dam Basin. There is no evidence in the EA that the promoters of AngelFest or RAP have taken on any contractual obligations with the Parks Foundation in that respect. No contract, memorandum of understanding, or any other document that would bind either MGG or RAP to such obligations is presented with or referenced in the EA, and, at the present time, no permit or other document from RAP exists that would bind MGG to such obligations. Generalized remarks concerning alleged promises to provide funding do not constitute contractual obligations. The EA is defective in creating the appearance that any such agreements or obligations exist, and the Corps would be remiss in approving the project without the necessary proof.

ALTERNATIVES

As alluded to above, here the EA misses the entire point that the true purpose of the event is to raise money! The items listed in the EA under Objectives are not Purposes, Needs, or Goals but simply planning considerations. The EA must address alternative means of raising funds, since that is the alleged Purpose of the project, instead of focusing singularly on the planning considerations of holding this event. No need for this event has been specified, let alone a need for this event in Sepulveda Basin or anywhere else for that matter. Planning considerations do not constitute needs for appropriation of public land for commercial purposes. Additional discussion of this issue is presented along with analysis regarding past uses of Sepulveda Basin for other special events in Attachment 2, entitled AngelFest Precedent Events Analyzed, which is herein incorporated fully and completely by reference.

In considering contradictions in the EA with public statements made by MGG spokesman, Tim Sexton, and others at the MGG/RAP-sponsored May 10, 2016 meeting at the Balboa Sports Center, which was calculatedly structured to provide a forum for MGG and RAP to present their case in a setting where alternative points of view were given no

opportunity to be heard by the public, we note the following with regards to the consideration of alternatives:

The EA states:

“In evaluating the full or partial use of Woodley Lakes Municipal Golf Course for the Festival, several limitations were identified. As described by RAP, for practicality reasons, a golf course cannot be easily partially closed as a park like Woodley Park can, as the entire golf course would be effectively unusable if even some holes are closed, and would likely be required to be closed for all or a large part of the duration of setup (16 days), the Festival (3 days) and breakdown (8 days), a total of 27 days. This approximately 27 day closure would be required for an either full or partial use of the golf course for the Festival. Moreover, RAP has indicated the resulting economic loss during the closure would not be sustainable for the golf course, and would be economically and practically infeasible.”

The quoted passage is in distinct contrast with what was asserted by MGG representatives at the May 10 meeting, at which they stated that most or much of the Woodley Park areas that would host festival activities would be “phased in.” Would this not also be true for the golf courses, if they were to be used to host AngelFest? Furthermore, golf courses do remain usable even when some holes are closed. The world holds numerous golf courses that have less than 18 holes; 9-hole courses are common, and course users could easily adjust to the reduction in holes for the 27 day period. The EA has provided no analysis that would support the assertion that closure of parts, or even all, of Woodley Lakes Golf Course would, for a few days or even for the full 27 days, be economically unsustainable. Golf courses are frequently closed for a variety of reasons, including the weather, for extended periods of time, yet they continue to proliferate across the globe. Furthermore, permit fees and funds transferred to RAP via the Parks Foundation from AngelFest ticket sales, would more than offset any losses from the golf course closure, and MGG would supposedly pay for restoration of the course.

As to the practical unfeasibility, the issues involving closure of the golf course(s) are certainly no greater than, and in all likelihood substantially less than, those for closing portions or, especially, all of Woodley Park, which sustains recreational opportunities for many thousands more San Fernando Valley residents than does the golf course. RAP’s argument, as presented in the EA by the consultant, Environmental Science Associates (ESA), appears to be nothing more than a clever rationalization to support discrimination against Woodley Park users in favor of golf course patrons. This discrimination could conceivably invoke challenges to RAP’s AngelFest policy under the federal Public Accommodations Act (Civil Rights Act of 1964, *P. L. 88 – 352*, Title II, Sec. 201 *et seq.* In particular, notice Sec. 201(b)(3) in reference to sports and entertainment venues, and Sec. 201(d) referring to actions taken under color of the authority of a state’s political subdivisions, *i.e.*, entities such as the City of Los Angeles.)

The EA further asserts:

“In addition to the overall closure limitations, use of Woodley Lakes Municipal Golf Course (either fully or partially for the Festival), presents other practical limitations that would conflict with other project objectives. The topographic variations that make it ideal for golfing present challenges in siting cohesive festival grounds with

easy access, pedestrian movement between stages, and locating of Festival components such as stages. The abundance of trees make sight lines difficult for viewing of stages, and the various sand traps, water features, and other golf-related accessories present impediments to overall site cohesiveness (they would have to all be fenced or excluded from access for safety reasons). The usable area would be less than the 200 acre size that is needed for the project.”

These arguments are specious at best. RAP has produced no data evident in the EA supporting any of these arguments. The topography of the golf courses is very similar to that of the Woodley Parks area, as is borne out by the geographic positions of the 50 and 100 year flood lines, which cross both Woodley Park and the golf courses. The elevation differential is less than thirty feet, hardly a challenge in siting festival facilities. As is evident from aerial photographs and topographic maps (available on Google Earth), the locations and extents of golf course fairways actually appear to simplify access, pedestrian movement between stages, and the location of AngelFest components, such as stages. Sight lines on these golf course fairways are no more blocked by trees than are proposed venue areas in Woodley Park. Woodley I, for example, has dozens of newly planted saplings in protective cages throughout a portion of the proposed project area. Furthermore, there is actually more usable area of golf courses than there is in Woodley Park, which contains or borders the Tillman Water Reclamation Plant occupying many acres, and no greater need to fence off and police certain areas there than to assure protection for the treatment plant and the Wildlife Reserve. The specious arguments proffered by RAP without evidence and repeated without analysis in the EA regarding the unsuitability of the golf courses for AngelFest merely emphasize the desire to discriminate against Woodley Park users. Similar considerations will result in the rejection of MGG’s arguments against holding AngelFest in other areas of Sepulveda Basin. Note that this is not an argument in support of holding AngelFest in these areas, only that the reasoning involved in selecting Woodley Park as the venue for these events is fraught with poor analysis, outright dishonesty and motivation to discriminate against Woodley Park users, most of whom fall into the lower rungs of the economic ladder.

In considering the above paragraphs in summary, it is clear that RAP has weighted the value of the golf courses as greater than all other user areas in the Basin, *i.e.*, the Wildlife Area, cricket fields, archery field, model airplane field, dog park, picnic areas, exercise areas, and others, which collectively provide recreational opportunities for many thousands of area residents spread over time – not to mention providing increasingly rare habitat for wildlife! This reflects unacceptable bias borne out of an unjustified conclusion about the economic importance of Woodley Lakes golf course in particular, which will be unusable for golfing anyway, since it will be used for parking, while the remaining golf courses will presumably remain open.

POTENTIAL ADVERSE IMPACT TO WATER AND WILDLIFE FROM THE SPREADING OF SAND

The EA generally describes the spreading of 132,000 cubic feet of “sand” in an area of Woodley II to create an artificial “beach” as an element of one of the five performance stage venues. However, the document does not describe the source of the sand or whether it will be certified to be free of toxic components that could harm people or wildlife. Nor does the document describe what efforts will be taken to ensure that the sand does not get blown

into or run-off (in the event of rain) into Haskell Creek, which is part of the Los Angeles River watershed, thus creating an unlawful discharge under the Corps' Clean Water Act jurisdiction not addressed in the EA. Such discharge may result in sedimentation that blocks or reduces creek flow capacity, harms wildlife, including fish, amphibians, and reptiles, that live in the creek, or buries aquatic plants or invertebrates. It should be realized that many of these organisms are part of a complex food web that supports aquatic birds, including herons and egrets, shorebirds, ducks, Osprey, grebes, coots, other avian species, raccoons, and other species at relatively high trophic levels that rely on the creek or river for sustenance.

In a worst case scenario, following heavy rain, the creek may overflow causing it to change course, thereby flooding adjacent areas, undermining drainage patterns, and depositing refuse throughout the area. Therefore, a Stream Alteration Permit issued by the California Department of Fish and Game may be required, as well as a separate permit from the Corps allowing the discharge of an unspecified quantity of "sand" of unknown origin and chemical composition.

Furthermore, there is no description of the aerial extent or depth of coverage intended. It is easy to calculate many different configurations for the sand. Nonetheless, in all cases whatever organisms are present beneath the sand and its visqueen supporting layer will be suffocated by it. This includes burrowing small mammals, reptiles, invertebrates, and plants. The material used to support this sand, identified as visqueen, may, in itself, be or become toxic to humans and wildlife as it is degraded by constant abrasion caused by the movement of the sand against it from the additional weight and motion of the hundreds or thousands of festival attendees on top of it. The process of degradation may be accelerated by exposure of portions of the visqueen to ultraviolet radiation as excited crowds incidentally and continually move sand around.

Removing the sand following the festival presents additional problems. Sand is likely to be scattered widely throughout the areas within and bordering the "beach" venue. If the visqueen supporting layer is degraded, sand will be deposited beneath it, so that it cannot be removed by simply rolling up the visqueen. Yet, no mention is made in the EA as to how the sand will be removed under such conditions. Furthermore, the EA references discharging the sand after use into the Los Angeles River south of the dam. This does not seem to be a smart way to discharge used sand that may be mixed with a variety of toxic items and other trash.

CUMULATIVE IMPACTS

The cumulative impacts of the combination of noise, lighting, trampling, installation of the "beach" sand, the presence of tens of thousands of people, mobile equipment operations, and emissions, exudations, and sloughing off of toxins will have a significant adverse impact on wildlife, even if some individual components of the impacts may not when considered in isolation. Birds, protected by the Migratory Bird Act, small burrowing mammals, and bats will suffer the most severe impacts. The cumulative impact of these adverse factors operating together is not addressed in the EA. Rather, the EA considers each of the factors separately, arriving at a conclusion of no significant adverse impact for each factor independently and then disregarding the combinations or interactions of these factors in arriving at the conclusion for the project as a whole having no significant impact. This approach taken in the EA is a form of unlawful "piecemealing."

Piecemealing (also referred to as "improper segmentation") is evident in the EA on

two separate levels. 1) As noted above the EA does not consider the cumulative impacts of the various stressors operating in combination simultaneously, and 2) the EA does not consider the cumulative impacts of an annual repetition of the project. The latter issue was addressed in a letter to the Corps by Muriel Kotin on behalf of SFVAS on May 12, 2016. That letter, provided here as Attachment 3, is herein fully and completely incorporated by reference. It must be noted that piecemealing is specifically prohibited by regulations promulgated by the Council on Environmental Quality and by numerous federal court decisions.

For example, in *City of Rochester v. U.S. Postal Serv.*, 541 F.2d 967, 972-73 (2d Cir. 1976), the court explained that:

“To permit noncomprehensive consideration of a project divisible into smaller parts, each of which taken alone does not have a significant impact but which taken as a whole has cumulative significant impact would provide a clear loophole in NEPA. [citations omitted]. The guidelines of the Council on Environmental Quality make it clear that the statutory term “major Federal actions” must be assessed “with a view to the overall, cumulative impact of the action proposed, related Federal action and projects in the area, and further actions contemplated.”

Furthermore, in *Loretto O'REILLY, Jr., et al. v. UNITED STATES ARMY CORPS OF ENGINEERS*, Eric A. Bopp, Intervenor-Appellant No. 04-31026. United States Court of Appeals, Fifth Circuit, 477 F.3d 225, January 24, 2007, the court found that

“a decision to forego preparation of an EIS may be unreasonable for at least two distinct reasons: (1) the evidence before the court demonstrates that, contrary to the FONSI, the project may have a significant impact on the human environment, see, e.g., *Lee*, 758 F.2d at 1085, or (2) the agency's review was flawed in such a manner that it cannot yet be said whether the project may have a significant impact, see, e.g., *La. Wildlife Fed'n v. York*, [761 F.2d 1044](#), 1053 (5th Cir.1985); *Found. on Economic Trends v. Heckler*, [756 F.2d 143](#), 154 (D.C.Cir.1985).” In this case, both reasons are evident, as discussed herein and in other documents submitted. It seems clear here that the project will have significant impacts on the environment, and the flaws in the EA prepared by ESA are so numerous and severe that they cannot be corrected.

SENSITIVE SPECIES

Bats and Birds

A number of sensitive bird species have been mentioned elsewhere in these comments and in the letter sent to the Corps via e-mail by Kris Ohlenkamp (Attachment 1, referenced above). However, while some effort was made in the EA to discuss the impacts of certain aspects of the proposed project on sensitive species of bats, these discussions are very general and do not address populations of bats known to exist in the Basin, nor do they adequately address potential or actual roost sites. Furthermore, the discussion reflects a complete lack of effort on the part of the consultants to familiarize themselves with actual bat populations in the Basin. A single short sentence uncertainly referencing one species, the big brown bat, *Eptesicus fuscus*, appears in section 3.6.2 of the EA, while section 4.5.2.2 contains the aforementioned discussion.

Bats and other nocturnal species are understudied and under-appreciated components of the area's ecosystem, partly because restrictions on the night-time use of Woodley Park and Wildlife Reserve prevent potential observers from studying them. The following is but an initial effort to correct some of these unfortunate deficiencies in information. However, there is no excuse for the consultants' failure to address the impacts of the project on bats (or birds) more seriously by conducting the appropriate field studies and consulting with knowledgeable sources of information on Basin wildlife. This failure is not simply poor communication but appears to be a deliberate effort to avoid being exposed to information that would force conclusions that the project has significant adverse impacts on wildlife of the area.

Section 4.5.2.2 states, in part, "In addition, the noise anticipated from the Festival differs from ambient noise like traffic noise, which resident birds are more accustomed to, because it would be a higher volume, would include sudden outbursts like fireworks, and would partially occur during nighttime hours, when traffic is typically slower but when some birds are more sensitive." However, the EA fails to recognize important characteristics of sound that are altered at night and that make loud noises more damaging to all receptors. Foremost in this consideration is that air temperatures are reduced at night. Under some circumstances, this leads to reduced attenuation of sound from source to receiver. Thus, all sound receptors will be exposed to increasing loudness at all frequencies as temperatures decline.

The EA further states, "Resident species are relatively adjusted to the local ambient conditions that include constant noise from two major highways, and periodic concerts and sporting events (e.g., cricket matches) that have increased levels of pedestrian activity in proximity to the wildlife area." While this may appear logical, there is no basis for simply dismissing added noise from the festival as having no significant impact. While it is true that periodic concerts and cricket matches (there are no other sporting events taking place in Woodley Park) bring about increased pedestrian traffic, concert events have *never* been held in close proximity to the wildlife area, attendance at concerts has *never* approached the levels of attendance being allowed for the proposed project, the events have *never* occurred for more than one day, and, with very few exceptions, have not occurred in consecutive years. (See the above-referenced Attachment 2, AngelFest Precedent Events Analyzed, for a breakdown of large special events that have taken place in Woodley Park.)

In addition, the EA states, "As noted . . . , if birds and other more *illusive* [emphasis added by commenter] animals are present, they may temporarily relocate to the wildlife habitat farther south into the Wildlife Area and into the Corps Basin operation area south of Burbank Boulevard, or into the Los Angeles River." First, it must be noted that the meaning and position of the word "illusive," as used here, is mystifying. The word is ordinarily synonymous with "illusory." There is nothing illusory about the wildlife of Sepulveda Basin. Wildlife has been studied and observed there for more than thirty years. Regardless of the meaning of this word and the sentence in which it occurs, it is a fact that there is no area for water-associated birds south of Burbank Boulevard, except for the Los Angeles River, and most terrestrial habitat there was destroyed or severely degraded by Corps clearing operations in 2012. On the other hand, while the Los Angeles River supports numerous shorebirds, waders, and dabbling ducks at times, due to its usual shallow depth it is unsuitable for diving birds, such as grebes, cormorants, pelicans, and diving ducks – all species that are common in, and partly dependent upon, the Wildlife Lake during the period of time for which the proposed project is planned. Moreover, Corps vegetation and sediment

clearing operations within the channel north of the dam floodgates generally make large areas of it unsuitable for most terrestrial species and many aquatic species for months at a time. Thus, there are no significant refugia in other areas in or near the Basin available to many species of water-associated birds presently using the Wildlife Lake or for terrestrial species that use the surrounding areas. ESA consultants should be aware of these issues affecting Sepulveda Basin, as they have been well publicized. Yet, they fail to factor in these considerations when arriving at the completely unjustified conclusion of no significant impacts or that impacts that can be mitigated through the application of vague “commitments.”

Regarding bats specifically, the hoary bat, *Lasiurus cinereus*, is known to occur in the area (specimen found dead, impaled on thorn, on Feb. 26, 2016, collected and delivered to the Natural History Museum of Los Angeles County, where, via personal communication with the Curator of Mammals, the specimen was prepared for examination and preservation). Other bat species have been observed foraging in the area. This includes the non-migratory western mastiff bat, *Eumops perotis*, a California species of special concern and a species designated as “sensitive” by the Bureau of Land Management, which can be observed foraging over Woodley Park and the Wildlife Reserve before sunset. The species of migratory bats will be completely eliminated from the area during their migration season by the combination of loud noise and bright lighting, both of which will interfere with the bats’ ability to forage in an area that is ordinarily dark and relatively quiet. The non-migratory species may be permanently eliminated by the same factors. The areas available for bat foraging and roosting in the San Fernando Valley area are now extremely limited. The nearest significant roosting areas known are in the Simi Hills, more than ten miles to the northwest of the Basin. Thus, due to severe and continuing habitat destruction or degradation, Sepulveda Basin takes on heightened importance for these species just as it does for birds.

Reptiles and Amphibians

Reptiles and amphibians are barely mentioned in the EA. The western fence lizard is the only reptile species mentioned, in spite of the fact that a variety of snake species occur in the area, and turtles are common in the Wildlife Lake and Haskell Creek. The southern western pond turtle, *Emys pallida*, (formerly considered a subspecies of the western pond turtle, *Actinemys marmorata*), a California species of special concern, is now rare at Sepulveda Basin and has not been observed for quite some time (last reported by Steve Moe, retired RAP biologist, via personal communication); however, the area still contains suitable habitat for the species, which is known to wander substantial distances from water to find nesting sites. Much of the area containing potential nest sites will be severely impacted by the project. A focused survey may reveal the continued presence of this species in the area.

Invertebrates

Numerous species of invertebrates having ecological and aesthetic value may be impacted by the project. The most obvious of these are in the orders odonata (dragonflies and damselflies) and lepidoptera (butterflies, moths, and skippers). Among the species to be considered is the monarch butterfly, *Danaus plexippus*, which has experienced severe population declines in recent years (references are available on line, for example, see http://www.biologicaldiversity.org/species/invertebrates/monarch_butterfly/). The dates for the proposed project include the peak migration period for this species in our area. No

attention whatsoever was given to these organisms in the EA. It is not clear how these organisms might be impacted; however, damage to vegetation would be one possible link in a chain of events causing impacts. Other impacts might occur from the release of a multiplicity of toxic chemicals, of which some of the numerous sources have been described above. It is likely that some festival attendees will simply swat them out of the air or blow smoke from cigarettes or marijuana at them. Regardless of the uncertainties, some consideration of the invertebrate fauna, including those dwelling in the soil and in grassy areas scheduled for trampling, should occur in the EA.

It is not often appreciated that insects (and some other invertebrates) hear sounds, and they can be impacted by noise. The amplitude and broad range of frequencies from AngelFest performances will likely result in the deaths of millions of insects from direct damage to their tympanic membranes, by interfering with prey detection signals, or by other mechanisms. The impact of noise will be exacerbated by the constant flushing of insects from lawns resulting from the trampling of 130,000 feet per day, golf carts, the movements of equipment, and mortality due to the releases of toxins from equipment, discarded tobacco waste, and other items. (See Attachment 6, TPL Impacts from AngelFest, for more detailed consideration of the impact of tobacco waste litter.) In short, AngelFest will significantly -- even drastically -- alter the ecology of Woodley Park and the wildlife areas directly or indirectly. Disregarding these impacts is a serious deficiency in the EA.

INABILITY OF PROMOTERS TO MEET COMMITMENTS

The “Commitments” section of the EA does not evaluate the ability of the promoters to actually deliver the services listed. Merely listing commitments expected or desired, without any descriptions of specific actions to be taken to meet those commitments, while lacking any evaluation of the probable effectiveness of those efforts or their relationships to reducing adverse impacts, and failing to guarantee that the actions needed to meet those commitments will actually be taken serves no function in assuring the obligations of the parties to minimize long-term adverse impacts will be realized. This section reflects that little or no effort was applied in understanding the complexities of environmental restoration. Therefore, the EA is deficient in this analysis.

More specifically, as noted in Attachment 4, Terrain Restoration, the amount of effort, resources, and time needed to fully “restore” the areas impacted by the project is much greater than MGG seems capable of or willing to provide. A \$50,000 bond is insufficient to cover the costs of such restoration. The amount being considered is far less than the amounts tendered for restoration of festival grounds in other cities. For example, as described in Attachment 5, AngelFest Fiscal Considerations, which is herein fully and completely incorporated by reference, the promoters of the Lollapalooza Festival, which takes place in Chicago’s Grant Park provide \$230,000 in cash -- in dry years, and significantly more when rain is a factor -- to cover the costs of restoring the festival areas in a park that does not contain any sensitive wildlife habitat. Attachment 5 contains several other examples.

PROMOTERS’ HISTORY OF DECEPTION

It would appear that the Corps has the responsibility of resolving issues that bear upon the credibility of the promoter before any permits can be issued or selection of the proposed project alternative can be made. It is difficult to imagine that the Corps would want to approve a project proposed by applicants that might be unreliable or dishonest in their

dealings with the Corps or the public. The following information is provided to assist the Corps in making such a determination

As the AngelFest website claims trademark rights for the name “AngelFest,” a search of trademark application records was conducted. It was found that the trademark was applied for by Sexton, LLP in 2013 but appears not to have been registered. A business record search was then conducted through the California Office of the Secretary of State for Sexton, LLP. It was found that Sexton, LLP ceased to be registered to do business in California in 2006, more than six years before the trademark application was filed! Therefore, the trademark application may have been filed under false (and, possibly, fraudulent) pretenses. Furthermore, the use of the name AngelFest under such conditions deprives other potential users of the benefits of the name and, if this information is correct, represents a misuse of the trademark.

Charles Singer, representing RAP, which is actively promoting AngelFest, proudly stated at the March 22, 2016 meeting of the Sepulveda Basin Wildlife Areas Steering Committee that RAP has been meeting privately with MGG and the Corps’ for approximately two and a half years (which timing is consistent with the 2013 trademark application; see above). Mr. Singer further announced that the public was deliberately excluded from any proceedings until approximately October, 2015. Furthermore, during the entire period of two and a half years, not a single publicly-noticed meeting of the RAP Commissioners was held in which AngelFest was an agenda item. This represents a gross and inexcusable violation of the California’s open meeting law (the “Brown Act”). To make matters worse, the RAP Commissioners cryptically extended an alcohol permit to AngelFest during a meeting at which AngelFest was not noticed as an agenda item. The alcohol permit was approved as part of an agenda item with an unrelated title. The availability of alcohol at the festival will increase the likelihood of environmental, and other damage, caused by excited concert attendees. Such damage could be due to fires started by careless smoking, tree climbing, urination (or even defecation) in public areas, attacks on wildlife, etc.

These events concerning the process by which this proposed project has been pursued should at the very least cause the Corps to seriously question the credibility of the applicants. This may also help explain the reluctance of RAP to initiate an appropriate review under the California Environmental Quality Act (CEQA), as the use of such deceptive measures would be automatic grounds for disapproval of the project under CEQA. Instead of undertaking an honest review under CEQA, RAP issued an invalid Notice of Exemption from CEQA, claiming their permitting process was merely a “ministerial” action. However, CEQA guidelines, adopted in full by the City of Los Angeles, are clear in that decisions that are discretionary are not considered “ministerial” actions. The Corps should have engaged RAP on this issue to formally determine whether a joint NEPA-CEQA process was needed or whether the two processes should have occurred independently. The failure to initiate a CEQA review in this instance, where significant adverse impacts will occur, as described elsewhere in this document, represents a grave threat to the entire environmental review process at both the federal and state levels.

ACCESSIBILITY ISSUES 2.3.2

According to the EA, the entire proposed project site, excluding parking sites, would become exclusive to the project twelve days prior to the festival and would not be accessible to visitors during that time. However, this claim is in conflict with the statements by MGG

and RAP representatives to the effect that exclusivity would begin sixteen days prior to the festival. The EA further states that load-in of stage production equipment (stages and stage barricades, sound, lights, and video) and festival production equipment (e.g., scaffolding, scenery, lighting, and sound) would commence eight days prior to the Festival. Again, this is in conflict with MGG and RAP statements regarding the timing of these events. Load-in and set-up of food and beverage concessions would begin four days prior to the festival. The festival then occurs for three days followed by an extended period of restoration of areas impacted by the project. A minimum of eight days is budgeted for this; however, the EA itself makes it clear that some areas of the project site would be off limits to park users for extended periods of time during the restoration period. In addition, as is made clear in Attachment 4 (*q.v.*), referenced above, the restoration process will take much longer than the producers of the EA, as well as the project promoters, are willing to acknowledge.

Thus, the tens of thousands of park patrons, most whom are on the lower rungs of the economic ladder from surrounding San Fernando Valley neighborhoods and depend on the availability of Woodley Park facilities for recreation or peaceful respite from the clamor of urban life, would be totally excluded from Woodley Park for the duration of project activities and from most of its areas for an indefinite extended period afterwards. Besides visitors to the Japanese Garden and teahouse at the Tillman Water Reclamation Plant, which will be off limits to the public for *only* five days, this includes picnickers, people celebrating birthdays or other significant life events, dog walkers, archers, cricket players, lawn bowlers, exercise facility users, Frisbee players, artists, photographers, birders, couples seeking quiet and solitude, chess players, book lovers, folks simply lounging around in areas where they are not considered to be loitering, college students conducting various types of research, and a host of other categories of park users. Whereas the project promoters claim to want to celebrate the culture of Los Angeles, they obviously have no comprehension of the actual day-to-day culture of the area. With the proposed project we will be witnessing what is essentially the imposition of an alien, strictly commercial event that will disturb the entire cultural milieu that has developed in this park area for decades while causing severe inconvenience to park users, the surrounding communities, and significant adverse impacts to wildlife. The costs to the community of regular park users are incalculable.

RESTORATION ISSUES 2.3.2

The EA asserts that the site would be restored to its "pre-festival condition." Attachment 4, referenced above, describes the difficulties, expenses, and significant inconveniences to park users of attempting to accomplish this goal. In fact, such restoration will likely be impossible to achieve. Proposed remediation of the site would only include turf restoration, replacement of damaged shrubs and trees, fence and parking lot barrier replacements, cricket field restoration, and other areas as required. No mention is made of whether any effort will be made to replace existing vegetation damaged by the project with similar vegetation composed of the same species at a similar growth stage. No mention is made of soil restoration or of restoration of the animal life that will be driven out of the area or killed by AngelFest activities, in part, due to soil compaction. Of particular concern are burrowing animals that constitute an important element of the food web, nutrient cycling, and seed dispersal. These creatures also turn, mix, and aerate the soil, thereby facilitating water infiltration that effectuates irrigation and conserves water. As is discussed below, these animals provide educational opportunities associated with the Sepulveda Basin Environmental Education Program, which is sponsored by SFVAS. The program programs outdoor environmental education programs for children attending schools in the Los Angeles

Unified School District (LAUSD). The proposed project will drastically interfere with program scheduling while damaging the habitats and wildlife that are crucial to its usefulness.

Section 2.3.3 states that [restoration] activities would include, for example, "re-sodding of areas worn down by foot or vehicle traffic." However, virtually the entire area impacted by the project will require restoration. The section further states that RAP "[m]aintenance staff" would assess the conditions of the festival location and parking areas, and restoration would begin within eight days. However, RAP has a vested interest in minimizing costs while creating an appearance that the area has been restored, enhanced, or improved. Therefore, such an assessment would have to be conducted by an independent team of experts, who will inventory the site before the festival and determine what changes have occurred as a result of the festival. Restoration should be based on a valid comparison of before/after conditions, including soil composition, compaction, presence of soil organisms, and other factors discussed in Attachment 4 with due consideration for the financial concerns discussed in Attachment 5.

Furthermore, the EA admits that for sod reestablishment, additional isolated closure may be needed to ensure the re-growth without being damaged. However, the claim that that this would result in only localized fenced off areas, not closure of recreational areas, is naive at best. The EA asserts that the event organizer and/or RAP would re-inspect the area after sufficient time to ensure reestablishment was successful, or to determine if additional restoration is needed. As noted above with respect to evaluating the before and after changes, such a determination is best made by an independent team of experts.

The EA asserts that "[a]dditional funding would be requested if more funds than the posted amount are needed. The balance would be returned if fewer funds are used." At first glance, this may appear to be a satisfactory resolution to the funding issue. However, the promoters would undoubtedly resist such requests and attempt to pressure those charged with assessing the impacts, recommending the restoration processes and goals, and evaluating the success of the restoration throughout the process to pare down the process so that the promoters can increase their profits. This would reduce the chances of success and increase the risk of requiring legal action to force compliance. The upshot of this is that the interests of park users and the viability of the area as habitat for wildlife will be continually subverted.

SOURCES OF SPECIFIC IMPACTS

Access Denial Impact on Environmental Education Program

As noted in the previous section, SFVAS sponsors the Sepulveda Basin Environmental Education Program. The program targets schools in the Los Angeles Unified School District with special emphasis on Title 1 schools. The program gives youngsters from these schools the opportunity to visit Sepulveda Basin and learn about ecological principles, birds and other wildlife, watersheds, water quality, water recycling, the functions of the flood control basin and its connections to the Los Angeles River and the ocean, and other subjects to which they might not otherwise be exposed -- all in the peaceful outdoor environment of the Basin. The program, which has been active since 1994, reaches approximately 2000 mostly elementary and middle school children (along with their teachers and adult chaperones) every school year. As part of the program, participating teachers

attend an annual workshop, and the program's naturalist tour leaders participate in an intensive training program annually in the Basin and at other locations.

The school programs begin in September, while the training programs extend from September through the first week or two of November. Thus, the proposed project, by depriving the program access to Woodley III facilities, will interfere forcibly and unalterably with the program schedule. It will not be possible to reschedule most of the events critical to the success of the program.

The result will be a significant adverse impact on the viability of the program and will deprive many classes of the opportunity to participate in it. The program messages and subject matter will be undermined by the imposition of an event that is alien to conservation principles, which are integral to the program. How will naturalists explain to children that a wildlife reserve and supporting areas are subservient to commercial needs or that our government agencies, the U. S. Army Corps of Engineers and RAP, lack the simple wisdom needed to deny such impositions?

Noise Impacts

A number of issues related to noise impacts have been addressed above (see particularly sections on Context, Cumulative Impacts, and Sensitive Species). However, misleading arguments in the EA bear further illumination. At the outset, it is important to realize that the usual scale used to describe loudness, the decibel (dB) scale (used throughout the EA) is not a simple arithmetic scale but a logarithmic one. Using such a scale, differences among values indicate much greater differences in the levels of the parameter being measured than is indicated on an arithmetic scale. Thus, for example, an increase of 6 dB, say from 60 to 66, represents a doubling of loudness, *i.e.*, a 100% increase, not merely an increase in 6 units or 10% (Ortega, 2012). Many readers of the EA may not be familiar with the peculiarities of the dB scale and will be misled by references to seemingly small increases in dB measurements.

Section 3.5.1 of the EA states that Metrosonics Model db-3080 sound level meters were employed in long-term, 24-hour, noise monitoring to determine background noise levels. Regardless of the instrumentation used or its calibration condition, the monitoring locales were not selected based on scientifically valid random or stratified sampling protocols. Rather, the locations selected are among the noisiest, if not the actual noisiest, locations in the vicinity of the Basin. Location "R5" is located on Victory Boulevard east of Haskell Avenue. This is one of the widest and busiest thoroughfares in the valley, and the particular location is just west of Interstate 405 freeway with on/off ramps located nearby. The location is unusually loud for the area. Location R25 is located east of Interstate 405 and Sepulveda Boulevard along the Orange Line Busway, again an unusually loud area. Why these locations were selected for measurements of background noise for the project area is not clear. However, these are not representative locations for this type of measurement in the surrounding area. Nevertheless, the measurement values, which were largely influenced by the proximity to traffic noise, were then extrapolated, using certain models, to create theoretical values of background noise levels expected to occur in the project area. ***Thus, the extrapolated values are likely to be substantially higher than is the case in reality. The consequences of this procedure are that the measurements taken at these unrepresentative locations create an impression that background noise levels are higher throughout the Basin than is actually the case and creates an illusion that noise will not increase that***

much over background values from festival activities.

In reality, a substantial part of freeway noise does not reach the project area, since it is blocked, absorbed, or deflected by the Sepulveda Dam embankment parallel to the freeway. The embankment incidentally serves much the same function as a freeway sound wall. On the other hand, sound emanating from Victory Boulevard is blocked, reflected away from, or attenuated by the buildings and grounds of the Tillman Plant and by trees and plantings along the Orange Line route, which parallels Victory Boulevard in the area. Thus, the background noise extrapolations for the project area are based on completely false premises and faulty reasoning regarding sound propagation in the area.

Furthermore, gross errors were made in the EA in describing roads "bordering" the Basin. The most obvious of these are statements that Sepulveda Boulevard and Ventura Boulevard border the Basin. In truth, Sepulveda Boulevard is located east of the I-405 and an intervening broad strip of shopping centers or other businesses, condominium complexes, and a variety of other public and private facilities. This is plainly evident in aerial photographs included in the EA, as well as being obvious to anyone actually familiar with the area. Nevertheless, these obvious features of the surrounding area are totally ignored in the EA. These errors are even worse regarding Ventura Boulevard, which is located approximately one half mile south of the Ventura Freeway (U. S. 101). The freeway itself does border the Basin on the south, but noise from it, similar to I-405, is largely blocked, absorbed, or deflected upward by the Sepulveda Dam embankment from which it is separated to begin with by a substantial distance. The mischaracterization of these area features represents sloppy workmanship at best; however, the consequences for analyzing noise data are severe, as described above.

As stated in the EA, accepting *arguendo* that the account is accurate, AngelFest will generate sounds that will range up to 83 dB for receptors in the northern portions of the Wildlife Reserve. Although, according to the calculations in the EA, this will be approximately 13 dB higher than the background sound level, the actual difference, considering the factors discussed above will be greater by some unknown amount.

In evaluating the sound impacts on wildlife, the actual sound levels produced by the project that reach the ears of receptors are most important. However, the degree of adaptation to background noise levels and the difference between the level of noise to which receptors are adapted and the levels of "foreign" noise plays an important role in determining a receptor's response. What would be unusual increases in noise levels will likely cause wildlife receptors to initiate fight/flight responses that, over the course of the project period will be maladaptive, as such responses will be associated with sudden death from fright, increases in stress-related hormones, abandonment of familiar feeding or sheltering areas, exposure to predators, accidents (many involving human installations) during panic responses, and a host of other predictable reactions.

In this case, the difference between the familiar sound environment to which wildlife are adapted and that of the project environment, as noted above, is greater by some unknown amount than is indicated in the EA. For example, the EA states, essentially, that the background noise levels in the northern part of the Wildlife Reserve are around 70 dB and that receptors are adapted to this noise level. The EA further states that, as a result of the performances, the dB level in that same area would reach approximately 83 dB, a difference of 13 dB, which is more than four (4) times the background level of loudness. However, the

actual difference would be greater by some unknown factor. Birds and other wildlife in the area are adapted to dB levels less than 70 dB; so that when they are exposed to sound from performances the impacts on them will also be more severe than calculated. Furthermore, the nature of sound originating from the performance venues in pulses, rather than continuously, will expose wildlife to added stress as they may repeatedly attempt to return to home ranges or territories when noise subsides only to be driven out again and again.

The frequency of sounds generated during performances must also be considered, as species are differentially sensitive to pitch. For example, "at 1 to 10 Hz, doves are approximately 40 dB more sensitive to sound than humans" (Ortega, 2012). Sounds in the low frequency range are also less subject to attenuation. Since these are frequencies in the low bass range that are common in rock and other types of popular music, the effects of the high dB range of the performances will make it even more damaging to many species. In fact, it is recommended that noise impacts on wildlife should be measured on the A scale in conjunction with C scale rather than simply using the A scale most useful for measuring noise affecting humans in order to identify the influence on loudness from low frequency noise. The EA once again missed an important process in understanding the impacts of noise on wildlife.

While the EA identifies several impacts of noise on birds, there is a more complete list:

- Damage to ears
- Stress responses
- Fright flight
- Avoidance
- Changes in behavior, *e.g.*, reduced foraging time
- Changes in reproductive success (applies to some species in September/October)
- Changes in vocal communication
- Interference with ability to hear predators and other important sounds
- Potential population level changes.

The list can be made substantially more detailed. The point is that the consultants for the EA failed to consider nearly every potential impact of noise on birds, instead choosing to dismiss the impacts of noise generally as less than significant, based on faulty analysis of the noise levels in the surrounding environment and consequent extrapolations to noise levels to which birds will be exposed from AngelFest performance venues.

Lighting Impacts

The impacts of project lighting, both from the light emitted and from the hardware used to emit it, are briefly described in some sections above, including that entitled "The Entire Environmental Assessment Is A Pretext Rather Than An Honest Assessment," as well as those on Context, Cumulative Impacts, and Accessibility. EA section 2.3.2.9 in discussing lighting, states that there will be one hundred 20 kilowatt lighting towers throughout the event area, but that there will be six of these towers used from eight days prior to the festival until the Monday morning following the festival. Vague statements are made in the EA about the use of lighting during performances. The EA is silent on the timing and duration of operation of these lighting systems, except that lighting would be used "after dark" and that

"work and associated lighting would run . . . through the night." Due to the sketchy information provided in the EA, it is impossible to evaluate the full impact of this lighting on the project area's wildlife. Some of the lighting would be provided using LED's. However, it must be noted that recent studies have found harmful effects on physiological processes in both humans and wildlife from LED light. In addition, the EA states that lighting would be provided by hanging some of the light fixtures on trees. This is totally unacceptable in an area that is likely to be extremely dry and prone to fire during the time of the project, as heat from these fixtures could provide an ignition source.

It must be realized that light has profound effects on birds and other wildlife, since it is the key factor entraining the daily (circadian) rhythms by which most animals time their life-sustaining activities. There is an ample body of literature on this subject, none of which was referenced in the EA or, evidently, reviewed in connection with its preparation. Alterations of normal light cycles from the project, by imposing artificial cycles of extended bright lighting in the area, can affect avian behavior, such as, the timing of the onset, duration, and quality of singing, going to roost, migration readiness, and, directly and indirectly, through the influence of prey activity, foraging activity, and others. Physiological processes, such as fat deposition in preparation for migration, molt, and central nervous system stimulation for migration are among some of the processes that are impacted by changes in light cycles. All of these changes, and more, are likely to be maladaptive for birds in the project area and portions of the Wildlife Reserve technically outside of the project area.

In addition to these adverse impacts, bright, or even moderate, lighting from the project, even if it were to occur in the absence of other impacts, will cause most birds and other wildlife to avoid the area by moving elsewhere. The result of this will be sudden increases in population numbers in areas less impacted directly causing increased competition for food, territory, perch sites, roosting sites, and other basic needs. This could lead to increased mortality, decreased physical condition, and complete site abandonment temporarily or permanently. These impacts will, of course, be magnified many times over when the effects of other impacts, such as noise, crowds, trampling, and others are taken into consideration.

The EA also neglects any discussion of the actual light levels (lumens or other appropriate units) or wavelengths that will be emitted by the artificial lighting, nor does the EA discuss the amount of heat that will be incidentally produced from lighting (and other project activities). Each of these factors has the potential to produce a unique set of additional adverse impacts. Little need be said of fire or pyrotechnics, being planned to enhance performances and provide a culminating event for the project. These special effects will have a frightening effect on wildlife, possibly leading to direct mortality of any wildlife left in the area, and will increase the probability of wildfire occurring throughout the area, as well as contribute toxic substances to the surrounding environment through the air and by deposition.

Trampling and Soil Compaction

Adverse impacts from trampling was briefly discussed above in sections on Cumulative Impacts, Sensitive Species, and Lighting. However, much more needs to be said about it. The effects of trampling will be due to the presence of large crowds, and soil compaction will result from this and the use of various types of heavy equipment, motor

vehicles (ranging from trucks to golf carts), or machinery throughout the event period. The obvious impacts of trampling are soil compaction, direct destruction of vegetation, and mortality of any wildlife that happens to get in the way. Small mammal burrows, especially those of Bottae's pocket gopher and the Beechey ground squirrel, will be particularly impacted. As a result, these animals will either be driven out of the project area, thereby reducing their chances of survival, or killed in place by suffocation or crushing.

However, indirect effects will also occur. Water will be squeezed out of the soil, where it will evaporate from the surface rapidly in the heat of the southern California September and October sun, with temperatures commonly reaching more than 100 degrees during the day. This will greatly complicate restoration efforts. The quality of soil will be so degraded that re-colonization by small mammals will be substantially delayed, if it can occur at all. Thus, drying of the soil, due to the project, will have a profoundly devastating impact on the ability of small mammals to re-colonize the area, which is one of a very few areas in the entire city where a small mammal, such as a gopher, is not considered a pest targeted for elimination. In fact, these animals are recognized by most observers, if not by RAP, as an important component of the area's food web, supporting such diverse species as Great Blue Herons and Great Egrets, hawks, owls, snakes, coyotes, and weasels. Moreover, the antics of gophers and ground squirrels can often be observed in the area to the delight of children and their escorts participating in the Sepulveda Basin Environmental Education Program, which provides opportunities for many children whose prospects for other such experiences, are unlikely. In addition, herons and egrets can often be seen stalking gophers in the lawn and savanna areas of Woodley Park, where excited children can sometimes observe them capturing and eating a gopher, a truly eye-opening experience for anyone. This proposed project places all of that in jeopardy.

ADDITIONAL IMPACTS

Multi-year Impacts

The destruction of Woodley Park and Wildlife Reserve habitats by this project will permanently alter the ecology of the area. Restoration, as discussed above and in Attachment 4, will likely be impossible to achieve, especially if this project becomes a multi-year program, as has been the desire of the promoters indicated in the now-cancelled permit from RAP. Repeated disturbances of the area to this extent every year will not allow sufficient time for recovery between disturbances.

Although the SFVAS mission primarily concerns wildlife and their habitats, we are not unmindful of the potential impacts of this project on the surrounding communities. We recognize that the repeated cut-off of access to park facilities for nearly a month bracketing a holiday weekend, along with disturbances to the surrounding communities from noise, traffic, crowds, and likely increases in criminal activity and drunkenness from this and other such mega events likely to follow will make the area less appealing as residential communities. This could lead to possible decreases in home values and conversion of the communities to something other than desirable neighborhoods in which to live and raise a family.

We also recognize that parking areas scattered throughout the valley will create additional impacts to the communities surrounding them, and increased traffic from this project will inconvenience and endanger travelers for many miles around. In particular, we

object to plans to use the Van Nuys Flyaway terminal airport parking lot as a remote parking facility for this commercial project. This terminal was expanded several years ago expressly for the purpose of providing remote parking for air travelers using Los Angeles International Airport (LAX) in order to reduce traffic on area roads, reduce congestion in and around the airport, and, as a consequence, improve security there. The proposal to use the terminal for this project's remote parking will be an extraordinary inconvenience to thousands of air travelers, who will be forced to make other transportation arrangements to or from LAX during a busy holiday weekend. This is also a severe affront to a decade long effort by security experts to secure LAX from the dangers of terrorism or other violent acts and undermines or complicates airport security measures.

We also note, but do not further analyze, the potential impact on the security of the Donald C. Tillman Water Reclamation Plant and California National Guard facilities located in the Basin. Such impacts or potential impacts provide additional examples of the insufficiency of the EA.

SUMMARY

This letter carefully considers the entire EA and, by implication, the FONSI based on it. The EA, as described herein, is extremely deficient in many ways -- even failing to properly identify a need for the project. Many adverse impacts from the proposed AngelFest project (or program, if considered as a repeated, multi-year event) from various sources have been identified. Many of these constitute *significant* adverse impacts on wildlife, wildlife habitats, and other elements of the human environment, while those that may not be individually significant are when combined with other impacts. In addition, other questionable practices on the part of the promoters and other deficiencies in the EA or in the project planning process have been identified. SFVAS is confident that the analysis presented here accurately portrays the issues covered.

CONCLUSION

Based on the foregoing, SFVAS concludes that the FONSI should not be signed and that the "NO ACTION" alternative must be adopted by the deciding official. While the preparation of a full Environmental Impact Statement may seem desirable, that would likely lead to a similar conclusion and would, therefore, result in a waste of funds on both the federal and local levels, as well as giving the project promoters a false hope that such an environmentally devastating project could ever be approved in Sepulveda Basin.

SFVAS appreciates the opportunity to comment on this EA and FONSI.

Sincerely,

Original signed

Mark B. Osokow,
San Fernando Valley Audubon Society
Member of the Board of Directors

Chair, San Fernando Valley Bird Observatory
Representative to the City of Los Angeles
Recycled Water Advisory Group.

David A. Weeshoff,

Original

San Fernando Valley Audubon Society
Conservation Chair.

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ATTACHMENTS

1. Ohlenkamp, Kris. Avian Species Impacted by AngelFest Proposal, version 4, May 16, 2016.

2. Wollner, Jackie. Analysis of Sepulveda Basin Precedent Events

3. Kotin, Muriel. AngelFest Comments, May 2016.

3a. Kotin, Muriel. AngelFest Overlay Map.

4. Weeshoff, David and Jim Houghton. Terrain Restoration.

5. Wollner, Jackie. AngelFest Fiscal Considerations

6. Wollner, Jackie. TPL Impacts from AngelFest.