

## **Elysian Reservoir Water Quality Improvement Project Update August 19, 2016**

LADWP is constructing the Elysian Reservoir Water Quality Improvement Project (Project) to protect water quality and improve water supply reliability. The scope of the project includes the demolition of existing reservoir structures; installation of new reservoir pipeline, vaults, paving, floating cover, facility security; and debris basin restoration. Project details can be found on the project webpage at [www.ladwp.com/elysian](http://www.ladwp.com/elysian).

As part of wastewater quality compliance and regulatory requirements, the debris basin restoration work is needed in order to appropriately discharge wash water that is accumulated during floating cover maintenance. The wash water will be conveyed into the debris basin for groundwater recharge.

### **Haul Route Permit**

LADWP has filed an Application for Review of Technical Reports and Import-Export Routes with the Los Angeles Department of Building and Safety (LADBS) Board of Commissioners (LADBS Board File No. 160022), to transport earth material as part of the above-mentioned debris basin restoration work. After project completion, the debris basin area will be returned to the Los Angeles Department of Recreation and Parks (RAP). Please see the Project Overview Map, located in the project webpage noted above.

The import-export route (haul route) was determined in the Project's Final Environmental Impact Report (EIR), which was approved in December 2012. The route begins at LADWP's Elysian Reservoir complex on Grand View Drive at Park Row Drive. Trucks turn right on Park Row Drive, continue left on Solano Canyon Drive, turn right on Academy Road, continue on Academy Road, turn right on Stadium Way, and onto the 5 Freeway. The route, one way, is approximately 3.3 miles. Truck trips will not exceed what is specified in the EIR. To review the EIR, please visit the project webpage noted above.

### **Future Road Repair**

LADWP had a prior agreement with RAP to assess and restore road damage along the haul route. After construction is complete, LADWP will repave as needed, based on the assessment.

### **Building Permit Requirements**

LADWP projects are exempt from Department of Building and Safety building permit requirements as determined by the Office of the City Attorney, per the Los Angeles City Charter Section 675. Please see the attached letter from the Office of the City Attorney to the Permit and Engineering Bureau Chief at the Department of Building and Safety.



OFFICE OF THE CITY ATTORNEY

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October 6, 2015

Ms. Ifa Kashefi  
Chief, Permit and Engineering Bureau  
Department of Building and Safety  
201 N. Figueroa Street, Room 1080  
Los Angeles, CA 90012

Re: Waiver of Building Permit for the Los Angeles Department of Water  
and Power Elysian Reservoir Water Quality Improvement Project

Dear Ms. Kashefi:

The Los Angeles Department of Water and Power (LADWP) is currently in the process of installing a chlorosulfonated polyethylene floating cover over the existing Elysian Reservoir and constructing two hydraulic control buildings and appurtenances as part of the Elysian Reservoir Water Quality Improvement Project (ERWQIP) in Elysian Park. LADWP is seeking exemption from the Department of Building and Safety's permitting process for the construction of the two hydraulic control buildings. These new buildings will be single story structures approximately 15 feet by 36 feet, housing electrical and mechanical equipment to hydraulically operate new inlet and outlet valves. These valves are located at the reservoir bottom and control supply to the City's water distribution system. The ERWQIP will ensure compliance with the United States Environmental Protection Agency's Long Term 2 Enhanced Surface Water Treatment Rule. The ERWQIP will also preserve local water storage capability to meet customer demands at required service pressures for both standard and emergency operations. The contractor for the ERWQIP is currently mobilizing on site, and the project is estimated to be completed in Spring 2018.

As outlined below, the ERWQIP is exempt from Department of Building and Safety building permit requirements. The Office of the City Attorney has been requested by the LADWP Water System to advise on the laws applicable to this situation.

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The Los Angeles City Charter is the chief organic law of the City. (*Platt v. San Francisco* (1910) 158 Cal. 74.) It does not require LADWP to submit to Department of Building and Safety overview in the planned construction of the ERWQIP, but, rather, dictates that the Department of Water and Power is self-regulating with respect to control of the City's water assets.

Section 675 of the Los Angeles City Charter<sup>1</sup> provides as follows:

(a) **Rules and Regulations.** The board [of Water and Power Commissioners] shall have the power and duty to make and enforce all necessary rules and regulations governing the construction, maintenance, operation, connection to and use of the Water and Power Assets for Departmental Purposes.

Furthermore, addressing the issue of the development of water (and power) assets, Section 675 asserts:

(c) **Development of the Water and Power Assets.** The board [of Water and Power Commissioners] shall have the power and duty to acquire, provide for, construct, extend, maintain and operate all improvements, utilities, structures, facilities and services as it may deem necessary or convenient for Departmental Purposes.

The term "Water Asset" is defined in the Los Angeles City Charter as follows:

**Sec. 672. Possession, Management and Control of Water and Power Assets.**

The Board of Water and Power Commissioners shall have the possession, management and control of:

(a) **Water and Water Rights, Lands, and Facilities.** Whether situated inside or outside of the City or the State of California, all the water and water rights of the Los Angeles River, all other water or water rights of every nature and kind owned or controlled by the City, and all the lands, rights-of-way, sites, facilities and property used for the capture, transportation, distribution and delivery of water for the benefit of the City, its inhabitants and its customers. The water and water rights, lands, rights-of-way, sites, facilities and other interests of the City related to its water

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<sup>1</sup> All Charter language referenced herein is taken from the Los Angeles City Charter operative July 1, 2000.

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business under the possession, management and control of the board shall be known as the Water Assets.

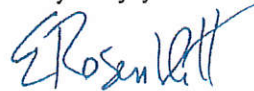
The ERWQIP is clearly a water asset as defined by the City Charter because it is used for distribution of water for the benefit of the City and LADWP customers. Under the City Charter it is the responsibility of LADWP to ensure that the present project meets required industry safety standards and any applicable state or federal building codes and regulations. LADWP has great expertise in the areas of water system design and construction and undoubtedly is well qualified to manage the project.

The power of the City to govern the operation of its own water services is incidental to the power to "establish and operate" public utility systems conferred by Article XI Section 9 of the California Constitution. (*Durant v. City of Beverly Hills* (1940) 39 Cal. App. 2d 135, 137 [discussing the prerogatives of a municipal utility under Article XI Section 19, now Section 9].) The Los Angeles City Charter's unambiguous grant of authority to the Board of Water and Power Commissioners to "construct, extend, operate and maintain" all water utilities of the City represents an exercise of the City's municipal power which is presumptively reasonable, fair and lawful. (*Durant v. City of Beverly Hills, supra*, at p. 139.) Research has not revealed any language within the City Charter, or in any other legislative scheme, which in any way diminishes the authority of LADWP to exercise exclusive control over the retrofitting of the City's water system as discussed herein.

Based on the foregoing, please be advised it is the intention of the LADWP to proceed promptly with the project.

If you have any questions in reference to the foregoing or wish to discuss these matters in further detail, please do not hesitate to contact the undersigned at (213) 367-4500.

Very truly yours.



Eric Rosenblatt  
Deputy City Attorney

EHR:pas

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