

4 Obstacles In Push To Revitalize The Los Angeles River

By **Andrew McIntyre**

Law360, Minneapolis (October 20, 2015, 3:22 PM ET) -- The Los Angeles River, at times just inches of water flowing along a seemingly post-apocalyptic concrete bed, has become the focus of an ambitious plan that calls for turning 51 miles of the waterway into parks, trails and mixed-use development, but such a project faces myriad regulatory and zoning hurdles, lawyers say.



As seen in this conceptual rendering, the Los Angeles River revitalization project will incorporate native grasses with recreational access to the site. (Credit: lariver.org)

While the revitalization effort is subject to California's notorious Environmental Quality Act, it also faces federal environmental regulation and requires major rezoning, which could be particularly difficult given that Los Angeles has not had a successful track record of late when it comes to rezoning.

The project faces further complications given that the city's 2024 Summer Olympics bid calls for development along the river.

Here, Law360 looks at four obstacles Los Angeles faces in its push to revitalize the Los Angeles River.

Zoning

The city is eyeing a 51-mile stretch of the river that runs from the San Fernando Valley north of Los Angeles to Long Beach in the south, and envisions parks, bike paths and even residential and mixed-use

construction along the river. The project, which Frank Gehry is involved in on the design side, also calls for construction of a footbridge connecting Griffith Park and Atwater Village.

Much of the area in question is currently zoned for industrial, and therein lies a major challenge: building mixed-use or residential requires rezoning, which requires changing the so-called community plan for various areas along the river.

"I would think it would be a pretty massive undertaking," said Liner LLP's Ryan M. Leaderman, of changing the community plan.

And since the river runs through several Los Angeles-area communities, several plans would need to be updated. Updating a community plan could take anywhere from a couple of years to a decade, said Paul Rohrer of Loeb & Loeb LLP.

The last time Los Angeles updated a community plan was several years ago for the two-tower Hollywood Millennium project. That project has since been embroiled in litigation, and a judge earlier this year ruled the updated plan failed to adequately take into account the impact of the project.

That, lawyers say, doesn't make things any easier for the city in trying to develop the L.A. River.

"The city doesn't have a high success rate in dealing with updates of community plans at this time," Rohrer said.

The L.A. River Revitalization Corp., which is spearheading the revitalization project, couldn't be immediately reached for comment.

And lawyers say rezoning is tricky, due to the competing interests on the development and preservation fronts.

"The problem is there's a tension," Rohrer said. "We need to get it rezoned ... but we can't have it both ways. There are different conflicting views."

CEQA and NEPA

Most all new construction in California is subject to the California Environmental Quality Act, which requires projects to present environmental impact reports, or EIRs.

Those reports are often subsequently challenged, and since such suits are difficult to defend, CEQA has come to be viewed by many as a tool for delaying projects, even if opponents don't have a particularly environment-related issue with the project.

But the L.A. River revitalization project is different in two critical ways. Since it deals directly with a key environmental issue — what the areas around the river should look like — the project could also draw plenty of opposition from environmental groups, like Friends of the Los Angeles River, seeking to limit new development along the river.

"Friends of the L.A. River is not shy about using CEQA as a tool, if you will, to challenge projects that it may not favor," said Fernando Villa of Allen Matkins Leck Gamble Mallory & Natsis LLP. "What the city's trying to do is to forge some kind of consensus."

Because the U.S. Army Corps of Engineers has been brought on board, the project is also subject to another level of regulatory oversight: the National Environmental Policy Act. Under that act, the project is subject to a variety of federal review, including in the areas of environmental impact, engineering, economic impact and noise.

Indeed, how best to revitalize the area is a complex question that will require state and federal environmental stamps of approval, and that deals with striking a delicate balance between preservation, increased access to nature and additional development.

"It really is amazing seeing the wildlife. The birds," Leaderman said. "If you can improve that, I think it would be a fundamental, monumental improvement."

Financing

Plans for revitalization are still in their nascent stages, and the question of how the project would be funded is largely unknown, in part because the scope and cost of the development is still unclear.

It's yet unclear to what extent public financing might need to be used, and how interested private investors would be in such a project.

Bits and pieces of the financing puzzle have emerged, though. Douglas A. Praw of Holland & Knight LLP is working on the bridge component, the so-called La Kretz Crossing at Atwater Park, and said for that project, "there are individual people financing smaller parts of it."

The L.A. River Revitalization Corp. says on its website it has the backing of a "private donor" for the bridge project, which it says would be the first bridge to be built across the 51-mile stretch of the river in the 21st century.

And there is also some federal funding for the project, Praw said.

"The U.S. Army Corps is picking up some of the funding for the revitalization plan," Praw said.

The big financing picture, though, remains unclear, lawyers say.

Olympics Bid

Los Angeles in its bid for the 2024 Summer Olympics has pointed to the east side of the river as a site for a new Olympic village, but that roughly \$1 billion development project has various issues of its own.

The city wants to develop the so-called Piggyback Yard site for the village, but the site is a contaminated rail property and building at such a property would likely be costly and time consuming. And while the city owns much of the property along the 51-mile stretch of river, it doesn't own Piggyback Yard: Union Pacific Corp. owns that property.

But despite those and other challenges, the city is still eyeing the site for development.

The Southern California Committee for the Olympic Games couldn't be reached for comment.

"Locating the Olympic Village on an underutilized industrial site near the banks of the L.A. River would jumpstart residential development in a historically underserved neighborhood," Rohrer said. "In the short run, it would show the world a little bit of the Los Angeles ecosystem."

But just how exactly to build residential along the river is a major point of contention, and the potential need for a new project the size of an Olympic village exacerbates the conflict between pro-development and pro-conservation groups, shining a spotlight directly on the larger question of just how the river area might best be developed.

"In L.A., the most exciting real estate opportunity is the L.A. River," said Allan J. Abshez of Loeb & Loeb. "The back of the house could become front of the house."

--Additional reporting by Linda Chiem. Editing by John Quinn and Philip Shea.

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