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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COMMUNITIES FOR A BETTER
ENVIRONMENT, and LOS ANGELES
WATERKEEPER,

Petitioners,
v.

CITY OF LOS ANGELES; LOS ANGELES
DEPARTMENT OF WATER AND POWER

Respondent;

DOES 1-10;

Real Parties in Interest.

) CASE NO.:

) **PETITION FOR WRIT OF MANDATE**

) (Violations of California Environmental
) Quality Act)

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INTRODUCTION

1. This action challenges the City of Los Angeles (“City”) and its Los Angeles Department of Water and Power’s (“LADWP’s”) failure to comply with the California Environmental Quality Act (“CEQA”), in approving the Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project (“Project”) for the Scattergood Generating Station (“Scattergood”). Although the City and LADWP tout the Project’s green credentials, the Project, as approved, is merely an excuse to continue fossil fuel-based power generation in Los Angeles for the foreseeable future.

2. Starting in 2019, at the direction of City Council, LADWP commissioned a study with the National Renewable Energy Laboratory (“NREL”) to evaluate multiple pathways for meeting the City’s goal to achieve 100% reliable clean energy by 2045. The resulting LA100 study, released in 2021, identified multiple such viable pathways, each relying on rapid deployment of a combination of wind, solar, and battery storage technologies. The LA100 study emphasized the need for “firm capacity technologies” but did not state that any specific technology would be necessary for such purpose. Following the LA100 study, LADWP narrowly determined that it would need to replace Scattergood’s natural gas combustion system with one capable of combusting hydrogen gas.

3. The Project would replace two methane-combustion units at Scattergood with units that will be capable of blending a methane-hydrogen fuel mix and operating on that mixture. The proposed system would consist of a combustion-turbine generator and a steam-turbine generator operating in tandem. Additional facilities or ancillary functions required to support the proposed system include, but are not limited to, an air-cooled condenser, wet-surface air cooler, gas compressors, switchyard upgrades, and a pipeline for industrial wastewater discharge in Vista Del Mar, the street located along the western edge of Scattergood.

4. The Project was proposed by LADWP on a timeline to meet the impending regulatory deadlines for the cessation of once-through-cooling (“OTC”) at Scattergood. The plant’s OTC units, Units 1 and 2, are currently required to cease operations completely by the end of 2029, pursuant to the State Water Resources Control Board (“SWRCB”) OTC Policy. The Project’s new combustion units at Scattergood would not rely on OTC for cooling, therefore serving as a compliance mechanism for the SWRCB’s OTC Policy. But the absence of any firm commitment to hydrogen gas combustion in the

1 near future reveals that the Project is merely a natural gas repowering of Scattergood, inconsistent with
2 the LA100 study findings and LADWP's representations in the Final Environmental Impact Report
3 ("FEIR"). Thus, by omitting references to OTC closure deadlines and by relying on "green" hydrogen
4 combustion, the FEIR's project description is inaccurate and misleading.

5 5. The lack of availability of "green" hydrogen fuel, and the FEIR's failure to analyze such
6 lack of availability, also renders the FEIR's baseline and project description invalid and constitutes
7 improper piecemealing.

8 6. The FEIR also dismisses the Project's impacts relating to environmental justice and
9 environmental justice communities. Not only does the Project lie at the border of two Senate Bill 535-
10 designated Disadvantaged Communities, but it is the first step towards a basin-wide electrical change
11 encompassing the Haynes, Harbor, and Valley Generating Stations also operated by LADWP, which
12 are also located in or near environmental justice communities. The FEIR piecemeals and fails to study
13 the Project's impacts, including cumulative impacts, to these environmental justice communities.

14 7. Power plant projects require the highest levels of environmental scrutiny because of their
15 implications for the health and wellbeing of the surrounding community, as well as the significant
16 resources required to complete such projects and operate new power system assets. The Project would
17 have impacts to air quality, greenhouse gases, hazards and hazardous substances, and water supply,
18 water quality, and hydrology, among others. The FEIR fails to adequately address these impacts.

19 8. The FEIR also fails to adequately analyze alternatives, and improperly rejects less
20 impactful alternatives, in violation of the substantive mandate of CEQA as set forth in Public Resources
21 Code section 21081.

22 9. Community members, local residents, environmental organizations, and other civic
23 organizations sought a commitment from LADWP to source only "green" hydrogen, which is not
24 derived from fossil fuels. Instead, LADWP's approval of the Project only further entrenches its reliance
25 on fossil fuels. Along with Petitioner Communities for a Better Environment and Petitioner Los
26 Angeles Waterkeeper (collectively, "Petitioners"), a broad coalition of organizations advocating for
27 complete environmental analysis, adequate mitigation and adoption of less impactful alternatives, and
28 protection of environmental justice communities, include but are not limited to: Center for Biological

Diversity, Food and Water Watch, Physicians for Social Responsibility-Los Angeles, and Sierra Club.

10. The LADWP Board of Commissioners’ approval of the Project violates the California Environmental Quality Act because the FEIR fails as an informational document, lacks substantial evidence to support its conclusions, improperly relies on deferred analysis and mitigation, and is prejudicially misleading.

JURISDICTION

11. This Court has jurisdiction over the writ action under section 1094.5 of the Code of Civil Procedure.

12. This Court also has jurisdiction over the writ action under section 1085 of the Code of Civil Procedure, and sections 21168 and 21168.5 of the Public Resources Code.

PARTIES

13. Petitioner Communities for a Better Environment (“CBE”) is an 501(c)(3) California nonprofit public benefit corporation that operates as a grassroots environmental justice organization representing residents in four environmental justice communities across California: Wilmington, Southeast Los Angeles, Richmond, and East Oakland. CBE envisions a society where it’s held as a basic human right to breathe clean air and drink clean water in the environment where we live, work, go to school, play, and pray—regardless of race, gender, sexual orientation, age, culture, ability, nationality, or income.

14. Petitioner Los Angeles Waterkeeper (“LA Waterkeeper”) is a non-profit organization that for more than three decades, has served as Los Angeles’s water watchdog, safeguarding inland and coastal waters using the law, science and community action. LA Waterkeeper works to eliminate pollution, achieve ecosystem health for the region’s waterways and secure a resilient, multi-benefit, low-carbon water supply to the region.

15. Respondent City of Los Angeles is a political subdivision of the State of California.

16. Respondent Los Angeles Department of Water and Power is a proprietary agency of the City of Los Angeles and named on the Notice of Determination posted on November 7, 2025.

17. Real Parties in Interest named as Does 1 to 10 are given fictitious names because their names and capacities are presently unknown to Petitioners.

1 **STATEMENT OF FACTS**

2 **The Scattergood Generating Station**

3 *The Site*

4 18. The Scattergood Generating Station (“Scattergood”) is one of four natural gas-fired
5 powerplants located in the Los Angeles area that are owned and operated by LADWP, the City’s public
6 electricity utility. DEIR 3-10.

7 19. Scattergood is located in the Playa del Rey community of the City. DEIR 4.1-1. It
8 borders the City of El Segundo to the East and South (including a shared fence with the Chevron El
9 Segundo Refinery), LA City Sanitation’s Hyperion Water Reclamation Plant to the North, and
10 Dockweiler State Beach to the West. *Id.* Scattergood is a mile from the Los Angeles International
11 Airport and within 5 miles of the Southern California Gas Company’s (“SoCalGas”) Playa Del Rey gas
12 storage facility. DEIR 3-6 (Figure 3-1), 4-4 (Figure 4-1). The Scattergood lot is bisected by Grand
13 Avenue, but all powerplant facilities are located on the larger, North parcel. DEIR 3-5.

14 *The Powerplant*

15 20. Scattergood has six operational “generating units” that generate power by turning a
16 turbine with heated steam: 1, 2, 4 & 5 (a combined-cycle system), 6, and 7. DEIR 3-6, 3-12 (Figure 3-
17 3). The units have a combined generation capacity of approximately 830 megawatts (“MW”). DEIR
18 4.2-1.

19 21. Scattergood’s generating units, except for Unit 5, are combustion-turbine generators that
20 burn methane (natural gas is primarily methane with very small amounts of carbon monoxide, nitrogen
21 and other molecules) to create steam that turns a turbine, producing electricity. DEIR 4.3-2, 4.4-1. Units
22 4 and 5 are a combined-cycle system that recycles the hot exhaust from Unit 4 to produce steam that
23 drives the turbine in Unit 5. DEIR 4.4-1.

24 22. Units 1 and 2 generate approximately 300MW combined and are the oldest units at
25 Scattergood, placed into service in 1958 and 1959 respectively. DEIR 3-8, 4.2-1. Units 1 and 2 are
26 cooled using ocean water pumped through the Units’ steam condensers and then returned to the ocean,
27 a process called once-through cooling (“OTC”). DEIR 3-8.

28 23. California banned OTC in 2010 to comply with federal Clean Water Act Section 316(b)

1 and because it kills marine animals. FEIR 2-7; DEIR 3-2. Existing OTC operations for LADWP
2 facilities, including at Scattergood, have a final compliance deadline of the end of 2029. The Project
3 was initially proposed when Scattergood's OTC closure deadline was the end of 2024, but at that time
4 LADWP had already requested an extension through 2029 from the SWRCB, meaning that the Project
5 was also proposed as a mechanism for LADWP to achieve compliance with the imminent OTC closure
6 deadline. The SWRCB holds exclusive discretion over the current 2029 deadline. *Id.* Whether or not the
7 Project occurs, Units 1 and 2 must cease operations in 2029, and cannot be retrofitted to continue
8 operating. FEIR 2-21 - 22.

9 *LADWP Resource Planning*

10 24. As the City's electricity utility, LADWP is responsible for planning and providing
11 electricity service to customers in the City at all times.

12 25. LADWP is part of the City's LA100 mandate to transition to 100% carbon-free energy
13 by 2035. LA100, approved by a unanimous City Council vote in 2016, orders LADWP to create and
14 implement a plan to achieve 100 percent carbon-free energy by 2035.

15 26. LADWP views the Scattergood plant and its three other local power plants as essential
16 to the City's electric grid reliability. DEIR 3-10. Electrical grid reliability depends on a continuous
17 balance between electricity customers' demand (use of electricity) and the utility's supply of electricity
18 (from generation resources like wind, solar, or powerplants). FEIR 2-8. Oversupply can cause damage
19 to the power system. Undersupply can cause blackouts. *Id.*

20 27. At its current level of operation, Scattergood can meet about 11-12% of the City's
21 coincident peak electricity demand. FEIR 2-8. Coincident peak is the single highest moment of
22 electricity usage by electricity users (in this case all LADWP's customers) in a given year.

23 28. In the FEIR, LADWP provides three reasons why the Project provides mandatory
24 reliability and flexibility:

- 25 - The uncertainty of load growth.
- 26 ○ Peak electricity demand greater than the available electricity could cause
- 27 blackouts. Under this scenario, demands are at their highest normal level and
- 28

LADWP's generation resources operating at full capacity absent Scattergood Units 1 and 2 cannot generate enough electricity to meet this demand. FEIR 2-8.

- Unforeseen project delays.
 - o Projects that will reduce reliance on Scattergood are in planning or already underway but have been delayed and require complex planning that absent Scattergood Units 1 and 2 LADWP cannot support. FEIR 2-9.
- The potential of transmission and generation asset outages.
 - o The City experiences a critical loss of transmission capacity or local generation and operating at full capacity absent Scattergood Units 1 and 2, LADWP cannot generate enough electricity to meet standard demand conditions for the duration of the crisis. FEIR 2-8 - 9.

The Project

29. LADWP proposed the Project to address the generation shortfall from Units 1 and 2's impending decommissioning. FEIR 1-1. The Project consists of the removal of existing Units 1 and 2, and construction of a new combined-cycle system of two generating units that, unlike any other Scattergood unit, could burn a blend of methane and hydrogen gas. *Id.* When the project comes online in 2029 it will be capable of burning approximately 30% hydrogen and 70% methane by volume; but LADWP claims that 100% green hydrogen capability is expected by 2035. The DEIR and FEIR do not analyze hydrogen supply systems (hydrogen production, delivery, or storage) and there is no existing system to supply hydrogen to Scattergood. FEIR 2-14 - 15. The new units would have an estimated generation capacity of 346 MW. FEIR 2-9.

30. Hydrogen (H₂) is a clear, scentless, flammable gas consisting of two hydrogen atoms. Hydrogen can be combusted to generate heat, but is less energy dense than methane, meaning 1 cubic meter of hydrogen, for example, would produce less energy when burned than 1 cubic meter of methane. Hydrogen atoms are readily available on Earth as a part of other molecules such as methane (CH₄) or water (H₂O). While nearly all hydrogen produced and used is extracted from methane in a process called "reformation," the Project is restricted to using "Green Hydrogen" that is produced from water using clean renewable energy in a process called "electrolysis." DEIR 3-3. The process of

1 electrolysis requires extremely pure water and is both water- and energy-intensive.

2 31. Hydrogen gas is a hazardous substance; it can damage steel pipes, leak from pipes and
3 containers, and is combustible at a much greater range of concentrations than methane. Hydrogen itself
4 is not a climate-warming greenhouse gas but can cause an indirect greenhouse gas effect by increasing
5 concentrations of the potent greenhouse gas, methane. Hydrogen also burns at a higher temperature
6 than methane, increases production of nitrogen oxides (NOx) during combustion. NOx are a local air
7 pollutant and precursor of smog. For these reasons, the production, transportation, and combustion of
8 hydrogen gas potentially faces more serious health and safety risks than the existing natural gas-
9 dependent system in place at LADWP's power plants.

10 32. It is possible that the hydrogen supply systems that LADWP has yet to identify will
11 never be constructed. In the time between the end of the DEIR comment period and FEIR publication,
12 significant federal developments have altered the course of hydrogen system development in California.

13 33. On July 4, 2025, H.R. 1 (119th Congress 2025-2026) was signed into law. H.R. 1 amends
14 26 U.S. Code 45(v) ("45V") shortening the availability of billions of dollars in clean hydrogen
15 production tax credits by 5 years. The amendment means these subsidies will be at least 1 year gone by
16 the time the Project is placed into service. The 45V tax credit provides up to \$3.00/kilogram of
17 hydrogen produced, offering a greater credit the lower a kilogram of hydrogen's lifecycle GHG
18 emissions impacts from production. For the Project, which will use zero-carbon green hydrogen, the
19 loss of this subsidy is likely to severely impact the availability or price of eligible fuel.

20 34. On October 1, 2025, the United States Department of Energy cancelled \$1.2 billion in
21 federal funding for California's Alliance for Reviewable Clean Hydrogen Energy Systems
22 ("ARCHES"). ARCHES encompassed approximately 35 projects including clean hydrogen production
23 facilities, pipelines, and power generation equipment.

24 **Project Review and Approval**

25 35. LADWP issued a Notice of Preparation ("NOP") and Initial Study ("IS") on May 15,
26 2023, for the Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization
27 Project. LADWP held a presentation and hearing on the NOP and IS on June 7, 2023.

28 36. Petitioners CBE and LA Waterkeeper submitted jointly written comments with other

1 organizations, including Sierra Club and Food and Water Watch, on the NOI and IS on June 14, 2023.

2 37. The DEIR was released October 31, 2024, and the comment window was closed April 7,
3 2024.

4 38. LADWP held a public presentation and hearing on the DEIR on November 20, 2024.

5 39. Petitioners CBE and LA Waterkeeper submitted jointly written comments on the DEIR,
6 along with other organizations including Sierra Club, Food and Water Watch, and Center for Biological
7 Diversity, on April 7, 2024.

8 40. Petitioner LA Waterkeeper submitted supplemental written public comments on the
9 DEIR on September 30, 2025.

10 41. The FEIR was published on October 16, 2025, and featured only one substantive change,
11 adding a mitigation measure for biological resources impacts.

12 42. The Center for Biological Diversity and Petitioner CBE submitted supplemental written
13 public comments on the DEIR and FEIR on October 10 and October 27, 2025, respectively.

14 43. The LADWP Board of Commissioners voted to adopt the FEIR and approve the Project
15 on October 28, 2025.

16 44. Another organization, Sierra Club, submitted supplemental written public comments on
17 the DEIR and FEIR on November 6, 2025.

18 45. LADWP filed a Notice of Determination advising that the FEIR had been approved,
19 which was posted by the Los Angeles Registrar-Recorder/County Clerk on November 7, 2025.

20 46. Petitioners, along with the Center for Biological Diversity, Food and Water Watch,
21 Physicians for Social Responsibility Los Angeles, and Sierra Club appealed the Board of
22 Commissioners vote to City Council on November 14, 2025. The City assigned the appeal to Council
23 File number 25-1360, and referred the appeal to the City Council's Energy and Environment
24 Committee. As of the date of this Petition, the City has not yet scheduled a City Council hearing for the
25 appeal.

26 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

27 **AND INADEQUATE REMEDIES AT LAW**

28 47. Petitioners objected to the Project in the administrative process, and fully exhausted their

administrative remedies. Petitioners submitted letters during the comment period raising the issues set forth herein and commented at hearings held on the Project. While Petitioners do not believe the Notice of Determination posted on November 7, 2025 is valid because an appeal of the Project is pending and final approval pursuant to Public Resources Code section 21152, subdivision (a) has not yet occurred, Petitioners have commenced the instant action in an abundance of caution.

48. Petitioners have no plain, speedy or adequate remedy in the course of ordinary law unless this Court grants the requested writs of mandate and injunctive relief. In the absence of such remedies, Respondent's approval of the project would form the basis for a development project that would proceed in violation of state law.

49. Petitioners have complied with Public Resources Code section 21167.7 by filing a copy of this petition with the California Attorney General. A copy of that notice is attached as Exhibit A.

50. Petitioners have complied with Public Resources Code section 21167.5 by providing Respondents with notice of its intention to commence the action. A copy of that notice is attached as Exhibit B.

51. Petitioners elect to prepare the administrative record. A copy of that election is attached as Exhibit C.

FIRST CAUSE OF ACTION

(VIOLATIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT)

52. Petitioners incorporate all previous paragraphs as if fully set forth.

The November 7, 2025 Notice of Determination is Invalid Under CEQA.

53. The Notice of Determination posted on November 7, 2025 is invalid because it did not follow a final project approval.

54. Public Resources Code section 21152, subdivision (a) requires a local agency to file a Notice of Determination within five working days "after the approval or determination *becomes final*." (Emphasis added.) The posting of a Notice of Determination following a nonfinal approval subject to appeal is ineffective to commence a statute of limitations period. (*Center for Biological Diversity v. County of San Benito* (2024) 104 Cal.App.5th 22, 38 (*San Benito*).)

55. Decisions of the LADWP Board of Commissioners are appealable to City Council under

Public Resources code section 21151, subdivision (c).

56. Despite the fact that the October 28, 2025 Board of Commissioners decision was appealable, Respondent LADWP issued a Notice of Determination that was posted on November 7, 2025.

57. Petitioners, along with other organizations, submitted an appeal to the City of Los Angeles City Clerk on November 14, 2025.

58. The City assigned the appeal to Council File number 25-1360, and referred the appeal to the City Council's Energy and Environment Committee. The appeal is currently pending before the Committee.

59. Because the LADWP Board of Commissioners' decision did not constitute a final approval under Public Resources Code section 21152, subdivision (a), the Notice of Determination posted following that decision was invalid and ineffective to commence the statutory limitations period for challenging the Project under CEQA.

60. Moreover, even if the October 28, 2025 decision did constitute a final approval, which it did not, the Notice of Determination was posted late and is thus invalid. The Notice of Determination is required to be posted within five working days of the decision. (Pub. Resources Code §21152, subd. (a); CEQA Guidelines §15094, subd. (a).) The Notice of Determination was posted three days late, on November 7, 2025.

The Project's Environmental Impact Report Violates CEQA.

61. CEQA requires the City to conduct an adequate environmental review prior to making any formal decision regarding projects subject to CEQA. (14 Cal. Code Regs. ("CEQA Guidelines"), §15004).

62. CEQA imposes upon the City a clear, present and mandatory duty to certify an EIR only if the EIR fully discloses to the public the significant environmental effects that may occur. The EIR for the Project lacks the necessary analysis.

63. Further, CEQA requires adoption of all feasible mitigation measures that will reduce adverse environmental impacts. Many feasible mitigation measures were ignored in the EIR.

64. Every EIR must set forth a project description that is sufficient to allow an adequate

1 evaluation and review of the project’s environmental impacts. (CEQA Guidelines §15124.) “An
2 accurate, stable and finite project description is the sine qua non of an informative and legally sufficient
3 EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93.)

4 65. The EIR prepared for the Project fails to adequately analyze and mitigate the Project’s
5 environmental impacts. These deficiencies include, but are not limited to, the following issue areas.

6 **The EIR Failed to Adequately Analyze and Mitigate Greenhouse Gas and Climate Change**
7 **Impacts.**

8 66. The EIR failed to adequately analyze GHG emissions from hydrogen blends, as the
9 analysis is lacking. The analysis does not compare GHG emissions across multiple possible capacity
10 factors. At minimum, the analysis should look at the 10 percent capacity factor it assumes for this
11 Project, the current 25 percent capacity factor for Scattergood, and the 40 percent capacity factor in the
12 SLTRP.

13 67. The FEIR fails to explain why additional GHG emissions scenarios with varying
14 hydrogen blends and varying capacity factors are not warranted.

15 **The EIR Failed to Adequately Analyze and Mitigate Air Quality Impacts.**

16 68. As the Supreme Court found, “when a proposed project risks exacerbating those
17 environmental hazards or conditions that already exist, an agency must analyze the potential impact of
18 such hazards on future residents or users.” (*California Building Industry Assn. v. Bay Area Air Quality*
19 *Management Dist.* (2015) 62 Cal.4th 369, 377–378.)

20 69. Further, CEQA requires a mandatory finding of significance when a project “will cause
21 substantial adverse effects on human beings, either directly or indirectly.” (CEQA Guidelines §15065,
22 subd. (a)(4).)

23 70. The EIR acknowledged “significant and unavoidable” air quality impacts, but failed to
24 incorporate adequate mitigation.

25 71. In terms of lower capacity factors that could lessen air quality impacts, the FEIR again
26 arrives at the foregone conclusion that the proposed project is “better able to achieve the project
27 objectives to provide firm local generation that can be dependably and rapidly dispatched to respond to
28 demand for energy in the LADWP service area for short-term events.” FEIR 2-687. This is apparently

the case because, per the project applicant, the lower capacity factors suggested by Petitioners would “not change the conclusions in the alternatives analysis.” FEIR 2-687. The FEIR response to comments makes this conclusory assertion without any foundation, including a revised alternatives analysis that could potentially demonstrate whether or not a feasible alternative could achieve the project objectives.

The EIR Fails to Adequately Analyze and Mitigate Impacts relating to Hazards and Hazardous Substances.

72. The EIR’s discussion of the impacts of hazards and hazardous substances on the project site or created in the normal operation of the generating station is inadequate and conclusory.

73. LADWP’s discussion of the project waste management plan is inadequate because it does not address hazards or hazardous materials from decommissioning and demolition of Scattergood Units 1 and 2.

74. The FEIR simply promises that “transportation, treatment, disposal, or recycling of identified hazardous substances, including those from decommissioning and demolition activities, would be in accordance with all applicable local, state, and federal environmental, health and safety laws, ordinances, and regulations.” FEIR 2-691.

75. The above statement suggests that the public should merely trust the project proponent to comply with applicable health and safety laws and regulations, rather than expect the proponent to perform adequate environmental review associated with the identification and removal of hazardous substances during the decommissioning and demolition process.

76. The EIR also improperly avoids analyzing any of the hazard and safety impacts of the larger yet-to-be-built hydrogen system necessary to supply hydrogen to the facility. Petitioners’ comments on the DEIR raised concerns about the safety of transporting hydrogen gas through pipelines to Scattergood, given the volatility of hydrogen gas and the possibility of leakage from embrittlement of piping infrastructure. (April 7, 2025 Public Comments from Petitioners and Sierra Club, Center for Biological Diversity, Food and Water Watch, California Environmental Justice Alliance, and Central Coast Alliance United for a Sustainable Economy, pp. 34-35.) Instead of meaningfully addressing these safety concerns, the FEIR promises that a future environmental document will analyze impacts from the larger hydrogen system “when the necessary information to support an adequate analysis of potential

environmental impacts is available.” FEIR 2-14.

77. The FEIR selectively picks and chooses fuel source mixtures, namely the 100 percent natural gas scenario, to contend that “the proposed project has independent utility from the hydrogen infrastructure associated with production, storage, and transport as it . . . may operate without any supply of hydrogen, if necessary.” FEIR 2-663.

78. Pointing to the 100 percent natural gas scenario to demonstrate independent utility is yet another example of gamesmanship used by the project applicant to dance around the possibility of significant environmental impacts from hydrogen gas piping infrastructure, which indicate that revised and more fulsome environmental review is warranted.

The EIR Fails to Adequately Analyze and Mitigate Water Supply, Water Quality and Hydrology Impacts.

79. The EIR for the Project impermissibly defers any and all analysis of the water supply impacts of hydrogen gas sourcing and production, storage, transportation, and regionwide infrastructure necessary to provide hydrogen fuel to Scattergood. The EIR assumes that “green” hydrogen gas will eventually be available for purchase on the open market, but does not consider any possible environmental impacts associated with the development of a green hydrogen gas market. (DEIR 2-2; FEIR 2-13.) Indeed, the FEIR notes that details about the potential green hydrogen production and transportation system “are currently unknown” and “are entirely speculative at this point,” therefore serving “little to no informational value to decisionmakers and the public.” (FEIR 2-13.) Although the specific details of the hydrogen gas system are yet to be determined, the water impacts resulting from the buildout of a massive statewide hydrogen gas system are undeniable and unavoidable.

80. The Project description relies upon the ability of the new combustion units at Scattergood to run on a blend of natural gas and hydrogen gas. Hydrogen gas production, if done through clean energy, would entail using ultra-purified water in the electrolysis process to produce hydrogen gas. Electrolysis, the process to convert purified water into oxygen and hydrogen gas, can take between 9 and 30 kilograms of water per kilogram of hydrogen produced. (Krieger, Kwoka, & Lukanov, *Green Hydrogen Proposals Across California: An assessment of opportunities and challenges for using hydrogen to meet state climate goals* (May 21, 2024) PSE Healthy Energy, at p. 49, available at

1 [https://www.psehealthyenergy.org/wp-content/uploads/2024/05/Green-Hydrogen-Proposals-Across-](https://www.psehealthyenergy.org/wp-content/uploads/2024/05/Green-Hydrogen-Proposals-Across-California.pdf)
2 [California.pdf](https://www.psehealthyenergy.org/wp-content/uploads/2024/05/Green-Hydrogen-Proposals-Across-California.pdf).)

3 81. Scaling up a green hydrogen gas system throughout the state of California, using estimates
4 from ARCHES, is projected to establish 17 million metric tons per year of hydrogen capacity by 2045,
5 which would correlate to between 230,000-390,000 acre-feet per year of purified water use for
6 electrolysis—equivalent to 75-127 billion gallons per year. (Rincon, Dunlap, and Pierce, *Exploring the*
7 *Water Footprint of ‘Green’ Hydrogen for Power Generation in California: Equity Implications,*
8 *Pitfalls, and Open Questions* (2025) UCLA Luskin Center for Innovation, at p. 12, available at
9 <https://www.escholarship.org/uc/item/131778jm>.) Adding in the estimated water use for the energy
10 required for the electrolysis process, the volume of water could rise to above 500,000 acre-feet of water
11 per year, equivalent to 163 billion gallons per year. (*Id.* at pp. 12-13.) Together, this water demand for
12 hydrogen gas could constitute up to 1% of the entire statewide water demand by 2045, if sourced and
13 produced entirely within California. (*Id.* at p. 14.) Even if hydrogen gas is imported from out of state,
14 similar water use impacts will be experienced elsewhere. Thus, hydrogen gas production for use at
15 Scattergood necessarily depends on large quantities of water.

16 82. To the extent hydrogen will be sourced and produced in the Los Angeles region, the use of
17 potable water as a source for ultra-purified water in the electrolysis process could further jeopardize
18 water supplies in water-strained communities across Southern California. Similarly, reliance on
19 recycled wastewater for hydrogen production would demand energy-intensive purification efforts, and
20 the recycled water for hydrogen production will not otherwise be available for other potable or non-
21 potable uses, as many local agencies—including LADWP—intend. As drought conditions recur in
22 future years, adding significant water demand to support the maintenance of LADWP’s electricity grid
23 could put the City in a bind of having to choose whether to provide either power to its constituents, or
24 drinking water.

25 83. Scattergood is not the only generation plant proposed for a hydrogen combustion retrofit.
26 The FEIR acknowledges future plans to combust hydrogen at the Harbor, Haynes, and Valley
27 Generating Stations, but does not evaluate cumulative impacts associated with similar hydrogen
28 conversion projects at those facilities. (FEIR 2-14.) Providing hydrogen gas to these other three power

1 plants would involve even more water supply impacts and even more hydrogen gas sourcing,
2 production, storage, and transportation infrastructure than just Scattergood alone. It would make no
3 economic sense to limit hydrogen gas combustion to Scattergood alone given the regional efficiencies
4 of expanding hydrogen gas infrastructure to these other three plants—regardless, LADWP’s own
5 Strategic Long-Term Resource Plan (“SLTRP”) commits the City to pursuing hydrogen gas
6 conversions at these other plants. (SLTRP, p. ES 22; see also *id.* at 1-21 [similar passage referencing
7 hydrogen-powered units being installed through the 2040s at Harbor, Haynes, Scattergood, and Valley
8 Generating Stations].) Thus, Scattergood’s modernization would trigger the development of regionwide
9 hydrogen gas infrastructure for other LADWP generating stations, making such infrastructure buildout
10 a reasonably foreseeable result of the Project.

11 84. Further, the production of hydrogen gas through the electrolysis process would require
12 significant energy to create ultra-purified water. Both fresh water and recycled wastewater require
13 several filtration steps before electrolysis can take place. (El-Shafie, *Hydrogen production by water*
14 *electrolysis technologies: A review*, Results in Engineering, Vol. 20 (Dec. 2023), at p. 3, available at
15 <https://doi.org/10.1016/j.rineng.2023.101426>.) Ultimately, producing enough hydrogen to power
16 Scattergood for just 1,500 hours per year has been estimated to require hundreds of thousands of
17 gallons of water per day, and the build-out of between 900 and 3,389 MW of renewable generation
18 resources. (Opening Brief of Sierra Club and California Environmental Justice Alliance (July 29, 2022),
19 p. 2, available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M496/K341/496341723.PDF>
20 [citing GE Gas Power, Hydrogen and CO2 Emissions Calculator, available at [https://www.ge.com/gas-](https://www.ge.com/gas-power/future-of-energy/hydrogen-fueled-gas-turbines/hydrogen-calculator)
21 [power/future-of-energy/hydrogen-fueled-gas-turbines/hydrogen-calculator](https://www.ge.com/gas-power/future-of-energy/hydrogen-fueled-gas-turbines/hydrogen-calculator)].) The EIR for the Project
22 does not analyze any potential environmental impacts associated with the energy use to create hydrogen
23 gas through the electrolysis process, even though those impacts are reasonably foreseeable and will
24 likely reduce the net energy benefits of combusting “green” hydrogen gas in the first place.

25 85. Combusting hydrogen at Scattergood may also lead to significant water quality impacts at
26 the point of hydrogen sourcing and production. Electrolysis could result in millions of gallons of
27 potentially toxic wastewater concentrate (also referred to as “brine”), which will have to be re-treated or
28 disposed, creating additional resource demands and groundwater contamination risks for communities

1 near stored wastewater concentrate. (Mehrkhah, et al., *Prospective performance assessment of*
2 *enhanced electrochemical oxidation technology: Insights into fundamentals and influencing factors for*
3 *reducing energy requirements in industrial wastewater treatment*, Environmental Technology &
4 Innovation (2023), at p. 1, available at <https://doi.org/10.1016/j.eti.2023.103336>.) The EIR for the
5 Project fails to consider any environmental impacts related to electrolysis biproduct, which is a
6 necessary component of providing green hydrogen gas to Scattergood.

7 86. Because the Project’s description relies on the possibility of combusting hydrogen gas at
8 Scattergood—which is a critical stated purpose of the Project to begin with—the Project necessarily
9 would involve significant new demand for water supplies, making water supply impacts reasonably
10 foreseeable. LADWP failed to consider any such impacts in the FEIR, violating CEQA’s mandate to
11 consider all reasonably foreseeable cumulative environmental impacts of the Project as proposed. (See
12 CEQA Guidelines §15064, subd. (h)(1); *Id.* § 15355; *Laurel Heights Improvement Association v.*
13 *Regents of the University of California* (1988) 47 Cal.3d 376, 396 [as modified on reh. denied Jan. 26,
14 1989].) The FEIR’s reliance on the “independent utility” test defies logic, as the installation of a new
15 generating unit that is specifically designed and intended to burn green hydrogen simply cannot
16 maintain independent utility without the green hydrogen supply system that would be required to take
17 advantage of those functions. (*Del Mar Terrace Conservancy, Inc. v. City Council*, 10 Cal. App. 4th
18 712, 733-34; FEIR 2-14.) While the Project could theoretically function with a 0% hydrogen fuel
19 mixture, LADWP acknowledged the project is “integral to the goal of implementing a carbon-free
20 energy system” outlined in the SLTRP, which includes similar hydrogen conversions at Haynes,
21 Harbor, and Valley Generating Stations. (DEIR 2-1.) There can be no independent utility of the Project
22 separate and apart from hydrogen gas infrastructure buildout and conversions at other plants consistent
23 with the SLTRP, unless the Project is simply a natural gas repowering of Scattergood without any
24 reliance on hydrogen combustion.

25 **The EIR Fails to Adequately Disclose, Analyze, and Mitigate Impacts to Environmental Justice**
26 **Communities**

27 87. The Scattergood Generation Station address in El Segundo straddles the border of SB 535
28 Disadvantaged Communities census tracts (6037980028 and 6037980030), characterized by high

1 pollution burden and low population count. Per CalEnviroScreen 4.0, the current version of the
2 California Communities Environmental Health Screening Tool, the Pollution Burden score for these
3 immediately adjacent census tracts is 97th percentile. Tract 6037980028 includes all of Los Angeles
4 International Airport.

5 88. According to CalEPA’s “Final Designation of Disadvantaged Communities Pursuant to
6 Senate Bill 535” from May 2022, the agency formally designated the following as one category of
7 geographic areas as a DAC: “Census tracts lacking overall scores in CalEnviroScreen 4.0 due to data
8 gaps, but receiving the highest 5 percent of CalEnviroScreen 4.0 cumulative pollution burden scores.”
9 The justification for such designation is that: “It would be inconsistent with the spirit of SB 535 to
10 exclude tracts that are in fact disadvantaged from a DAC designation solely on account of unreliable
11 data,” including low population count. Therefore, the Scattergood facility and this proposed project take
12 place in a state designated DAC, regardless of its Grand Avenue address technically lying outside of the
13 DAC tracts.

14 89. But Scattergood is not the only LADWP Power Plant located in a disadvantaged
15 community—both Harbor Generating Station *and* Valley Generating Station are also located in such
16 communities.

17 90. CEQA requires a lead agency to consider whether a project’s effects, despite appearing
18 limited on their own, are cumulatively considerable and therefore significant. (Pub. Resources Code
19 §21083, subd. (b)(3).)

20 91. Where a community already experiences a high cumulative pollution burden, the “relevant
21 question” is “whether any additional amount” of the proposed project’s pollution “should be considered
22 significant in light of the serious nature” of the existing pollutants in the community. (*Kings County
23 Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 718, reh'g denied and opinion modified (July
24 20, 1990).)

25 92. Even under LADWP’s improperly narrow conception of the project, it is occurring within
26 environmental justice communities. Despite this, LADWP improperly failed to discuss the effects of
27 adding additional pollution sources to these already overburdened communities.

28 93. LADWP justifies its decision by claiming that “there are no *populated* disadvantaged

1 communities in close proximity to the project.” (FEIR 2-17).

2 94. However, that is not relevant to whether the EIR needed to consider the effects on
3 disadvantaged communities. Particularly, individuals can feel the effects of multiple pollution sources
4 without residing in a given census tract. LADWP explicitly explains how the directly adjacent tracts
5 consist primarily of other pollution sources where individuals presumably work, including “the El
6 Segundo Refinery and El Segundo Power Plant,” as well as the “Los Angeles International Airport
7 (LAX), Hyperion Water Reclamation Plant, Scattergood, and several small commercially zoned uses.”
8 (FEIR 2-17). The extent of heavy industrial use in these two census tracts alone warrants consideration
9 of whether adding an additional source of danger and pollution is worth it.

10 95. The narrowing of the DEIR to its current state allows LADWP to begin a basin-wide
11 electrical system change while ignoring how such a project impacts the City’s environmental justice
12 communities—this constitutes unlawful piecemealing of environmental effects.

13 96. Both Harbor and Valley Generating Stations are located in communities long exposed to
14 energy system pollution. Like Scattergood, both Harbor and Valley are located within a quarter mile of
15 homes. Unlike Scattergood, the two unstudied plants are located in some of the lowest income and most
16 polluted neighborhoods in all of Los Angeles. By improperly focusing on Scattergood in isolation,
17 LADWP is setting into motion the first piece of a larger initiative that will render subsequent EIRs for
18 its other power plants, including Harbor and Valley, far less effective. These communities require far
19 more rigorous review due to their environmental and economic vulnerability. Such review will be far
20 less likely once the hydrogen infrastructure required for this and subsequent projects is built.

21 97. Furthermore, by failing to consider the environmental effects of hydrogen infrastructure that
22 the Project requires, LADWP avoids having to consider the environmental justice communities that live
23 just miles from the site. No matter how hydrogen is transported to the facility, whether by truck or
24 pipeline, nearby disadvantaged communities will be affected. Scattergood is also located in a
25 disadvantaged community, where many individuals spend a lot of time working—this community will
26 be deeply affected by the chosen infrastructure. By failing to consider its effects on the surrounding
27 communities, LADWP is ignoring the cumulative sources of pollution and harm that its project will
28 significantly exacerbate.

1 98. By failing to include sufficient technical details in its project description, LADWP risks
2 exacerbating harm to nearby environmental justice communities.

3 99. Particularly, LADWP does not include the Project’s required specific reliability standard,
4 which is necessary to determine whether the same need could be fulfilled with in-basin local solar and
5 storage. It also does not include an accurate or finite description of the Project’s expected capacity
6 factor, meaning how often LADWP expects to operate the Project, which is frequently is tied to the
7 Project’s likely pollutant emissions and resulting environmental and public health impacts. Finally, it
8 does not adequately identify and define the green hydrogen system necessary to build and operate the
9 project—this includes what constitutes green hydrogen and the possibility of other sources of hydrogen
10 being used indefinitely.

11 100. In all, these failures mean LADWP may have significantly underestimated emissions
12 from the project, particularly if its expected capacity factor exceeds the vague description included in
13 the EIR or if green hydrogen is not available—both of these issues directly affect the surrounding
14 environmental justice communities and would even further exacerbate current conditions.

15 101. Without including the specific reliability standard, LADWP conceals its reasoning on
16 alternatives and prevents adequate consideration of whether there are renewable sources of energy that
17 could meet its needs.

18 102. LADWP also failed to sufficiently address comments raised throughout the entire CEQA
19 process. Particularly, environmental justice concerns were raised in comments at the Initial
20 Study/Notice of Preparation stage. However, the DEIR showed no signs that it took heed of any of
21 these concerns in designing the project or analyzing its effects. When responding to comments in the
22 FEIR, it claimed it did not have to consider the effects of increased hydrogen gas demand and
23 continued methane gas combustion on EJ communities the possibility of insufficient hydrogen gas, as
24 “the agency is not required to consider the impacts of non-project scenarios,” and “[t]he intention of the
25 project is to provide the capability to utilize green hydrogen fuel at Scattergood.” (FEIR 2-675.) Despite
26 these bare assertions, a significant number of projects using hydrogen have been delayed in recent years
27 due to a lack of supply. Considering LADWP also claims it will be purchasing the hydrogen and thus
28 not responsible for the infrastructure, calling the possibility of green hydrogen not being available

1 “speculative” is not based in fact.

2 **The EIR Fails to Adequately Analyze Cumulative Impacts.**

3 103. CEQA requires an analysis of a project’s cumulative impacts. (CEQA Guidelines
4 §15130.)

5 104. “Cumulative impacts” refer to two or more individual effects which, when considered
6 together, are considerable or which compound or increase other environmental impacts. (CEQA
7 Guidelines §15355.)

8 105. The individual effects may be changes resulting from a single project or a number of
9 separate projects. (CEQA Guidelines §15355, subd. (a).)

10 106. The cumulative impact from several projects is the change in the environment which
11 results from the incremental impact of the project when added to other closely related past, present, and
12 reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor
13 but collectively significant projects taking place over a period of time. (CEQA Guidelines §15355,
14 subd. (b).)

15 107. The EIR fails to adequately consider the cumulative impacts of the Project, along with
16 cumulative impacts associated with other similar hydrogen retrofits planned at other LADWP
17 generating stations.

18 108. The Project’s reliance on combusting hydrogen gas Scattergood necessarily would
19 involve the buildout of significant hydrogen system infrastructure, including hydrogen sourcing and
20 production, storage facilities, and transmission and delivery pipelines. Similar hydrogen retrofits are
21 planned at the Haynes, Harbor, and Valley Generating Stations, each of which would be integrated into
22 the same hydrogen gas infrastructure system. These categories of infrastructure are likely to have
23 significant environmental impacts, including but not limited to energy use, land use impacts, water
24 supply impacts, air quality impacts, and hazard and safety impacts. LADWP’s failure to consider such
25 impacts at all in the EIR (see FEIR 2-13, 2-14.) violates CEQA’s mandate to consider all reasonably
26 foreseeable cumulative environmental impacts of the Project as proposed. (See CEQA Guidelines
27 §15064, subd. (h)(1); *Id.* §15355; *Laurel Heights Improvement Association v. Regents of the University*
28 *of California* (1988) 47 Cal.3d 376, 396 [as modified on reh’g. denied Jan. 26, 1989].)

1 **The EIR's Project Description Is Insufficient.**

2 109. Every EIR must set forth a project description that is sufficient to allow an adequate
3 evaluation and review of the project's environmental impacts. (CEQA Guidelines §15124.) "An
4 accurate, stable and finite project description is the sine qua non of an informative and legally sufficient
5 EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192 93; accord *San Joaquin*
6 *Raptor/Wildlife Reserve Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.)

7 110. An accurate and stable project description is necessary so that the lead agency and the
8 public have enough information to "ascertain the project's environmentally significant effects, assess
9 ways of mitigating them, and consider project alternatives." (*Sierra Club v. City of Orange*, 163 Cal.
10 App. 4th 523, 533 (2008); *Save Round Valley Alliance v. County of Inyo*, 157 Cal. App. 4th 1437, 1448
11 (2007).)

12 111. A "curtailed, enigmatic or unstable project description draws a red herring across the
13 path of public support." (*County of Inyo v. City of Los Angeles* (1981) 71 Cal.App.3d 185, 197-98.)
14 *The EIR's Project Description Fails to Identify a Finite Reliability Objective and Fails to Accurately*
15 *Establish the Project's Capacity Factor.*

16 112. The EIR violates CEQA because it does not accurately describe the project sufficiently
17 to enable public disclosure and informed environmental decision-making.

18 113. In this case, the project description is insufficient because LADWP does not explain how
19 the Project will operate—in other words, how Scattergood's new hydrogen-capable generation units will
20 be utilized to support the power system and with what fuel source. In the absence of this information, the
21 detailed project emissions information, broken down based on fuel mix and operating conditions, do not
22 sufficiently describe the Project's impacts.

23 114. A core element of an EIR's project description is its overview of the project's technical
24 and environmental characteristics. (CEQA Guidelines § 15124(c).)

25 115. CEQA requires that any DEIR include an accurate and finite project description as a
26 prerequisite to be found legally sufficient. (*County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185,
27 199); CEQA Guidelines §15124.) Without an accurate description of this project's objective and how it
28 would meet it, CEQA's objective of public disclosure and informed environmental decision-making is

1 impossible.

2 *Need for a Finite Reliability Objective*

3 116. The flaw in the EIR's description of reliability is that it is so broad it obfuscates what
4 actual impacts the project will have.

5 117. The Project description states that an objective of this project is to maintain grid
6 reliability and flexibility during peak demand periods and under emergency circumstances but fails to
7 identify a clear reliability standard that the project or any alternatives would be required to meet. FEIR
8 1-1, 2-9.

9 118. The EIR gives three broad reasons why the Project is required for reliability (1) the
10 uncertainty of load growth, (2) unforeseen delays of other projects, and (3) the potential of transmission
11 and generation asset outages. FEIR 2-8 - 9. However, the document is not specific about the actual
12 reliability standard that the Project must meet.

13 119. Instead, in response to comments, LADWP claims that "the EIR is not required to
14 provide a quantitative threshold for reliability," and "it is not technically feasible to define a finite
15 reliability objective." (FEIR 2-7.)

16 120. CEQA requires that the EIR specify a finite reliability need because that is the metric
17 against which the project and potential alternatives must be measured.

18 121. EIR project descriptions must include a clear overview of the project and its objectives.
19 While CEQA requires that EIRs be prepared in plain, understandable language, this requirement is
20 balanced against the need to provide enough information for decision-makers and the public to
21 understand the full scope of the project. (*Dry Creek Citizens Coalition v. County of Tulare* (1990) 70
22 Cal. App. 4th 20, 28.)

23 122. LADWP's system reliability standards are set by the Western Electricity Coordinating
24 Council ("WECC") and the North American Electric Reliability Corporation ("NERC"), but these
25 reliability standards apply to LADWP's reliability performance at large—not specifically at the project
26 level.

27 123. The EIR states that the project will be used "primarily to meet peaks in the requirement
28 for electrical power during high demand days that exceed renewable energy production and energy

1 storage capacity. In addition, the in-basin units would be used during relatively short-term periods when
2 renewable generation sources and/or transmission assets become unavailable due to emergency
3 circumstances.” FEIR 1-2. This is a plain language description of general reliability needs but does not
4 satisfy the technical characteristic of need required by CEQA regulations. (See CEQA Guidelines §
5 15124(c) (“A general description of the project’s technical, economic, and environmental characteristics,
6 considering the principal engineering proposals if any and supporting public service facilities.”).)

7 124. CEQA caselaw requires LADWP to state a clear project description to explain the
8 technical project objectives in this EIR so that the public can understand the project and consider
9 alternatives. (See *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533.) A clear description
10 of the Project’s reliability objectives is required to understand which alternatives should be considered
11 alongside the Project. For example, the reliability objective could be expressed as a set of grid
12 constraints, demand projection, and duration that the project is required to meet. Defining reliability
13 needs in finite terms is necessary to determine whether the same need could be fulfilled with in-basin
14 local solar and storage. The reliability objectives must be clearly defined to ensure that LADWP has not
15 prematurely removed less environmentally impactful alternatives from consideration. Without a clear,
16 technical rubric for the project’s reliability objectives, the EIR leaves open the possibility that LADWP
17 could arbitrarily exclude reasonable alternatives.

18 *Need for The Project’s Capacity Factor.*

19 125. The EIR does not include an accurate or finite description of the Project’s expected
20 capacity factor, meaning how often LADWP expects to operate the Project. The projected frequency of
21 the Project’s use is directly tied to the Project’s likely pollutant emissions and resulting environmental
22 and public health impacts.

23 126. The EIR states:

24 LADWP’s in-basin generation units, including the proposed project, are anticipated to be
25 utilized less frequently than under current conditions, primarily to meet peaks in the
26 requirement for electrical power during high demand days that exceed renewable energy
27 production and energy storage capacity. FEIR 1-2; DEIR 2-10.

1 127. The planned operation of the Project is critically important to understanding for an
2 accurate comparison of pollutant emissions against the project baseline because emissions levels will
3 vary with the project's capacity factor and the number of startups and shutdowns. The EIR describes
4 pollutant emissions rates but fails to provide sufficient detail to determine how this information will
5 actually apply to the project. DEIR 4.2-19 – 23.

6 128. The likely number of startups and shutdowns is critical because gas plants release their
7 maximum emissions during plant startups and shutdowns when pollution controls are either not
8 operational or ineffective. As an example, the Sunrise Power Plant's Unit 1 has a "median NOx
9 emissions rate of 9.14 pounds per hour while its maximum hourly NOx emissions" during startup and
10 shutdown "was almost 229 pounds per hour - a factor of 25 times greater." (Regenerate California
11 Campaign, "The Notorious Nine: Gas Plant Pollution in Environmental Justice Communities" (Dec. 10,
12 2024), p. 10, available at [http://ceja.org/wp-content/uploads/2024/12/Regenerate-NOx-Emissions-Full-](http://ceja.org/wp-content/uploads/2024/12/Regenerate-NOx-Emissions-Full-Report.pdf)
13 [Report.pdf](http://ceja.org/wp-content/uploads/2024/12/Regenerate-NOx-Emissions-Full-Report.pdf).) The DEIR includes no estimate of the annual number of startups and shutdowns for the
14 Project, suggesting that a critically important estimate of associated emissions is omitted.

15 129. The updated information in the FEIR does not address this shortcoming, but merely
16 restates the DEIR's conclusion that no alternative is appropriate to address projected generation
17 shortfalls and the project will operate at whatever capacity factor is required. FEIR 2-9.

18 130. The EIR's failure to identify a capacity factor is particularly worrisome considering
19 LADWP's permit applications to SCAQMD, which state that the utility expects the plant to be available
20 for 24/7/365 operations. These applications also incorporate high numbers of startups and shutdowns at
21 Scattergood, at almost 2 per day. At an LADWP advisory group meeting on long-term resource planning
22 on December 5, 2024, one energy consultant described that his model projected relatively high capacity
23 factors for LADWP's four planned hydrogen power plants and that the model had to be manually
24 adjusted to a lower capacity factor to reflect the utility's preferred lower usage.

25 131. Without clarity from LADWP, this EIR and the SCAQMD applications indicate a wide
26 range of capacity factors and corresponding wide range of environmental impacts. A legally sufficient
27 DEIR project description needs to include an accurate and finite description of how and when the project
28

1 will be used to be legally sufficient. (*See County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d at 197-
2 99.)

3 132. The EIR needs to be more specific. Rather than claiming that LADWP expects the
4 Project's utilization to be "less frequent" than current Scattergood utilization, the EIR needs to express a
5 finite numerical range of the Project's capacity factor and number of startups and shutdowns.
6 Stakeholders do not and cannot expect the expectations to be perfectly accurate, but the DEIR's project
7 description must be more specifically described than its current version. The DEIR's "bona fide subject"
8 must be "[t]he defined project and not some different project." (*Concerned Citizens of Costa Mesa v.*
9 *32nd Dist. Agric. Assn.*, 42 Cal. 3d 929, 938 (1986).) Without a clear, finite expected use of the Project,
10 the DEIR's project description fails to comply with CEQA.

11 *Absence of Green Hydrogen System Necessary to Operate the Project*

12 133. The failure to include an adequate project description infects the EIR's analysis and
13 prevents the EIR from fully disclosing, analyzing, and mitigating the Project's adverse environmental
14 impacts.

15 134. While the FEIR claims that the Project will be supplied by a "green hydrogen system,"
16 there is no description in the FEIR of the hydrogen system that will be built. (FEIR 1-2.) It fails to
17 define the production technologies that it would consider to be "green." It also does not consider the
18 possibility that other sources of hydrogen production will be used, or that natural gas or a fuel mixture
19 will be used indefinitely. The direct, indirect, and cumulative impacts of these scenarios must be
20 included in the EIR.

21 135. In response to Petitioners' comments on the DEIR, LADWP stresses that "the intention
22 of the project is to provide the capability to utilize green hydrogen fuel at Scattergood, and any other
23 potential outcome is speculative and not reasonably foreseeable." (FEIR 2-675.)

24 136. However, Scattergood has just five years to secure this capacity, and this project is on an
25 unprecedented scale. Globally and in California, green hydrogen supply is limited and significantly
26 below its demand. There is a very real and reasonably foreseeable likelihood that it is unable to secure
27 sufficient green hydrogen on a 5-year timeline, but this possibility is entirely dismissed by LADWP.

28 137. It strains credulity to imagine that LADWP knows so little about the buildout of

hydrogen infrastructure that it cannot analyze that system at all, and yet can also be confident that the system will exclusively supply green hydrogen. Both statements cannot be true.

138. By failing to detail the effects if green hydrogen is not available, LADWP prevents decisionmakers from determining whether the Project is worth the risk of green hydrogen being unavailable. If adequate information were available, decisionmakers may have decided that one of the alternatives was preferable.

139. “When the informational requirements of CEQA are not complied with, an agency has failed to proceed in ‘a manner required by law.’ ” (*Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 118.) If the deficiencies in an EIR “preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred.” (*Id.* at p. 128, 104.)

140. Ultimately, based on the EIR’s admission that the availability of green hydrogen is “entirely speculative” at this point, it is misleading for the Project description to mention hydrogen combustion at all. In reality, the Project is simply a natural gas repowering of Scattergood to eliminate OTC operations, but the environmental analysis in the EIR does not reflect such a project description. The EIR’s Project description misleads the public into believing the Project is a “clean energy” project, thwarting meaningful public participation and precluding informed decisionmaking by the LADWP Board of Commissioners and other City officials.

The EIR Relies on a Misleading and Inaccurate Baseline, Thereby Obscuring the Project’s Significant and Adverse Impacts.

141. An EIR’s baseline is the benchmark it uses to compare “with Project” and “without Project” conditions, thereby ascertaining the Project’s potential to significantly and adversely impact the environment.

142. A project’s existing environmental setting “will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” (CEQA Guidelines §15125(a)(1).)

143. However, “where necessary to provide the most accurate picture practically possible of the project’s impacts, a lead agency may define existing conditions by referencing . . . conditions

1 expected when the project becomes operational.” (CEQA Guidelines §15125(a)(1).) CEQA, therefore,
2 expressly authorizes a lead agency to use a CEQA baseline of expected future conditions when the “use
3 of existing conditions would be either misleading or without informative value to decision-makers and
4 the public.” (CEQA Guidelines §15125, subd. (a)(2); *see also Neighbors for Smart Rail v. Expo. Metro*
5 *Line Const. Auth.*, 57 Cal. 4th 439, 449 (2013) (lead agencies must “employ a realistic baseline that will
6 give the public and decision makers the most accurate picture practically possible of the project’s likely
7 impacts”).)

8 144. In other words, “[p]rojected future conditions may be used as the sole baseline for
9 impacts analysis if their use in place of measured existing conditions . . . is justified by unusual aspects
10 of the project or the surrounding conditions.” (*Neighbors for Smart Rail*, 57 Cal. 4th at 451.)

11 145. As the EIR recognizes, Scattergood’s once-through cooling (“OTC”) Units 1 and 2 are
12 required to cease operations completely by the end of 2029 under the State Water Board’s OTC Policy.

13 146. Accordingly, it is misleading and inaccurate for the EIR to rely upon a baseline of
14 Scattergood’s current plant operations that will not be allowed after 2029.

15 147. Even so, the EIR sets its baseline of emissions from the Scattergood facility as the
16 emissions from the plant, based on its current operations using OTC.

17 148. The EIR misleads the public by assuming that, absent the completion of the proposed
18 modernization project, Scattergood would continue to rely on OTC operations and natural gas
19 combustion under similar conditions to its current operations.

20 149. Such an outcome would depend on a hypothetical future extension of the current OTC
21 cessation deadline of December 31, 2029, which is not contemplated by the State Board at this time.
22 (*See Communities for a Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal. 4th
23 310, 322 (2010) (“An approach using hypothetical allowable conditions as the baseline results in
24 ‘illusory’ comparisons that ‘can only mislead the public as to the reality of the impacts and subvert full
25 consideration of the actual environmental impacts,’ a result at direct odds with CEQA’s intent.”)
26 (quoting *Environmental Planning Information Council v. County of El Dorado*, 131 Cal. App.3d 350,
27 358 (1982)).)

28 150. The DEIR claims this baseline is accurate because the Scattergood Project is expected to

1 be completed by the end of 2029. Given LADWP’s own admissions that it is currently unknown
2 whether and how it will procure green hydrogen gas for combustion at Scattergood, this timeline is
3 unlikely.

4 151. That the DEIR includes a 100 percent methane vendor in its impact analysis
5 demonstrates a lack of certainty that Scattergood can be retrofitted to burn hydrogen blends and procure
6 hydrogen in just four years. Unless (a) green hydrogen availability is proven on the market or (b)
7 LADWP concedes that this Project is a gas repowering project rather than a “hydrogen modernization
8 project,” LADWP cannot mislead the public by assuming current emissions will continue beyond 2029.

9 152. A supportable CEQA baseline is the cessation of generation capacity due to the
10 upcoming deadline to cease OTC operations. The EIR’s admitted lack of clarity about the feasibility of
11 initiating hydrogen combustion by 2029 makes it clear that the EIR’s baseline is based on speculation.

12 153. Assuming zero operations as the environmental baseline is the only way to “employ a
13 realistic baseline that will give the public and decision makers the most accurate picture practically
14 possible of the project’s likely impacts” regarding air quality, energy use, and GHG emissions, among
15 other potential environmental impacts not properly analyzed as discussed in this letter. (*Neighbors for*
16 *Smart Rail*, 57 Cal.4th at 449.)

17 154. For these reasons, the CEQA baseline for air quality impacts should also reflect the
18 required shutdown of Units 1 and 2.

19 **The EIR’s Analysis of Alternatives is Inadequate.**

20 155. The Supreme Court has long identified the alternatives analysis as the “core of an EIR.”
21 (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (*Citizens II*).)

22 156. Projects with significant environmental impacts may not be approved “if there are
23 feasible alternatives or feasible mitigation measures available which would substantially lessen the
24 significant environmental effects . . .” (Pub. Resources Code § 21002.)

25 157. CEQA contains substantive provisions with which agencies must comply. “The most
26 important ... is the provision requiring agencies to deny approval of a project with significant adverse
27 effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects.”
28 (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41, disapproved of on other grounds by

1 *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.)

2 158. “Feasible” is defined as “capable of being accomplished in a successful manner within a
3 reasonable period of time, taking into account economic, environmental, social, and technological
4 factors.” (Pub. Resources Code § 21061.1.)

5 159. The definition does not require the agreement of the project applicant. “Each public
6 agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or
7 approves whenever it is feasible to do so.” (*Lincoln Place Tenants Ass’n v. City of Los Angeles* (2005)
8 130 Cal.App.4th 1491, 1508, emphasis added.)

9 160. Rejected alternatives and mitigation measures must be “truly infeasible.” (*City of*
10 *Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 356, 374-75.)

11 161. Petitioners identified numerous feasible alternatives and mitigation measures throughout
12 the administrative process. Even so, LADWP declined to analyze some of these feasible alternatives
13 and mitigation measures. LADWP improperly rejected other feasible alternatives.

14 162. For example, the South Coast Air Quality Management District recommended that
15 LADWP consider alternatives that would achieve energy reliability through zero emissions
16 technologies. However, every alternative that satisfies these criteria was dismissed by the EIR as
17 “Considered but Dismissed from Detailed Analysis.”

18 163. LADWP declined to adopt or incorporate these mitigation measures or alternatives into
19 the Project, decisions that lack substantial evidence.

20 164. The EIR is also required to identify project objectives, as a “clearly written statement of
21 objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR
22 and will aid the decision makers in preparing findings or a statement of overriding considerations, if
23 necessary. The statement of objectives should include the underlying purpose of the project and may
24 discuss the project benefits.” (CEQA Guidelines §15124.)

25 165. Use of unduly narrow project objectives violates CEQA. (*In Re Bay Delta Coordinated*
26 *Environmental Impact Report Proceedings* (2008) 43 Cal. 4th 1143, 1166 [“a lead agency may not give
27 a project’s purpose an artificially narrow definition”].)

28 166. Narrowly defining objectives and using that to dismiss consideration of potential

alternatives prejudicially prevents informed decision making and public participation. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668, 671.)

167. Even so, this is exactly what LADWP has done. Although the NREL LA100 study identified multiple viable pathways to reach 100% reliable clean energy by 2045, each relying on rapid deployment of a combination of wind, solar, and battery storage technologies, LADWP narrowly determined that it would need to replace Scattergood’s natural gas combustion system with one capable of combusting hydrogen gas.

168. Use of overly narrow project objectives to stifle consideration of alternatives violates CEQA; “[i]f the principal project objective is simply pursuing the proposed project, then no alternative other than the proposed project would do. All competing reasonable alternatives would simply be defined out of consideration.” (*We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683, 692.)

169. In February 2023, the City of Los Angeles ordered LADWP to complete an analysis of alternatives to the proposed Project’s combustion of hydrogen. However, this analysis was not released until March 4, 2025, months after the DEIR was released for public review and circulation. Accordingly, interested members of the public had limited time to review the City-commissioned alternatives analysis during the DEIR comment period.

170. Moreover, the timing of the DEIR release precluded consideration of the City-commissioned alternatives to hydrogen combustion in the DEIR.

171. “One of [an EIR’s] major functions ... is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.) The EIR fails to meet that function.

172. Once impacts are correctly assessed as significant, the discussion of alternatives must “focus on alternatives to the Project or its location which are capable of avoiding or substantially lessening any significant effects of the Project, even if these alternatives would impede to some degree the attainment of project objectives, or would be more costly.” (CEQA Guidelines §15126.6, subd. (b).)

173. “Meaningful analysis of alternatives in an EIR requires an analysis of meaningful alternatives.” (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 704.)

1 The alternatives included in the EIR are inadequate.

2 174. CEQA requires that an EIR evaluate a “no project” alternative. “The purpose of
3 describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of
4 approving the proposed project with the impacts of not approving the proposed project.” (CEQA
5 Guidelines §15126.6, subd. (e)(1).)

6 175. Moreover, EIRs are required to identify alternatives that would reduce project impacts.
7 (*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089.) The EIR omits
8 consideration of alternatives that would reduce or avoid the environmental impacts of Scattergood’s
9 current operations. It also fails to credit project alternatives for eliminating these impacts.

10 176. In addition to the air quality and health impacts of producing energy by combustion,
11 Scattergood currently relies on once-through cooling. This impacts marine organisms from entrainment
12 and impingement, as well as by increasing water temperature at its outfall. Alternatives to the Project
13 could eliminate these environmental impacts sooner than the Project. The EIR fails to acknowledge
14 this.

15 177. LADWP dismissed all other options considered or presented.

16 178. The EIR dismisses multiple alternatives based on risks and limitations that also apply to
17 the proposed Scattergood Project.

18 179. For example, a hydrogen fuel cell alternative was dismissed due to costs of proton
19 exchange membrane fuel cells and a 50 percent labor surcharge for the Southern California market,
20 uncertainty about fuel cell module prices, and maximum contingencies. Yet the Scattergood Project
21 would face the same labor costs, price uncertainties, and uncertainty about hydrogen supplies.

22 180. The DEIR further dismisses a hydrogen fuel cell alternative as an unproven technology
23 that would be less reliable than the proposed Scattergood Project, even though it recognizes the
24 alternative would meet project objectives and reduce air pollution. The DEIR claims this “unproven
25 technology” may “take up to a decade to implement.” However, the Scattergood Project, too, is an
26 unproven technology that has never been utilized at the proposed scale. The Project relies on buildout
27 of an entirely new hydrogen pipeline distribution system across Southern California and an as-yet
28 nonexistent green hydrogen market. In particular, the Alternatives Analysis considers the hydrogen fuel

1 cell alternative “infeasible” because “the extensive infrastructure required for fuel cells to operate on
2 100% green hydrogen at the Scattergood location does not exist and is unlikely to be available before
3 2030.” This rationale applies equally to the Project. The DEIR and LADWP’s approval documents lack
4 substantial evidence for this rejection.

5 181. The DEIR improperly dismissed the energy storage alternative as infeasible due to cost,
6 land constraints, and insufficiency for meeting project objectives if multiple transmission lines are
7 down. Yet the Scattergood Project requires construction of region-wide hydrogen pipeline distribution
8 systems that could also fail.

9 182. The DEIR artificially constrained its consideration of energy storage alternatives to
10 lithium-ion batteries and failed to consider market-ready long-duration energy storage technologies.
11 These include Envision Energy’s 8MWh batteries using 700 Ah lithium-iron phosphate battery cells;
12 FORM Energy’s 100-hour iron-air batteries; and ESS long-duration iron flow 200 MW/2 GWh BESS
13 systems, already under production. Lithium-ion battery energy density has also increased rapidly over
14 the last few years. Even so, the EIR used the 4-hour capacity of a lithium-ion battery to reject energy
15 storage as failing to provide energy in an emergency for as long as the proposed Scattergood Project.
16 The DEIR’s reliance on only this narrow band of battery storage options, when battery storage
17 technologies already exist that can provide reliable, resilient and readily dispatchable power over
18 multiple days, violates CEQA.

19 183. The Project Objectives do not include a finite reliability standard that the Project must
20 achieve, yet the EIR rejects alternatives for failing to meet its undefined standard.

21 184. The EIR rejects battery storage due to land constraints but fails to consider vertical
22 stacking of batteries or leasing additional land to deploy the storage required to meet Project objectives
23 without emissions impacts on nearby communities. CEQA requires consideration of alternatives to the
24 Project site when necessary to significantly lessen or avoid environmental impacts. (CEQA Guidelines
25 §15126.6, subd. (b).)

26 185. LADWP failed to analyze a hybrid energy storage and demand-side alternative, as
27 described in the PSE Healthy Energy Report’s section 5(c). Such an alternative would be based on
28 multiple technologies that, together, would provide reliability and grid management without imposing

air quality impacts on communities near Scattergood and within the Southern California Air Basin.

186. PSE found that such an alternative could provide as much power as the Project, which could be increased if LADWP leased minimal acreage from the adjacent Hyperion Reclamation Plant to develop additional solar and storage. Additional coordination with nearby Los Angeles International Airport could provide space to install longer-duration BESS-like iron flow batteries with 12-hour durations or iron-air batteries with 100-hour durations.

187. The PSE Report further identified 94 schools within five miles of the Project site that could host solar+storage facilities.

188. In all, PSE recommended that a hybrid energy storage and demand-side alternative would avoid air pollution impacts while providing a diversified energy project with more reliability and grid flexibility than the proposed Scattergood Project, relying on existing, market-ready technologies.

189. Instead, the EIR analyzed only one-for-one tradeoffs of technologies against the Scattergood Project.

190. The Alternatives Analysis improperly relies on the LA100 Study to justify the need for in-basin generation. However, the LA100 Study did not require combustion “firm capacity.”

191. The Alternatives Analysis, therefore, fails to study alternatives to the Project designed to significantly lessen or avoid the Project’s environmental impacts, and rejects feasible alternatives without evidence.

The FEIR Failed to Adequately Respond to Comments

192. CEQA requires LADWP to respond to the public’s comments and questions. (CEQA Guidelines §15088.)

193. When a comment raises a significant environmental issue, the lead agency must address the comment “in detail giving reasons why” the comment was “not accepted.” (*Ibid.*) “Conclusory statements unsupported by factual information will not suffice.” (*Ibid.*; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124.)

194. The level of detail of responses to comments must be commensurate with the level of detail of the comments. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 878 [“the determination of the sufficiency of the agency's responses to comments on

the draft EIR turns upon the detail required in the responses”].)

195. This requirement for good faith, reasoned analysis “ensures that stubborn problems or serious criticism are not swept under the rug.” (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal. App. 4th 715, 732.)

196. The courts have held that inadequate responses to comments – alone – can be grounds for voiding a project’s approval. (*See, Env. Protection Information Center. v. Johnson* (1985) 170 Cal. App. 3d 604, 627.) Failure to respond to a *single* comment is sufficient to invalidate approval of a final EIR. (*Flanders Foundation v. City of Carmel by-the-Sea* (2012) 202 Cal. App. 4th 603, 617.)

197. This is particularly important “where comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives...” (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 357.)

198. The EIR’s failures to adequately respond to comments include, but are not limited to:

199. The Final EIR’s **Topical Response No. 2 – Hydrogen** is full of conclusory statements unsupported by factual information. It reflects LADWP’s unwillingness to engage with difficult questions regarding planned hydrogen infrastructure that is reasonably foreseeable instead of good-faith responses required by CEQA. The final EIR states countless times that “[d]iscussion of these impacts would be entirely speculative and would therefore be of little to no informational value to decisionmakers and the public.” Yet, the final EIR cites no legal evidence related to the CEQA statute, its implementing guidelines, or the body of CEQA caselaw to support these blanket assurances that such discussion would in fact be of little to no informational value to stakeholders. If a “sufficient market supply of green hydrogen may be available to support the proposed project’s dual-fuel CCGS when it is fully commissioned by the end of 2029,” then the EIR must provide at least some analysis of the environmental impacts of that sufficient market supply. The FEIR instead claims repeatedly that “the details of how and where the hydrogen would be manufactured are entirely speculative at this point.”

200. The final EIR’s response to comments section is also often characterized by bad faith, inadequate analysis of Petitioners’ well-reasoned analysis and thorough DEIR comments regarding the

1 significant environmental impacts of the hydrogen system required to support this highly speculative
2 project.

3 201. For example, the final EIR complains: “To analyze the impacts of the potential source of
4 hydrogen would require analysis of every proposed route and design [of Angeles Link], which would be
5 of little informational value to the public, particularly in light of the fact that there is no reason to believe
6 that this will actually be the source of hydrogen for Scattergood.” Given the readily available evidence
7 already existing about Angeles Link, the final EIR is not only disingenuous about what LADWP already
8 knows, but also lacks good faith in declining to do the appropriate level of analytical work to prove the
9 proposed project warrants adoption and that the EIR deserves to be certified. Despite 6 months passing
10 since the DEIR comment period closed, the final EIR repeatedly glosses over vital topics such as
11 hydrogen pipeline routing.

12 202. With respect to the water required to produce hydrogen, instead of meaningfully
13 engaging with the evidence and arguments articulated in Petitioners' DEIR comments about electrolysis
14 of water, the final EIR states different methods for producing green hydrogen “require different amounts
15 of water,” so it would “therefore be therefore be speculative to analyze the environmental impacts of
16 supplying water relying on the estimates cited by commenters in the Sierra Club technical study and
17 brief because those are based on only one possible method of hydrogen production that may or may not
18 be used to supply Scattergood in the future.” Just because the Scattergood Project might ultimately
19 source hydrogen produced by a different method does not obviate the need to analyze at least some
20 forms of water usage in hydrogen production in the EIR. Electrolysis of water is a reasonably
21 foreseeable pathway to produce hydrogen. As such, the EIR should have analyzed it rather than
22 improperly dismissing it.

23 203. The responses in the final EIR are also circular and contradictory. In **Topical Response**
24 **No. 1 – Proposed Project Generation Capacity and Grid Reliability**, the final EIR claims the
25 “proposed project is not a speculative investment.” Yet, the final EIR routinely classifies any discussion
26 of the huge hydrogen system that must be constructed to support the Scattergood Modernization Project
27 as just that—speculative.

1 204. The FEIR also characterizes the proposed project on the one hand as “renewably fueled
2 combustion turbines” and repeatedly, on the other hand, as capable (and likely to do so) of running on
3 100% methane gas, a non-renewable resource.

4 205. The final EIR failed to provide the requisite good-faith responses in violation of CEQA.

5 **The EIR Impermissibly Piecemeals Environmental Analysis.**

6 206. LADWP impermissibly piecemeals its CEQA analysis in two primary ways: (1) the EIR
7 only considers the environmental impacts from the Scattergood Modernization Project, without
8 considering the cumulative impacts of other planned hydrogen fueling actions for its other in-basin
9 power plants and infrastructure in LADWP’s energy system; and (2) the EIR ignores environmental
10 issues arising from the production, storage and transportation of hydrogen, as well as the special issues
11 involved in emissions control of the combustion products of hydrogen.

12 207. Under CEQA, an EIR must be “prepared as early in the planning process as possible” for
13 all projects that may have a significant effect on the environment. (*Bozung v. LAFCO*, 13 Cal. 3d 263,
14 282 (1975)). The EIR must analyze “the whole of an action,” including “all phases of project planning,
15 implementation, and operation.” (CEQA Guidelines §15063, subd. (a)(1).)

16 208. The court in *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*,
17 155 Cal. App. 4th 1214 (2007) noted three factors to be considered to determine what constitutes the
18 “whole” of a project that must be analyzed for environmental impacts: (1) relationship in time; (2)
19 physical location; and (3) the entity undertaking the action. (*Id.* at 1227.)

20 209. The Supreme Court has emphasized that CEQA must “be interpreted in such a manner
21 as to afford the fullest possible protection to the environment within the reasonable scope of the
22 statutory language.” (*Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, 259 (1972).)

23 210. In this vein, CEQA prohibits EIRs that evade comprehensive analysis through piecemeal
24 review, or “chopping a large project into many little ones -- each with a minimal potential impact on the
25 environment -- which cumulatively may have disastrous consequences.” (CEQA Guidelines §15378,
26 subd. (a); *Bozung*, 13 Cal. 3d at 283-84.)

27 211. It is not sufficient for agencies to claim that some parts of the project or its effects are
28

1 uncertain. Rather, an agency is expected to “attempt in good faith to fulfill its obligation under CEQA
2 to provide sufficient meaningful information regarding the types of activities and environmental effects
3 that are reasonably foreseeable” from a given project. (*Laurel Heights Improvement Association v.*
4 *Regents of University of California*, 47 Cal.3d 376, 399 (1988).)

5 212. LADWP commits unlawful piecemealing in violation of CEQA through only
6 considering the environmental impacts from the Scattergood Modernization Project, without
7 considering the cumulative impacts of other planned hydrogen fueling actions for its other in-basin
8 power plants and necessary hydrogen gas infrastructure in LADWP’s energy system.

9 213. LADWP has clearly stated that it intends to use hydrogen at all four of its power plants.

10 214. In its 2022 Power Strategic Long-Term Resource Plan (SLTRP), LADWP states that the
11 remaining green hydrogen-powered units “will be built throughout the 2030s and into the 2040s, [and]
12 are planned to be situated at the Harbor, Haynes, Scattergood, and Valley Generating Stations,” with
13 Scattergood described as “[t]he first such generation unit.” (SLTRP ES-22.)

14 215. The SLTRP also includes a chart of “[e]xpected in-basin hydrogen-fueled capacity,”
15 which demonstrates that LADWP expects Scattergood to achieve hydrogen capacity by 2030, and the
16 remaining three powerplants to achieve hydrogen capacity by 2035. (SLTRP 2-59.)

17 216. LADWP continues framing Scattergood as part of a larger initiative in the project’s
18 Initial Study, stating that, “[b]ased on the findings of the LA100 study, the proposed project has been
19 identified as an integral component of LADWP’s [SLTRP], which establishes a roadmap for reliable
20 and sustainable electrical power for the City, while also providing the strategy to achieve a carbon-free
21 energy system by 2035, relying primarily on renewable solar, wind, and geothermal generation
22 resources as well as large-capacity energy storage facilities.” (Initial Study 3.)

23 217. Even in the DEIR, LADWP repeatedly states that the Scattergood modernization process
24 is an “integral component of [the SLTRP].” (DEIR 3-1, 4.2-10, 4-9.)

25 218. Despite consistently stating that the other power plants will be similarly changed to
26 accommodate hydrogen, LADWP failed to consider the environmental impact of its “planned” system-
27 wide shift to hydrogen fuel.

28 219. The FEIR repeatedly implies that impacts to the broader hydrogen system are not

1 reasonably foreseeable when it states it “need only analyze project impacts that are reasonably
2 foreseeable.” (FEIR 2-663.)

3 220. After saying in the SLTRP that hydrogen capacity at the other three plants “will be built”
4 and were “assumed,” LADWP backtracks in the FEIR, claiming these changes are actually
5 “speculative.” (SLTRP ES-22 [“Several other units slated to be running on green hydrogen are assumed
6 to be built during the 2030s and 2040s, situated at LADWP’s Harbor, Haynes, Scattergood, and Valley
7 Generating Stations.”]; FEIR 2-13 [“The development of hydrogen fueled generating units at other
8 LADWP in-basin generating stations is speculative at this point.”].)

9 221. CEQA analysis of future foreseeable projects cannot be circumvented simply because
10 the developer claims they are “speculative.” Instead, EIRs are expected to conduct an analysis based on
11 the available information. Considering LADWP has an entire plan exploring options for being carbon
12 free, which includes a chart of “expected hydrogen capacity” at each power plant within the next ten
13 years, the future conversions are far more than simply “speculative.”

14 222. Furthermore, the SLTRP states that Harbor Generating Station considers combusting
15 hydrogen as early as 2032—just three years after hydrogen combustion would begin at Scattergood.
16 Following the same timeline, the DEIR for that conversion would have to be completed by 2027, and
17 preparation of the DEIR would have to begin within months.

18 223. By failing to consider environmental effects of its expected basin-wide transition to
19 hydrogen, which is planned to occur at its other three plants within the next several years, LADWP
20 improperly piecemeals its analysis and violated CEQA.

21 224. LADWP also impermissibly piecemeals its analysis by omitting the environmental
22 effects of the production, storage, and transportation of hydrogen.

23 225. The SLTRP repeatedly stresses the importance of converting its power plants to utilize
24 “green hydrogen” to meet Los Angeles City Council’s target of 100% carbon free by 2035. (SLTRP
25 ES-42-43, 1-13, 1-15, 1-21.) LADWP has repeatedly reinforced the importance of this target, stating
26 that “LADWP has committed to achieving a carbon-free energy system for the City.” (FEIR 3-11, 2-
27 232.)

28 226. The CCGS is specifically designed and intended to burn green hydrogen. This point is

1 emphasized by LADWP in the FEIR, stating that “the intention of the project is to provide the
2 capability to utilize green hydrogen fuel at Scattergood, and any other potential outcome is speculative
3 and not reasonably foreseeable.” (FEIR 2-675.) LADWP makes clear that the project is “integral to the
4 goal of implementing a carbon free energy system” outlined in the SLTRP. (FEIR 1-1.)

5 227. Furthermore, a crucial objective of the Scattergood project is to “[r]educe the emissions
6 of greenhouse gases (GHGs) from power generation consistent with the LADWP transition to a carbon-
7 free electrical power system.” (FEIR 2-19.) Sufficient access to green hydrogen is critical for this
8 project to achieve its objectives. Green hydrogen infrastructure is inextricably connected to the project
9 itself. Despite making it clear that green hydrogen is a critical part of the project, LADWP failed to
10 consider the environmental impact of green hydrogen infrastructure.

11 228. LADWP claimed in the FEIR that “details related to the [green hydrogen] infrastructure
12 needed to support the proposed project do not currently exist.” (FEIR 2-13.)

13 229. LADWP uses this uncertainty to avoid discussing the effects of necessary hydrogen
14 infrastructure. It claims that, because it “would not implement or operate the infrastructure that supplies
15 hydrogen to Scattergood and would instead be a purchaser of hydrogen for the proposed project,” and
16 because specific details on the infrastructure are “entirely speculative at this point,” it need not analyze
17 the environmental effects at this time. (*Id.*) LADWP also points to two possible methods for
18 transporting hydrogen—truck delivery, which it calls “unlikely,” and “a pipeline delivery system”—but
19 claims that any effects from these methods would currently be “entirely speculative” and “vary widely”
20 based on the specific method and route selected. (*Id.*) Finally, it vaguely states that the green hydrogen
21 system “will be analyzed in a separate environmental review and approval process by the separate
22 designated lead agency” in the future, when more details are known. (*Id.*)

23 230. LADWP’s claim that the *precise* infrastructure is currently uncertain does not negate its
24 obligation under CEQA to conduct a thorough analysis of impacts “before a project gains irreversible
25 momentum.” (*City of Antioch v. City Council*, 187 Cal. App. 3d 1325, 1333 (1986).)

26 231. An EIR on necessary hydrogen infrastructure in the future, after the project has
27 progressed, would have minimal utility. There would be no real opportunity to evaluate the effects and
28 determine if, in light of any negative impacts, LADWP should pursue green hydrogen. The question

1 would be *how* the hydrogen is transported to Scattergood, not *whether* it should be at all.

2 232. LADWP also fails to analyze the environmental impacts if a reliable supply of green
3 hydrogen does not materialize.

4 233. Recent hydrogen projects have failed to materialize and project timelines are often
5 delayed due to supply constraints: per BloombergNEF in May 2024, only 30% of announced supply for
6 2030 is “likely to be built.” (BloombergNEF, *Hydrogen Supply Outlook 2024: A Reality Check* (May
7 14, 2024), available at <https://about.bnef.com/blog/hydrogen-supply-outlook-2024-a-reality-check/>.)

8 234. BloombergNEF further estimates that globally, governments are likely to miss hydrogen
9 demand goals for 2030 by nearly two-thirds. (*Id.*)

10 235. In California, CARB’s Scoping Plan indicates that California will need to grow its
11 hydrogen supply by 1700x to meet hydrogen demand in non-power sectors alone (CARB 2022 Scoping
12 Plan for Achieving Carbon Neutrality, p. 8; PSE Healthy Energy, Assessment of LADWP’s Draft
13 Environmental Impact Report for Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready
14 Modernization Project (April 2025), p. 27.)

15 236. If there is not sufficient hydrogen supply, the project would have to fall back on methane
16 use or SMR hydrogen.

17 237. This year, the federal government also limited two sources of financial assistance for
18 green hydrogen projects. First, H.R. 1 (119 Congress 2025-2026) shortened the availability of billions
19 of dollars in clean hydrogen production tax credits by five years. As a result, these subsidies will only
20 be available until 2028, before Scattergood’s hydrogen capabilities are expected to be operational,
21 rather than 2033, the initial deadline.

22 238. Second, on October 1, 2025, the Department of Energy cancelled \$1.2 billion in federal
23 funding for ARCHES, which was a promised source of green hydrogen for the project. ARCHES
24 signed a hydrogen hub cooperative agreement with DOE in 2024. The project was specifically meant to
25 prioritize and expand the renewable hydrogen market in California. Without federal funding, the project
26 is unable to proceed—it has since halted development.

27 239. Petitioners submitted a supplemental public comment on both of these changes, which
28 occurred after the DEIR’s release but before the FEIR was released. Despite this, LADWP decided that

1 it need not address the effects of green hydrogen procurement, or the possibility that it will not be able
2 to procure green hydrogen, at all.

3 240. Green hydrogen is not currently a stable or reliable source of energy. Considering the
4 very real risk it will not be sufficiently available by the time the project is operating, and considering
5 the short timeline LADWP is working on—only four years to secure sufficient energy and have the
6 infrastructure in place—it needed to consider the effects if green hydrogen cannot be used.

7 241. With the Scattergood FEIR, LADWP has attempted to piecemeal its environmental
8 impact analysis to avoid cumulative consideration of the overall program, thereby violating CEQA’s
9 prohibition against piecemealing.

10 242. Because the SLTRP contemplates similar hydrogen conversion projects at LADWP’s
11 four generation plants to generate electricity, all of which would rely on the same system of hydrogen
12 infrastructure to supply the new fuel source, LADWP’s plans for an in-basin hydrogen system as
13 outlined in the SLTRP warranted a programmatic DEIR.

14 243. By focusing on Scattergood in isolation while excluding consideration of its other plants
15 and the necessary hydrogen infrastructure, LADWP’s final EIR improperly piecemealed its analysis of
16 environmental effects in violation of CEQA.

17 **LADWP Improperly Adopted a Statement of Overriding Considerations.**

18 244. CEQA prohibits approval of projects with significant adverse environmental impacts if
19 there are feasible alternatives or mitigation measures that would reduce or eliminate those impacts.
20 (Pub. Resources Code § 21002; CEQA Guidelines §15021(a)(2).)

21 245. When an agency seeks to approve a project despite its significant unmitigated impacts on
22 the environment, the agency must adopt a statement of overriding considerations. (Pub. Resources Code
23 § 21081.)

24 246. A statement of overriding considerations must include two specific findings, supported
25 by substantial evidence. The first finding that must be made is that “There is no feasible way to lessen
26 or avoid the significant effect...” of the project. (CEQA Guidelines §§15043, 15093(b).) The second
27 finding is that the project’s benefits outweigh its significant adverse environmental impacts. (CEQA
28 Guidelines §15093(a).) These findings must both be supported by substantial evidence. (CEQA

Guidelines §15093(a)-(b).)

247. As the EIR acknowledges the Scattergood Project will have significant and unavoidable environmental impacts, a Statement of Overriding Considerations was required. Unfortunately, LADWP failed to substantiate the required findings with substantial evidence, as required, in violation of CEQA.

248. First, LADWP could not find there is no feasible way to lessen or avoid the Project's significant impacts. Petitioners and others suggested numerous feasible alternatives and mitigation measures. LADWP either failed to consider or outright rejected these alternatives and mitigation measures, often for reasons that apply equally to the adopted Scattergood Project.

249. The final EIR rejected as infeasible numerous alternatives and mitigation measures that might have made the Project more costly or less profitable but would not have made it impractical to proceed. "CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment...unless the measures necessary to mitigate those effects are *truly* infeasible." (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal. 4th 341, 368 emphasis added.) "[I]f the project can be economically successful with mitigation, then CEQA requires that mitigation..." (*Uphold our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th at 600.)

250. These alternatives and mitigation measures have been implemented in other projects, and are objectively feasible. (*Western States Petroleum Association v. Southern California Air Quality Management District* (2006) 136 Cal.App.4th 1012, 1020 [no evidence showed refineries could not make the same air pollution control changes one refinery made or that the cost of such changes would be prohibitive].)

251. Second, LADWP cannot substantiate the finding that the Project's benefits outweigh its significant environmental impacts. The Scattergood Project relies on unproven technology and a nonexistent hydrogen market that may result in the Project merely extending fossil fuel power generation at the site. Fossil fuel combustion power generation will adversely affect surrounding communities, their air quality, and their health. Moreover, even if the Project succeeds in sourcing hydrogen, most available hydrogen is energy-intensive and/or fossil-fuel-based, meaning the Project

1 will cause adverse impacts on air quality and due to greenhouse gas generation. Finally, even
2 combustion of green hydrogen results in adverse air quality impacts.

3 252. “[A]n agency’s unsupported claim that the project will confer general benefits” is
4 insufficient to override a project’s significant impacts. (*Woodward Park Homeowners Ass’n, Inc. v. City*
5 *of Fresno* (2007) 149 Cal.App.4th 892, 717.)

6 253. Thus, LADWP’s findings regarding the rejection of alternatives and mitigation measures
7 and regarding project benefits lack substantial evidence, thereby violating CEQA (CEQA Guidelines
8 §15091(b)) and failing as a basis for LADWP’s Statement of Overriding Considerations. (CEQA
9 Guidelines §15093(b).)

1 **PRAYER FOR RELIEF**

2 In each of the respects enumerated above, Respondents have violated their duties under law,
3 abused their discretion, failed to proceed in the manner required by law, and decided the matters
4 complained of without the support of substantial evidence. Accordingly, the approval of the EIR and the
5 approval of the Project must be set aside.

6 WHEREFORE, Petitioners pray for relief as follows:

7 1. For an alternative and peremptory writ of mandate, commanding Respondents:

8 A. To set aside and vacate the certification and approval of the EIR, Findings of Fact
9 and Statement of Overriding Conditions, any Conditions of Approval, and Mitigation Monitoring and
10 Reporting Program supporting the approval of the Project; and

11 B. To set aside and vacate any approvals for the Project based upon the EIR,
12 including but not limited to approval of any Resolutions approving the Project.

13 2. For an order enjoining Respondents from taking any action to construct any portion of the
14 Project or to develop or alter the Project site in any way that could result in a significant adverse impact
15 on the environment unless and until a lawful approval is obtained from Respondents after the
16 preparation and consideration of a legally adequate EIR and adoption of all feasible alternatives and
17 mitigation measures;

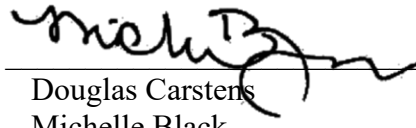
18 3. For costs of the suit;

19 4. For reasonable attorneys' fees; and

20 5. For such other and further relief as the Court deems just and proper.
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1 Respectfully Submitted,
2 CARSTENS, BLACK & MINTEER LLP

3 By:



Douglas Carstens

Michelle Black

Sunjana Supekar

Attorneys for Petitioner Los Angeles Waterkeeper

6 LAW OFFICE OF JONATHAN WEISSGLASS

7 By:

/s/ Jonathan Weissglass

Jonathan Weissglass

Attorney for Petitioner Communities for a Better
Environment

VERIFICATION

I, the undersigned, declare that I am the Executive Director of Communities for a Better Environment, the Petitioner in this action, and I am authorized to make this verification. I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th of December, 2025 in Huntington Park, California.



Darryl Molina Sarmiento
Executive Director
Communities for a Better Environment

VERIFICATION

I, the undersigned, declare that I am the Executive Director of Los Angeles Waterkeeper, one of the Petitioners in this action, and I am authorized to make this verification. I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of December, 2025 in Los Angeles, California.



Bruce Reznik

EXHIBIT A

Main Office Phone:
310 - 798-2400
Direct Dial:
310-798-2400 Ext. 2



Carstens, Black & Minter LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277
www.cbcearthlaw.com

Michelle N. Black
Email Address:
mnb@cbcearthlaw.com

December 5, 2025

By Electronic Mail
California Attorney General
CEQA@doj.ca.gov

Re: Challenge under the California Environmental Quality Act to approve the
environmental impact report and approval of the Scattergood Generating Station
Units 1 and 2 Hydrogen Ready Modernization Project

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge
the City of Los Angeles's and the Los Angeles Department of Water and Power's failure to
comply with the California Environmental Quality Act ("CEQA") in approving the Scattergood
Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project ("Project") for
the Scattergood Generating Station.

This Petition is being provided pursuant to the notice provisions of the Public
Resources Code. Please contact me if you have any questions.

Sincerely,

CARSTENS, BLACK & MINTEER LLP
Michelle N. Black

LOS ANGELES WATERKEEPER
Benjamin Harris

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass

COMMUNITIES FOR A BETTER ENVIRONMENT
Theodore Caretto

Enclosure

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast Highway, Ste. 200, Redondo Beach, CA 90277. On December 5, 2025, I served the within documents:

**LETTER TO THE CA ATTORNEY GENERAL REGARDING
PETITION FOR WRIT OF MANDATE**

VIA ELECTRONIC MAIL.

Based on Public Resources Code 21167 of CEQA, I caused the above-referenced document to be sent to the CA Attorney General at the following electronic address: CEQA@doj.ca.gov

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 5, 2025, at Redondo Beach, California 90277.

/s/Sarah Bloss
Sarah Bloss

SERVICE LIST

CEQA Coordinator
Office of the CA Attorney General
CEQA@doj.ca.gov

EXHIBIT B

Main Office Phone:
310 - 798-2400
Direct Dial:
310-798-2400 Ext. 2


Carstens, Black & Minter LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277
www.cbcearthlaw.com

Michelle N. Black
Email Address:
mnb@cbcearthlaw.com

December 4, 2025

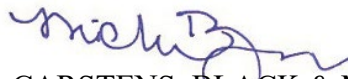
By U.S. Mail
Patrice Lattimore
Los Angeles City Clerk
200 N. Spring Street City Hall - Room 360
Los Angeles, CA 90012

Re: Challenge under the California Environmental Quality Act to approve the environmental impact report and approval of the Scattergood Generating Station Units 1 and 2 Hydrogen Ready Modernization Project

Dear Ms. Lattimore,

Please take notice that Los Angeles Waterkeeper, et al. plans to file a Petition for Writ of Mandate challenging the failure of the City of Los Angeles' and the Los Angeles Department of Water and Power's failure to comply with the California Environmental Quality Act in approving the Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project ("Project") for the Scattergood Generating Station.

Sincerely,



CARSTENS, BLACK & MINTEER LLP
Michelle N. Black

LOS ANGELES WATERKEEPER
Benjamin Harris

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass

COMMUNITIES FOR A BETTER ENVIRONMENT
Theodore Caretto

December 4, 2025

Page 2

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast Highway, Ste. 200, Redondo Beach, CA 90277. On December 4, 2025 I served the within documents:

LETTER TO LOS ANGELES CITY CLERK

VIA UNITED STATES MAIL. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 4, 2025 at Redondo Beach, California 90277.

/s/ Sarah Bloss
Sarah Bloss

SERVICE LIST

Patrice Lattimore
Los Angeles City Clerk
200 N. Spring Street City Hall - Room 360
Los Angeles, CA 90012



Main Office Phone:
310 - 798-2400
Direct Dial:
310-798-2400 Ext. 2

Carstens, Black & Minter LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277
www.cbcearthlaw.com

Michelle N. Black
Email Address:
mnb@cbcearthlaw.com

December 4, 2025

By U.S. Mail
Janisse Quiñones, Chief Executive Officer and Chief Engineer
Benjamin Chapman, General Counsel
Los Angeles Department of Water and Power
John Ferraro Building
111 North Hope Street
Los Angeles, CA 90012

Re: Challenge under the California Environmental Quality Act to approve the environmental impact report and approval of the Scattergood Generating Station Units 1 and 2 Hydrogen Ready Modernization Project

Dear Ms. Quiñones and Mr. Chapman,

Please take notice that Los Angeles Waterkeeper, et al. plans to file a Petition for Writ of Mandate challenging the failure of the City of Los Angeles' and the Los Angeles Department of Water and Power's failure to comply with the California Environmental Quality Act in approving the Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project ("Project") for the Scattergood Generating Station.

Sincerely,

CARSTENS, BLACK & MINTEER LLP
Michelle N. Black

LOS ANGELES WATERKEEPER
Benjamin Harris

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass

COMMUNITIES FOR A BETTER ENVIRONMENT
Theodore Caretto

December 4, 2025

Page 2

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast Highway, Ste. 200, Redondo Beach, CA 90277. On December 4, 2025 I served the within documents:

LETTER TO LOS ANGELES DEPARTMENT OF WATER AND POWER

VIA UNITED STATES MAIL. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 4, 2025 at Redondo Beach, California 90277.

/s/ Sarah Bloss
Sarah Bloss

SERVICE LIST

Janisse Quiñones, Chief Executive Officer and Chief Engineer
Benjamin Chapman, General Counsel
Los Angeles Department of Water and Power
John Ferraro Building
111 North Hope Street
Los Angeles, CA 90012

EXHIBIT C

CARSTENS, BLACK & MINTEER LLP
Douglas P. Carstens, SBN: 193439; dpc@cbcearthlaw.com
Michelle N. Black, SBN: 261962; mnbl@cbcearthlaw.com
Sunjana S. Supekar, SBN: 328663; sss@cbcearthlaw.com
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277-2147
Tel: (310) 798-2400; Fax: (323) 347-7228

Attorneys for Petitioner Los Angeles Waterkeeper

LOS ANGELES WATERKEEPER
Benjamin A. Harris, SBN: 313193; ben@lawaterkeeper.org
360 E. 2nd Street, Suite 250
Los Angeles, CA 90012-4609
Tel: (310) 394-6162

Attorney for Petitioner Los Angeles Waterkeeper

(Counsel Continued on Next Page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

COMMUNITIES FOR A BETTER
ENVIRONMENT, and LOS ANGELES
WATERKEEPER,

Petitioners,
v.

CITY OF LOS ANGELES; LOS ANGELES
DEPARTMENT OF WATER AND POWER

Respondent;

DOES 1-10;

Real Parties in Interest

CASE NO.:

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD AND
NOTICE OF ALTERNATIVE DISPUTE
RESOLUTION INFORMATION PACKET**

(Violations of California Environmental
Quality Act)

1 LAW OFFICE OF JONATHAN WEISSGLASS

2 Jonathan Weissglass, SBN: 185008; jonathan@weissglass.com
3 1939 Harrison Street, Suite 150-B
4 Oakland, CA 94612
Tel: (510) 836-4200

5 Attorney for Petitioner Communities for a Better Environment

6 COMMUNITIES FOR A BETTER ENVIRONMENT

7 Theodore Caretto, SBN: 347221; theodore@cbecal.org
8 Kendall Chappell, SBN: pending; kchappell@cbecal.org
9 6325 Pacific Blvd., Suite 300
Huntington Park, CA 90255
Tel: (323) 826-9771

10 Attorney for Petitioner Communities for a Better Environment
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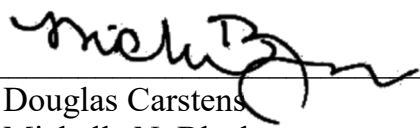
PLEASE TAKE NOTICE:

1). Pursuant to Public Resources Code section 21167.6, Petitioners Communities for a Better Environment and Los Angeles Waterkeeper hereby elect to prepare the administrative record in this matter. This notice also serves as a request for documents pursuant to the Public Records Act.

2). In accordance with California Rules of Court Rule 3.221, subd. (c), Petitioner hereby serves the Alternative Dispute Resolution information package provided by the Superior Court of the County of Los Angeles, located on the Court's website at <https://lascpubstorage.blob.core.windows.net/forms/Forms%20Comprehensive%20List/LASC%20CIV%20271.pdf>. This document is attached as Exhibit A.

DATE: December 5, 2025

Respectfully Submitted,
CARSTENS, BLACK & MINTEER LLP

By: 
Douglas Carstens
Michelle N. Black
Sunjana Supekar
Attorneys for Petitioner
Los Angeles Waterkeeper

LAW OFFICE OF JONATHAN WEISSGLASS

By: /s/ Jonathan Weissglass
Jonathan Weissglass
Attorney for Petitioner
Communities for a Better Environment

EXHIBIT A



Superior Court of California, County of Los Angeles

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

THE PLAINTIFF MUST SERVE THIS ADR INFORMATION PACKAGE ON EACH PARTY WITH THE COMPLAINT.

CROSS-COMPLAINANTS MUST SERVE THIS ADR INFORMATION PACKAGE ON ANY NEW PARTIES NAMED TO THE ACTION WITH THE CROSS-COMPLAINT.

WHAT IS ADR?

Alternative Dispute Resolution (ADR) helps people find solutions to their legal disputes without going to trial. The Court offers a variety of ADR resources and programs for various case types.

TYPES OF ADR

- **Negotiation.** Parties may talk with each other about resolving their case at any time. If the parties have attorneys, they will negotiate for their clients.
- **Mediation.** Mediation may be appropriate for parties who want to work out a solution but need help from a neutral third party. A mediator can help the parties reach a mutually acceptable resolution. Mediation may be appropriate when the parties have communication problems and/or strong emotions that interfere with resolution. Mediation may not be appropriate when the parties want a public trial, lack equal bargaining power, or have a history of physical or emotional abuse.
- **Arbitration.** Less formal than a trial, parties present evidence and arguments to an arbitrator who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision.
- **Settlement Conferences.** A judge or qualified settlement officer assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Mandatory settlement conferences may be ordered by a judicial officer. In some cases, voluntary settlement conferences may be requested by the parties.

ADVANTAGES OF ADR

- **Save time and money.** Utilizing ADR methods is often faster than going to trial and parties can save on court costs, attorney's fees, and other charges.
- **Reduce stress and protect privacy.** ADR is conducted outside of a courtroom setting and does not involve a public trial.
- **Help parties maintain control.** For many types of ADR, parties may choose their ADR process and provider.

DISADVANTAGES OF ADR

- **Costs.** If the parties do not resolve their dispute, they may have to pay for ADR, litigation, and trial.
- **No Public Trial.** ADR does not provide a public trial or decision by a judge or jury.

WEBSITE RESOURCES FOR ADR

- **Los Angeles Superior Court ADR website:** www.lacourt.org/ADR
- **California Courts ADR website:** www.courts.ca.gov/programs-adr.htm

Los Angeles Superior Court ADR Programs for Unlimited Civil (cases valued over \$35,000)

Litigants should closely review the requirements for each program and the types of cases served.

- **Civil Mediation Vendor Resource List.** Litigants in unlimited civil cases may use the Civil Mediation Vendor Resource List to arrange voluntary mediations without Court referral or involvement. The Resource List includes organizations that have been selected through a formal process that have agreed to provide a limited number of low-cost or no-cost mediation sessions with attorney mediators or retired judges. Organizations may accept or decline cases at their discretion. Mediations are scheduled directly with these organizations and are most often conducted through videoconferencing. The organizations on the Resource List target active civil cases valued between \$50,000-\$250,000, though cases outside this range may be considered. *For more information and to view the list of vendors and their contact information, download the Resource List Flyer and FAQ Sheet at www.lacourt.org/ADR/programs.html.*
RESOURCE LIST DISCLAIMER: The Court provides this list as a public service. The Court does not endorse, recommend, or make any warranty as to the qualifications or competency of any provider on this list. Inclusion on this list is based on the representations of the provider. The Court assumes no responsibility or liability of any kind for any act or omission of any provider on this list.
- **Mediation Volunteer Panel (MVP).** Unlimited civil cases referred by judicial officers to the Court's Mediation Volunteer Panel (MVP) are eligible for three hours of virtual mediation at no cost with a qualified mediator from the MVP. Through this program, mediators volunteer preparation time and three hours of mediation at no charge. If the parties agree to continue the mediation after three hours, the mediator may charge their market hourly rate. When a case is referred to the MVP, the Court's ADR Office will provide information and instructions to the parties. The Notice directs parties to meet and confer to select a mediator from the MVP or they may request that the ADR Office assign them a mediator. The assigned MVP mediator will coordinate the mediation with the parties. *For more information or to view MVP mediator profiles, visit the Court's ADR webpage at www.lacourt.org/ADR or email ADRCivil@lacourt.org.*
- **Mediation Center of Los Angeles (MCLA) Referral Program.** The Court may refer unlimited civil cases to mediation through a formal contract with the Mediation Center of Los Angeles (MCLA), a nonprofit organization that manages a panel of highly qualified mediators. Cases must be referred by a judicial officer or the Court's ADR Office. The Court's ADR Office will provide the parties with information for submitting the case intake form for this program. MCLA will assign a mediator based on the type of case presented and the availability of the mediator to complete the mediation in an appropriate time frame. MCLA has a designated fee schedule for this program. *For more information, contact the Court's ADR Office at ADRCivil@lacourt.org.*
- **Resolve Law LA (RLLA) Virtual Mandatory Settlement Conferences (MSC).** Resolve Law LA provides three-hour virtual Mandatory Settlement Conferences at no cost for personal injury and non-complex employment cases. Cases must be ordered into the program by a judge pursuant to applicable Standing Orders issued by the Court and must complete the program's online registration process. The program leverages the talent of attorney mediators with at least 10 years of litigation experience who volunteer as settlement officers. Each MSC includes two settlement officers, one each from the plaintiff and defense bars. Resolve Law LA is a joint effort of the Court, Consumer Attorneys Association of Los Angeles County (CAALA), Association of Southern California Defense Counsel (ASCDC), Los Angeles Chapter of the American Board of Trial Advocates (LA-ABOTA), Beverly Hills Bar Foundation (BHBF), California Employment Lawyers Association (CELA), and Los Angeles County Bar Association (LACBA). *For more information, visit <https://resolvelawla.com>.*

- **Judicial Mandatory Settlement Conferences (MSCs).** Judicial MSCs are ordered by the Court for unlimited civil cases and may be held close to the trial date or on the day of trial. The parties and their attorneys meet with a judicial officer who does not make a decision, but who instead assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For more information, visit <https://www.lacourt.org/division/civil/Ci0047.aspx>.

Los Angeles Superior Court ADR Programs for Limited Civil (cases valued below \$35,000)

Litigants should closely review the requirements for each program and the types of cases served.

- **Online Dispute Resolution (ODR).** Online Dispute Resolution (ODR) is a free online service provided by the Court to help small claims and unlawful detainer litigants explore settlement options before the hearing date without having to come to court. ODR guides parties through a step-by-step program. After both sides register for ODR, they may request assistance from trained mediators to help them reach a customized agreement. The program creates settlement agreements in the proper form and sends them to the Court for processing. Parties in small claims and unlawful detainer cases must carefully review the notices and other information they receive about ODR requirements that may apply to their case. *For more information, visit <https://my.lacourt.org/odr>.*
- **Dispute Resolution Program Act (DRPA) Day-of-Hearing Mediation.** Through the Dispute Resolution Program Act (DRPA), the Court works with county-funded agencies, including the Los Angeles County Department of Consumer & Business Affairs (DCBA) and the Center for Conflict Resolution (CCR), to provide voluntary day-of-hearing mediation services for small claims, unlawful detainer, limited civil, and civil harassment matters. DCBA and CCR staff and trained volunteers serve as mediators, primarily for self-represented litigants. There is no charge to litigants. *For more information, visit <https://dcba.lacounty.gov/countywidedrp>.*
- **Temporary Judge Unlawful Detainer Mandatory Settlement Conference Pilot Program.** Temporary judges who have been trained as settlement officers are deployed by the Court to designated unlawful detainer court locations one day each week to facilitate settlement of unlawful detainer cases on the day of trial. For this program, cases may be ordered to participate in a Mandatory Settlement Conference (MSC) by judicial officers at Stanley Mosk, Long Beach, Compton, or Santa Monica. Settlement rooms and forms are available for use on the designated day at each courthouse location. There is no charge to litigants for the MSC. *For more information, contact the Court's ADR Office at ADRCivil@lacourt.org.*