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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

COMMUNITIES FOR A BETTER

ENVIRONMENT; LOS ANGELES

WATERKEEPER; SIERRA CLUB; FOOD AND

WATER WATCH and PHYSICIANS FOR SOCIAL

RESPONSIBILITY - LOS ANGELES

Petitioners and Plaintiffs,

v.

CITY OF LOS ANGELES; LOS ANGELES

DEPARTMENT OF WATER AND POWER,

Respondents and Defendants;

DOES 1-10,

Real Parties in Interest and Defendants.

) CASE NO.: 25STCP04708

)

) **FIRST AMENDED PETITION FOR WRIT
OF MANDATE AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

)

) (Violations of California Environmental Quality
Act)

)

) Petition Filed: December 5, 2025

)

) Assigned for All Purposes to

) Judge Karine M. Mkrtchyan

) Dept. 512

) Stanley Mosk Courthouse

)

)

)

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INTRODUCTION

1. This action challenges the failure of the City of Los Angeles (“City”) and its Los Angeles Department of Water and Power (“LADWP”) 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 is in reality an excuse to continue fossil fuel-based power generation in Los Angeles for the foreseeable future. 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. Based on the results of the completed LA100 study, the City Council adopted a revised objective for the City, 100 percent carbon-free energy by 2035. 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 (up to 100 percent hydrogen, which does not emit greenhouse gases when burned). The City touts the hydrogen capability of the Project because it views carbon-free power plant operations as key to achieving its 2035 objective.

2. Despite the hydrogen *capability*, the Project will likely operate as just another methane gas plant because there is no current system to supply hydrogen, and no plan for such a system exists. Were the plant actually to become a hydrogen plant, its hydrogen capabilities have not been adequately analyzed under CEQA. Hydrogen-related environmental impacts are particularly noteworthy for two reasons: (1) hydrogen combustion for utility-scale power is a novel technology, and the environmental repercussions associated with creating, transporting, storing, and using hydrogen gas in a combustion turbine are new and exceptional; and (2) hydrogen is a highly combustible hazardous substance prone to leakage and necessary in even larger volumes than methane when used for power generation.

3. The EIR obscures this reality, touting the Project’s green credentials and carbon-free capability without analyzing the impacts of hydrogen use at Scattergood *or* informing the public that hydrogen use at Scattergood may never occur.

4. Power plant projects require the highest levels of environmental scrutiny because of their implications for the health and wellbeing of the surrounding community. Power plants also require the devotion of significant resources for construction and operation. The Project would adversely impact air quality, greenhouse gases, hazards and hazardous substances, water supply, water quality, and hydrology. The Final Environmental Impact Report (“FEIR” or “EIR”) fails to adequately address these impacts.

5. The deficiencies in the environmental analysis are particularly concerning because the Project lies at the border of two Senate Bill 535-designated Disadvantaged Communities and represents the first step toward a basin-wide electrical change encompassing LADWP's Haynes, Harbor, and Valley Generating Stations, which are also located in or near environmental justice communities.

6. Community members, local residents, environmental organizations, and other civic organizations sought a commitment from LADWP to source only “green” hydrogen, which is not derived from fossil fuels. Instead, LADWP’s approval of the Project only further entrenches its reliance on fossil fuels. Petitioners Communities for a Better Environment, Los Angeles Waterkeeper, Food and Water Watch, Physicians for Social Responsibility-Los Angeles, and Sierra Club (collectively, “Petitioners”) advocated for complete environmental analysis, full adequate mitigation, adoption of less impactful alternatives, and protection of environmental justice communities.

7. Because those concerns have been ignored, Petitioners bring this action.

JURISDICTION

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

9. 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.

10. The Court may issue declaratory relief pursuant to Code of Civil Procedure section 1060 and injunctive relief pursuant to Code of Civil Procedure section 525, *et seq.*

PARTIES

11. Petitioner and Plaintiff Communities for a Better Environment (“CBE”) is a 501(c)(3) California nonprofit public benefit corporation that operates as a grassroots environmental justice

1 organization representing residents in four environmental justice communities across California:
2 Wilmington, Southeast Los Angeles, Richmond, and East Oakland. CBE envisions a society where it is
3 held as a basic human right to breathe clean air and drink clean water in the environment where we live,
4 work, go to school, play, and pray—regardless of race, gender, sexual orientation, age, culture, ability,
5 nationality, or income.

6 12. Petitioner and Plaintiff Los Angeles Waterkeeper (“LA Waterkeeper”) is a 501(c)(3) non-
7 profit organization that has served as Los Angeles’s water watchdog for more than three decades,
8 safeguarding inland and coastal waters using the law, science and community action. LA Waterkeeper
9 works to eliminate pollution, achieve ecosystem health for the region’s waterways and secure a
10 resilient, multi-benefit, low-carbon water supply to the region.

11 13. Petitioner and Plaintiff Sierra Club is a national nonprofit organization of approximately
12 497,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to
13 practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and
14 enlisting humanity to protect and restore the quality of the natural and human environment; and to using
15 all lawful means to carry out these objectives. Sierra Club has approximately 103,000 members in
16 California. Sierra Club’s concerns encompass a rapid decarbonization of the electric sector and other
17 industries to mitigate the human and environmental harms of climate change. The Club’s particular
18 interest in this case and the issues which the case concern stem from plans to build new fossil-fueled
19 infrastructure despite Los Angeles’ commitment to renewable energy, leading to continued climate and
20 potentially increased criteria air pollution in the overburdened Los Angeles air basin.

21 14. Petitioner and Plaintiff Food & Water Watch (“FWW”) is a national, nonprofit
22 membership-based organization that fights for the safe and healthy food, clean water, and livable
23 climate we all deserve. FWW empowers people to take on destructive corporations and the policy
24 makers who enable them in order to stop pollution, defend democracy, and protect the planet — now
25 and for future generations. FWW has more than 16,000 members and supporters in Los Angeles,
26 maintains staff in Los Angeles, and has for years campaigned locally to advance climate protections
27 and stop fossil fuel infrastructure projects.

28 15. Petitioner and Plaintiff Physicians for Social Responsibility - Los Angeles (“PSR-LA”) is

1 a 501(c)(3) nonprofit organization that champions environmental justice and nuclear abolition by
2 uniting the credible voices of health professionals and impacted communities to protect public health
3 and foster a regenerative economy.

4 16. Respondent and Defendant City of Los Angeles is a political subdivision of the State of
5 California.

6 17. Respondent and Defendant Los Angeles Department of Water and Power is a proprietary
7 agency of the City of Los Angeles and named on the Notices of Determination posted on November 7,
8 2025 and August 4, 2026.

9 18. Real Parties in Interest and Defendants Does 1 to 10 are given fictitious names because
10 their names and capacities are presently unknown to Petitioners.

11 **STATEMENT OF FACTS**

12 **The Scattergood Generating Station**

13 *The Site.*

14 19. The Scattergood Generating Station (“Scattergood”) is one of four natural gas-fired
15 power plants located in the Los Angeles area that are owned and operated by LADWP, the City’s
16 public electricity utility. (Draft Environmental Impact Report 3-10 (DEIR).)

17 20. Scattergood is located in the Playa del Rey community of the City. (DEIR 4.1-1.) It
18 borders the City of El Segundo to the East and South (including a shared fence with the Chevron El
19 Segundo Refinery), LA City Sanitation’s Hyperion Water Reclamation Plant to the North, and
20 Dockweiler State Beach to the West. (*Ibid.*) Scattergood is located one mile from the Los Angeles
21 International Airport and within 5 miles of the Southern California Gas Company’s (“SoCalGas”) Playa
22 Del Rey methane storage facility. (DEIR 3-6 (Figure 3-1), 4-4 (Figure 4-1).) The Scattergood lot is
23 bisected by Grand Avenue, but all power plant facilities are located on the larger, North parcel. (DEIR
24 3-5.)

25 *The Power Plant.*

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

1 4.2-1.)

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

7 23. Units 1 and 2 generate approximately 300 megawatts ("MW") of electricity combined
8 and are the oldest units at Scattergood, placed into service in 1958 and 1959 respectively. (DEIR 3-8,
9 4.2-1.) Units 1 and 2 are cooled using ocean water pumped through the Units' steam condensers and
10 then returned to the ocean, a process called once-through cooling ("OTC"). (DEIR 3-8.)

11 24. California banned OTC in 2010 to comply with federal Clean Water Act Section 316(b)
12 and because it kills and/or harms marine animals. (Final Environmental Impact Report 2-7 (FEIR);
13 DEIR 3-2.) Existing OTC operations for LADWP facilities, including at Scattergood, have a final
14 closure deadline of the end of 2029. The Project was initially proposed when Scattergood's OTC
15 closure deadline was set for the end of 2024, but at that time LADWP had already requested an
16 extension through 2029 from the governing State Water Resources Control Board ("SWRCB"). The
17 SWRCB holds exclusive discretion over the current 2029 deadline. (DEIR 3-3.) Whether or not the
18 Project occurs, Units 1 and 2 must cease OTC operations in 2029 and cannot be retrofitted to continue
19 operating with seawater intake. (FEIR 2-21 - 22.)

20 *LADWP Resource Planning.*

21 25. As the City's electricity utility, LADWP is responsible for planning and providing
22 electricity service to customers in the City.

23 26. LADWP is part of the City's LA100 mandate to transition to 100% carbon-free energy
24 by 2035. LA100, approved by a unanimous City Council vote in 2016, and modified by a unanimous
25 City Council in 2021, orders LADWP to create and implement a plan to achieve 100 percent carbon-
26 free energy by 2035.

27 27. LADWP periodically promulgates power system integrated resource plans. These plans
28 identify long-term power system objectives (for example, electric grid reliability or climate emissions

goals) and lay out a pathway or pathways to achieving those objectives. LADWP began to place green hydrogen in its long-term plans for the power system once the LA100 study was released in March 2021.

28. In April 2021, then-Mayor Eric Garcetti announced a plan to transition the Scattergood plant to operate on green hydrogen. (*LADWP*, Power Strategic Long-Term Resource Plan (SLTRP) Advisory Group: Meeting #2 Meeting Summary (Sept. 30, 2021), at p. 7, https://www.ladwp.com/sites/default/files/documents/SLTRP_Meeting_Summary_AG_2_Sept_30_2021_.pdf.)

29. At the end of 2022, LADWP released the Power Strategic Long-Term Resource Plan (“SLTRP”). The SLTRP included three Core Cases, which “confirmed through modeling that firm and dispatchable generation sites within the Los Angeles Basin would be required and provided by combined-cycle and combustion turbine generating units running on 100% green hydrogen by 2035.” (*LADWP*, Power Strategic Long-Term Resource Plan (2022) p. ES-22 (SLTRP).) The SLTRP states that the remaining green hydrogen-powered units “will be built throughout the 2030s and into the 2040s, [and] are planned to be situated at the Harbor, Haynes, Scattergood, and Valley Generating Stations,” with Scattergood described as “[t]he first such generation unit.” (SLTRP ES-22.)

30. LADWP views the Project as essential for complying with its LA100 mandate. In the Project’s May 2023 Initial Study, it stated that, “[b]ased on the findings of the LA100 study, the proposed project has been identified as an integral component of LADWP’s [SLTRP], which establishes a roadmap for reliable and sustainable electrical power for the City, while also providing the strategy to achieve a carbon-free energy system by 2035, relying primarily on renewable solar, wind, and geothermal generation resources as well as large-capacity energy storage facilities.” (Initial Study 3.) In the Project’s DEIR, LADWP states that the Project is an “integral component of [the SLTRP].” (DEIR 3-1, 4.2-10, 4-9.)

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

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1 **The Project**

2 32. The Project would replace two methane-combustion units (1 and 2) at Scattergood with
3 units that will be capable of blending a methane-hydrogen fuel mix and operating on that mixture. The
4 proposed system would consist of a combustion-turbine generator and a steam-turbine generator
5 operating in tandem. Additional facilities or ancillary functions required to support the proposed system
6 include, but are not limited to, an air-cooled condenser, wet-surface air cooler, gas compressors,
7 switchyard upgrades, and a pipeline for industrial wastewater discharge in Vista Del Mar, the street
8 located along the western edge of Scattergood.

9 33. LADWP proposed the Project on a timeline to meet the impending regulatory deadlines
10 for the cessation of once-through-cooling at Scattergood. The plant's OTC units, Units 1 and 2, are
11 currently required to cease seawater intake operations completely by the end of 2029, pursuant to the
12 SWRCB OTC Policy prohibiting the use of seawater intake for existing coastal generation facilities
13 after specific deadlines. The Project's new combustion units would not rely on seawater intake for
14 cooling, therefore serving as a compliance mechanism for the SWRCB's OTC Policy once completed.

15 34. LADWP's proposed Project addresses the generation shortfall from the impending
16 decommissioning of Units 1 and 2. (FEIR 1-1.) The Project consists of removing the existing Units 1
17 and 2, and constructing a new CCGS of two generating units that, unlike any other Scattergood unit,
18 could burn a blend of methane and hydrogen gas. (*Ibid.*) When the project comes online it would
19 allegedly be capable of burning approximately 30% hydrogen and 70% methane by volume; but
20 LADWP claims that 100% green hydrogen capability is expected by 2035. However, without hydrogen
21 supply systems, the project will not have access to hydrogen and must run on 100% methane. The FEIR
22 does not analyze hydrogen supply systems (hydrogen production, delivery, or storage), and no system
23 exists to supply hydrogen to Scattergood. (FEIR 2-14 – 2-15.) The new units would have an estimated
24 generation capacity of 346 MW. (FEIR 2-9.)

25 35. Hydrogen (H₂) is a clear, scentless, flammable gas consisting of two hydrogen atoms.
26 Hydrogen can be combusted to generate heat, but is less energy dense than methane, meaning 1 cubic
27 meter of hydrogen, for example, would produce less energy when burned than 1 cubic meter of
28 methane. Hydrogen atoms are readily available on Earth as a part of other molecules such as methane

(CH₄) or water (H₂O). Nearly all hydrogen produced and used is extracted from methane in a process called “reformation,” but the Project is purportedly restricted to using “Green Hydrogen” that is produced from water using carbon-free renewable energy in a process called “electrolysis.” (DEIR 3-3.) The process of electrolysis requires extremely pure water and is both water- and energy-intensive.

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

37. Instead of promoting transparency, LADWP’s statements about the Project have conflicted with the reality of the situation. Although LADWP claims that the Project is simply a backup generator for emergencies, its clean air permit states that the Project may operate 24/7. And LADWP has claimed that the environmental effects of hydrogen use, transportation, and infrastructure will be analyzed separately, once the Project has already begun construction, despite the Project’s description and analysis explicitly referencing green hydrogen. But the absence of any firm commitment to hydrogen gas combustion in the near future reveals that the Project is actually a natural gas repowering of Scattergood, inconsistent with the LA100 study findings and LADWP’s representations in the FEIR. This is widely recognized, with Los Angeles City Councilmember Katy Yaroslavsky stating during comments at the August 5, 2026 hearing on Petitioners’ administrative appeal that LADWP “is asking this Council to move forward with a brand new billion-dollar gas-fired plant less than a decade before the City’s stated goal of a carbon free energy system should be complete.”

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

39. On July 4, 2025, H.R. 1 (119th Congress 2025-2026) was signed into law. H.R. 1 amends

26 U.S. Code 45(v) (“45V”), shortening the availability of billions of dollars in clean hydrogen production tax credits by 5 years. The amendment means these subsidies may not be available by the time the Project is placed into service. The 45V tax credit provides up to \$3.00/kilogram of hydrogen produced, offering a greater credit for lower lifecycle GHG emissions per kilogram of hydrogen produced. For the Project, which will allegedly require zero-carbon green hydrogen, the loss of this subsidy is likely to severely impact the availability or price of eligible fuel.

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

41. On April 30, 2026, the California Public Utilities Commission (CPUC) issued Decision 26-04-034 Denying Southern California Gas Company’s Request for Cost Recovery from Ratepayers for Phase 2 Activities for the Angeles Link Project. The Angeles Link Project would have been a dedicated hydrogen transmission pipeline to deliver pure, low-carbon hydrogen to end users in the Los Angeles Basin. (*In The Matter of the Application of Southern California Gas Company (U904G) for Authorization to Implement Revenue Requirement for Costs to Enable Commencement of Phase 2 Activities for Angeles Link* (Apr. 30, 2026) 26 WL 1346669 [Cal. P.U.C. Dec. No. 26-04-034], p. 2, available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M606/K264/606264723.PDF>.) Southern California Gas Company (“SoCalGas”) and LADWP expected the Angeles Link Project to serve all four of LADWP’s power plants, including Scattergood.

42. CPUC Decision 26-04-034 denied SoCalGas permission to recover \$266 million from methane ratepayers to cover costs associated with advancing the Angeles Link Project. Following this Decision, SoCalGas stated that it is no longer advancing the Angeles Link Project. (SoCalGas, Response of Southern California Gas Company (U 904 G) to Administrative Law Judge’s Ruling Requesting Party Responses to Questions, *In The Matter of the Application of Southern California Gas Company (U904G) for Authorization to Recover Costs Recorded in Its Angeles Link Memorandum Account* (Jun. 30, 2026) p. 13, available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M609/K975/609975265.PDF>.) The demise of the

Angeles Link Project significantly decreases the odds that the Project will *ever* receive sufficient volumes of green hydrogen.

Project Review and Approval

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

44. Petitioners CBE, FWW, LA Waterkeeper, and Sierra Club submitted jointly written comments with other organizations on the NOI and IS on June 14, 2023.

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

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

47. Petitioners CBE and LA Waterkeeper submitted jointly written comments on the DEIR, along with the Center for Biological Diversity (“CBD”), on April 7, 2024.

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

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

50. CBD and Petitioner CBE submitted supplemental written public comments on the DEIR and FEIR on October 10 and October 27, 2025, respectively.

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

52. Petitioner Sierra Club submitted supplemental written public comments on the DEIR and FEIR on November 6, 2025.

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

54. Petitioners, along with CBD, appealed the Board of Commissioners’ vote to City Council on November 14, 2025. The City referred the appeal to the City Council’s Energy and Environment Committee.

1 55. On March 3, 2026, the Energy and Environment Committee voted to approve a
2 recommendation for the City Council to deny the administrative appeal and certify the FEIR.

3 56. UCLA School of Law, on behalf of Petitioner CBE, submitted an Additional Evidence
4 Letter to LADWP and the City Council on April 28, 2026.

5 57. Petitioners along with CBD submitted supplemental written public comments on July 28,
6 2026.

7 58. On August 4, 2026, the City Council voted to adopt the Committee recommendation,
8 denying the administrative appeal and certifying the Project. LADWP filed a second Notice of
9 Determination with the Los Angeles Registrar-Recorder/County Clerk that was posted the same day,
10 August 4, 2026.

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 **AND INADEQUATE REMEDIES AT LAW**

13 59. Petitioners objected to the Project in the administrative process and fully exhausted their
14 administrative remedies. Petitioners submitted letters during the comment period raising the issues set
15 forth herein and commented at hearings held on the Project.

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

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

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

25 63. Petitioners previously elected to prepare the administrative record. A copy of that election
26 is attached as Exhibit C. On December 11, 2025, the City and LADWP submitted a letter denying
27 Petitioners' election.

28 //

1 **FIRST CAUSE OF ACTION**

2 **(VIOLATIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT)**

3 64. Petitioners incorporate all previous paragraphs as if fully set forth.

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

7 66. The FEIR prepared for the Project is inadequate, including in the following issue areas.

8 **The EIR Failed to Adequately Analyze Greenhouse Gas and Climate Change Impacts.**

9 67. An environmental impact report (“EIR”) must “identify and focus on the significant
10 effects of the proposed project on the environment.” (CEQA Guidelines, § 15126.2, subd. (a).) A
11 “project” is “the whole of an action.” (CEQA Guidelines, § 15378, subd. (a).) In examining a project,
12 an EIR “must contain facts and analysis” not simply conclusions. (*Concerned Citizens of Costa Mesa,*
13 *Inc. v. 32nd District Agricultural Assn.* (1986) 42 Cal.3d 929, 935 (*Concerned Citizens of Costa*
14 *Mesa*).)

15 68. To the extent the FEIR omits part of the Project or does not properly analyze the
16 magnitude of an effect, these are failures to proceed in the manner required by law. (See *Sierra Club v.*
17 *County of Fresno* (2018) 6 Cal.5th 502, 514 [“whether a description of an environmental impact is
18 insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence
19 question.”].) But even were the Court to apply the substantial evidence standard, a “clearly inadequate
20 or unsupported study” receives “no judicial deference.” (*Laurel Heights Improvement Assn. v. Regents*
21 *of the Univ. of Cal.* (1988) 47 Cal.3d 376, 409 n.12 (*Laurel Heights I*).)

22 69. The EIR failed to adequately analyze GHG emissions from hydrogen blends. The
23 analysis does not compare GHG emissions across multiple possible capacity factors. A power plant’s
24 capacity factor (here shown as a percentage) represents the ratio of actual electricity produced over a
25 period to the maximum possible output over the same period. That period is 1-year for GHG emissions
26 unless otherwise specified. Capacity factor relates to emissions analysis because it shows approximately
27 how much a generating unit or power plant will run in a given year, and therefore how much gas the
28 plant will burn and how much it will pollute.

1 70. The EIR only analyzes emissions under the conditions of 100% methane fuel over 1-
2 hour of full capacity operations. (DEIR, appen. B, at p. 85.) The resulting information is devoid of any
3 context that would render the provided data useful in understanding Project impacts; chiefly how many
4 hours in a given year the Project is anticipated to operate.

5 71. LADWP refused to disclose the expected capacity factor for the Project’s generating
6 units in the EIR, depriving the public of the opportunity to review and respond to LADWP’s
7 projections. (DEIR 3-17.)

8 72. At minimum, the analysis should disclose LADWP’s projected capacity factor for
9 Scattergood and analyze emissions on that basis. The SLTRP projected a capacity factor at Scattergood
10 between 2% and 40% over the next 20 years. (SLTRP 4-26, 4-29.) The LA100 Plan: Achieving A
11 Clean Energy Future for Los Angeles (“2026 LA100 Plan”) projected Scattergood capacity factors
12 between 6% and 13%. (LADWP, LA100 Plan: Achieving A Clean Energy Future for Los Angeles
13 (2026) p. 4-7, 4-114 (2026 LA100 Plan).)

14 73. Even though the EIR assumes “that a sufficient supply of green hydrogen may be
15 available to support the proposed project’s dual-fuel CCGS when it is fully commissioned at the end of
16 2029;” (DEIR 4.4-7), the FEIR fails to analyze or explain the absence of additional GHG emissions
17 scenarios with varying hydrogen blends and varying capacity factors. In contrast, the EIR does perform
18 this analysis (albeit still flawed) for criteria air pollutant emissions. (See DEIR 4.2-19 – 4.2-23.) As the
19 Supreme Court found, “when a proposed project risks exacerbating those environmental hazards or
20 conditions that already exist, an agency must analyze the potential impact of such hazards on future
21 residents or users.” (*Cal. Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62
22 Cal.4th 369, 377–378.)

23 **The EIR Failed to Adequately Analyze Air Quality Impacts.**

24 74. CEQA requires a mandatory finding of significance when a project “will cause
25 substantial adverse effects on human beings, either directly or indirectly.” (CEQA Guidelines, § 15065,
26 subd. (a)(4).)

27 75. An EIR’s impact discussion is inadequate when it deprives the public of information
28 necessary to understand and consider meaningfully the issues raised by the proposed project. (*Sierra*

1 *Club v. County of Fresno, supra*, 6 Cal.5th at pp. 518-19.) CEQA requires adequacy, completeness, and
2 a good-faith effort at full disclosure. (*Kings County Farm Bur. v. City of Hanford* (1990) 221
3 Cal.App.3d 692, 701, reh'g denied and opinion modified (July 20, 1990).)

4 76. Based on an analysis without a realistic capacity factor, the FEIR states the foregone
5 conclusion that the Project is “better able to achieve the project objectives to provide firm local
6 generation that can be dependably and rapidly dispatched to respond to demand for energy in the
7 LADWP service area for short-term events.” (FEIR 2-687.) This conclusion is not supported by
8 analysis that reflects what the Project’s actual air quality emissions impacts will be. Capacity factor
9 relates to emissions analysis because it shows approximately how much a generating unit or power
10 plant will run in a given year, and therefore how much gas it will burn and how much it will pollute.
11 The resulting information is devoid of any context that would render the provided data useful in
12 understanding Project impacts; chiefly how many hours in a given year the Project is anticipated to
13 operate.

14 77. Furthermore, the EIR’s flawed environmental baseline infects LADWP’s analysis of the
15 Project’s air quality impacts. LADWP is required to comply with the SWRCB OTC Policy requiring
16 cessation of Unit 1 and 2 operations in 2029. Assuming zero operations as the environmental baseline is
17 the only way to “employ a realistic baseline that will give the public and decision makers the most
18 accurate picture practically possible of the project's likely impacts” regarding air quality, among other
19 potential environmental impacts. (*Neighbors for Smart Rail v. Expo. Metro Line Const. Auth.* (2013) 57
20 Cal.4th 439, 449. (*Neighbors for Smart Rail*).) Instead, the EIR misleads the public and decisionmakers
21 by comparing emissions modelling to “the past 2 years of historical data for existing Unit 1 and Unit 2
22 on the day with highest fuel use.” (DEIR 4.2-19.)

23 **The EIR Failed to Adequately Analyze Impacts relating to Hazards and Hazardous Substances.**

24 78. The EIR’s discussion of the impacts of hazards and hazardous substances on the project
25 site or created in the normal operation of the generating station is inadequate and conclusory. The EIR
26 fails to describe and analyze clear hazards associated with (1) the decommissioning of and demolition
27 of Scattergood Units 1 and 2, (2) use of hydrogen gas at the Scattergood site, and (3) hydrogen supply
28 infrastructure necessary to bring hydrogen to Scattergood (hydrogen production, transportation, and

1 storage facilities).

2 *Decommissioning and Demolition.*

3 79. LADWP's discussion of the Project waste management plan is inadequate because it
4 does not address hazards or hazardous materials from decommissioning and demolition of Scattergood
5 Units 1 and 2. In 2012, LADWP decommissioned Scattergood Unit 3. The FEIR for that project stated:
6 "Unit 3 contains several types of hazardous materials, including asbestos, lead paint, petroleum
7 products, and potentially toxic fluids." (LADWP, Scattergood Generating Station UNIT 3
8 REPOWERING PROJECT Final Environmental Impact Report, (Aug. 2012) p. 3-7,
9 [https://www.ladwp.com/sites/default/files/documents/Scattergood_Generation_Station_Unit_3_FEIR.p](https://www.ladwp.com/sites/default/files/documents/Scattergood_Generation_Station_Unit_3_FEIR.pdf)
10 [df](https://www.ladwp.com/sites/default/files/documents/Scattergood_Generation_Station_Unit_3_FEIR.pdf) (Unit 3 FEIR).) LADWP has also identified toxic substances, including toxic polychlorinated
11 biphenyls ("PCBs") during work at Valley Generating Station. The Unit 3 FEIR found hazards impacts
12 to be significant. As a result of the hazards present during the Unit 3 Project, LADWP took concrete
13 steps to describe and mitigate significant environmental impacts. "The demolition of existing facilities
14 would create a significant hazard to the public through emission and handling of hazardous materials at
15 the site. A preschool is located within one-quarter mile of the SGS site boundary." As a result, the Unit
16 3 FEIR explained "[a] Asbestos surveys will be completed for buildings to be demolished that were
17 constructed prior to 1980 as required" "[a] lead survey of painted surfaces and soil around buildings
18 constructed prior to 1978 will be completed prior to demolition." (Unit 3 FEIR at 1-9 – 1-10.) The Unit
19 3 FEIR further detailed extensive waste management and training measures taken to limit risk and
20 unnecessary production of hazardous waste. (Unit 3 FEIR at 1-10.)

21 80. The Project FEIR, on the other hand, promises that "transportation, treatment, disposal,
22 or recycling of identified hazardous substances, including those from decommissioning and demolition
23 activities, would be in accordance with all applicable local, state, and federal environmental, health and
24 safety laws, ordinances, and regulations." (FEIR 2-691.) It does not expressly discuss or analyze
25 demolition impacts whatsoever.

26 81. The above statement suggests that the public should merely trust the Project proponent
27 to comply with applicable health and safety laws and regulations, rather than expect the proponent to
28 perform adequate environmental review associated with the identification and removal of hazardous

1 substances during the decommissioning and demolition process as LADWP has done in the past at
2 Scattergood. It is not a good-faith effort at full disclosure.

3 *Use of Hydrogen at the Scattergood Site.*

4 82. LADWP must analyze the hazards impacts of hydrogen use at the Scattergood site
5 because LADWP assumes hydrogen will be available when the Project begins operations. (DEIR 4.4-
6 7.) “The EIR assumed, based on the available evidence, that hydrogen would be available to supply the
7 project by the time it was operational.” (Jason Rondou, then-Asst. Gen. Manager of Power Planning
8 and Grid Modernization, statement to Los Angeles City Council Energy and Environment Committee
9 regarding the Appeal of Certification of Final Environmental Impact Report for Scattergood Generating
10 Station Units 1 and 2 Green Hydrogen-Ready Modernization Project (Mar. 3, 2026) at 1:29:32,
11 <https://www.youtube.com/watch?v=niwbECuiJAM>.)

12 83. Instead, the EIR presents a dual-reality where the public is informed that environmental
13 benefits of a carbon-free Project can be realized as soon as it is operational in 2029, but environmental
14 impacts cannot be assessed because “the details of the green hydrogen infrastructure system outside
15 Scattergood in terms of the production, delivery, and storage are currently unknown.” (DEIR 4.4-7.)

16 84. The EIR’s statement that hydrogen supply system infrastructure is not known does not
17 mean it cannot analyze hydrogen use on the Project site. CEQA requires LADWP to consider all direct
18 physical changes in the environment caused by and immediately related to the project. (CEQA
19 Guidelines, § 15064, subd. (d)(1) [“Examples of direct physical changes in the environment are the
20 dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment
21 plant and possible odors from operation of the plant.”].)

22 85. However, the FEIR does not describe or analyze hazards associated with the Project’s
23 hydrogen use on the site at all. Instead, the EIR merely recites a variety of regulatory standards
24 associated with hydrogen handling. (FEIR 2-14 – 2-15; DEIR 4.4-7 – 4.4-9.)

25 86. The EIR provides no factual basis for its claim that hydrogen operations “would not
26 create a significant hazard to the public or the environment.” (FEIR 2-16; CEQA Guidelines, § 15088,
27 subd. (c); see, e.g., *Save our Access v. City of San Diego* (2025) 115 Cal.App.5th 388, 414
28 [“Throughout the initial study, largely relying on language from the PEIR, the City commented that

1 potential environmental impacts would be less than significant if site-specific projects comply with
2 various City regulations and standards.”].) Hydrogen is a hazardous substance. Hydrogen is prone to
3 leakage from containers, embrittles steel pipelines, and more combustible than methane. Hydrogen is a
4 colorless, odorless, flavorless gas. Hydrogen leak detection technology is underdeveloped compared to
5 similar equipment for methane gas.

6 87. The Project proposes massive hydrogen use (such that supply via gas tube trailers which
7 can transport some tens of thousands of cubic feet of gas is unlikely, given the large volume of
8 hydrogen required for operation). (FEIR 2-13.) The EIR also assumes this use will begin as soon as the
9 Project comes online. (See DEIR 4.4-7.) The EIR does not describe what risks hydrogen presents,
10 whether the safety standards described are appropriate for the use of hydrogen the Project contemplates,
11 how this new massive volume of hydrogen will be handled and used on the site, how safety standards
12 will be applied to the Project infrastructure, specifically how much hydrogen will be used, or what
13 specific safety technology will be used to mitigate risks. Such a discussion does not enable
14 decisionmakers “to make a decision which intelligently takes account of environmental consequence.”
15 (CEQA Guidelines, § 15151.) Nor does it provide the public with the information necessary to
16 understand and consider meaningfully the issues raised by the proposed project. (*Sierra Club v. County*
17 *of Fresno, supra*, 6 Cal.5th at pp. 518-19.)

18 88. Furthermore, the FEIR’s discussion and response to comments regarding this issue are
19 entirely conclusory. Without describing or analyzing any risks associated with the novel use of huge
20 volumes of hazardous gas, the FEIR concludes that compliance with existing safety practices is
21 unquestionably adequate to eliminate any significant impact and that, in any case, further analysis is not
22 possible because “the details of the green hydrogen infrastructure system outside Scattergood in terms
23 of the production, delivery, and storage are currently unknown.” (FEIR at 2-692.)

24 *Hydrogen Supply Infrastructure.*

25 89. The EIR also improperly avoids analyzing any of the hazard and safety impacts of the
26 larger yet-to-be-built hydrogen system necessary to supply hydrogen to the facility. Petitioners’
27 comments on the DEIR raised concerns about the safety of transporting hydrogen gas through pipelines
28 to Scattergood, given the volatility of hydrogen gas and the possibility of leakage from embrittlement of

1 piping infrastructure. (Los Angeles Waterkeeper, et al., Public Comments - Scattergood Draft
2 Environmental Impact Report State Clearinghouse Number 2023050366 (Apr. 7, 2025) pp. 34-35.)
3 Instead of meaningfully addressing these safety concerns, the FEIR promises that a future
4 environmental document will analyze impacts from the larger hydrogen system “when the necessary
5 information to support an adequate analysis of potential environmental impacts is available.” (FEIR 2-
6 14.) The FEIR selectively picks and chooses fuel source mixtures, namely the 100 percent natural gas
7 scenario, to contend that “the proposed project has independent utility from the hydrogen infrastructure
8 associated with production, storage, and transport as it ... may operate without any supply of hydrogen,
9 if necessary,” giving decisionmakers and the public no clear picture of what hydrogen supply system
10 impacts will be. (FEIR 2-663.)

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

15 91. LADWP holds all the information necessary to tell the public the expected hydrogen gas
16 demands at the plant and what infrastructure will be necessary to support that level of use. That
17 LADWP does not know what specific pipelines, production, and storage facilities will carry the
18 hydrogen does not negate the responsibility of analyzing indirect physical changes in the environment
19 that are reasonably foreseeable and caused indirectly by the project. (CEQA Guidelines, § 15064, subd.
20 (d).)

21 **The EIR Failed to Adequately Analyze Water Supply, Water Quality and Hydrology Impacts.**

22 92. The EIR for the Project impermissibly defers any and all analysis of the water supply
23 impacts of hydrogen gas sourcing and production, storage, transportation, and regionwide infrastructure
24 necessary to provide hydrogen fuel to Scattergood. The EIR assumes that “green” hydrogen gas will
25 eventually be available for purchase on the open market, but does not consider any possible
26 environmental impacts associated with the development of a green hydrogen gas market. (DEIR 2-2;
27 FEIR 2-13.) Indeed, the FEIR notes that details about the potential green hydrogen production and
28 transportation system “are currently unknown” and “are entirely speculative at this point,” therefore

1 serving “little to no informational value to decisionmakers and the public.” (FEIR 2-13.) Although the
2 specific details of the hydrogen gas system are yet to be determined, the water impacts resulting from
3 the buildout of a massive statewide hydrogen gas system are undeniable and unavoidable.

4 93. The Project description relies upon the ability of the new combustion units at
5 Scattergood to run on a blend of natural gas and hydrogen gas. Hydrogen gas production, if done
6 through clean energy, would entail using ultra-purified water in the electrolysis process to produce
7 hydrogen gas. Electrolysis, the process to convert purified water into oxygen and hydrogen gas, can
8 require between 9 and 30 kilograms of water per kilogram of hydrogen produced. (Krieger, Kwoka, &
9 Lukanov, Green Hydrogen Proposals Across California: An assessment of opportunities and challenges
10 for using hydrogen to meet state climate goals (May 21, 2024) PSE Healthy Energy, at p. 49, available
11 at [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)
12 [California.pdf](https://www.psehealthyenergy.org/wp-content/uploads/2024/05/Green-Hydrogen-Proposals-Across-California.pdf).)

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

26 95. To the extent hydrogen will be sourced and produced in the Los Angeles region, the use
27 of potable water as a source for ultra-purified water in the electrolysis process could further jeopardize
28 water supplies in water-strained communities across Southern California. Similarly, reliance on

1 recycled wastewater for hydrogen production would demand energy-intensive purification efforts, and
2 the recycled water for hydrogen production will not otherwise be available for other potable or non-
3 potable uses, as many local agencies—including LADWP—intend. As drought conditions recur in
4 future years, the significant water demand needed to support the maintenance of LADWP’s electricity
5 grid could put the City in a bind of having to choose whether to provide either power to its constituents,
6 or drinking water.

7 96. Scattergood is not the only generation plant proposed for a hydrogen combustion retrofit.
8 The FEIR acknowledges future plans to combust hydrogen at the Harbor, Haynes, and Valley
9 Generating Stations, but does not evaluate cumulative impacts associated with similar hydrogen
10 conversion projects at those facilities. (FEIR 2-14.) Providing hydrogen gas to these other three power
11 plants would involve even more water supply impacts and even more hydrogen gas sourcing,
12 production, storage, and transportation infrastructure than just Scattergood alone. It would make no
13 economic sense to limit hydrogen gas combustion to Scattergood, alone, given the regional efficiencies
14 of expanding hydrogen gas infrastructure to these other three plants—regardless, LADWP’s own
15 SLTRP commits the City to pursuing hydrogen gas conversions at these other plants. (SLTRP, p. ES
16 22; see also id. at 1-21 [similar passage referencing hydrogen-powered units being installed through the
17 2040s at Harbor, Haynes, Scattergood, and Valley Generating Stations].) Thus, Scattergood’s
18 modernization would trigger the development of regionwide hydrogen gas infrastructure for other
19 LADWP generating stations, making such infrastructure buildout a reasonably foreseeable result of the
20 Project.

21 97. Further, the production of hydrogen gas through the electrolysis process would require
22 significant energy to create ultra-purified water. Both fresh water and recycled wastewater require
23 several filtration steps before electrolysis can take place. (El-Shafie, Hydrogen production by water
24 electrolysis technologies: A review (Dec. 2023) Results in Engineering, Vol. 20, p. 3,
25 <https://doi.org/10.1016/j.rineng.2023.101426>.) As discussed in the preceding section, LADWP has the
26 information necessary to analyze the reasonably foreseeable water impacts based on its projections for
27 hydrogen usage at Scattergood. The EIR for the Project does not analyze any potential environmental
28 impacts associated with energy use to create hydrogen gas through the electrolysis process, even though

those impacts are reasonably foreseeable and will likely reduce the net energy benefits of combusting “green” hydrogen gas in the first place.

98. Combusting hydrogen at Scattergood may also lead to significant water quality impacts at the point of hydrogen sourcing and production. Electrolysis could result in millions of gallons of potentially toxic wastewater concentrate (also referred to as “brine”), which will have to be re-treated or disposed, creating additional resource demands and groundwater contamination risks for communities near stored wastewater concentrate. (Mehrkhah, et al., Prospective performance assessment of enhanced electrochemical oxidation technology: Insights into fundamentals and influencing factors for reducing energy requirements in industrial wastewater treatment (2023) Environmental Technology & Innovation, p. 1, <https://doi.org/10.1016/j.eti.2023.103336>.) The EIR for the Project fails to consider any environmental impacts related to electrolysis byproduct, which is a necessary component of providing green hydrogen gas to Scattergood.

The EIR Failed to Adequately Analyze Cumulative Impacts.

99. The Project’s reliance on combusting hydrogen gas at Scattergood necessitates the buildout of significant hydrogen supply system infrastructure in the City and creates significant incremental effects when viewed in connection with extensively outlined future hydrogen projects planned at the Haynes, Harbor, and Valley Generating Stations. The EIR fails to adequately consider these cumulative impacts of the Project.

100. CEQA requires an analysis of a project’s cumulative impacts. (CEQA Guidelines, § 15130.)

101. “Cumulative impacts” refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (CEQA Guidelines, § 15355.) Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. (CEQA Guidelines, § 15355, subd. (b).) The individual effects may be changes resulting from a single project or a number of separate projects. (CEQA Guidelines, § 15355, subd. (a).)

102. In determining whether cumulative impacts of a future project must be analyzed in an EIR, courts ask first whether the future project is probable. (*City of Antioch v. City Council* (1986) 187

1 Cal.App.3d 1325, 1336.) “Any future project where the applicant has devoted significant time and
2 financial resources to prepare for any regulatory review should be considered as a probable future
3 project for the purposes of cumulative impact.” (*Gray v. County of Madera* (2008) 167 Cal.App.4th
4 1099, 1127-28.) Second, courts consider whether the incremental effects of the other future projects
5 would affect the analysis of the significance and severity of the impacts considered in the EIR. (*Rodeo*
6 *Citizens Assn. v. County of Contra Costa* (2018) 22 Cal.App.5th 214, 231 [reasoning that “[t]he primary
7 determination is whether it was reasonable and practical to include the projects and whether, without
8 their inclusion, the severity and significance of the cumulative impacts were reflected adequately”].)

9 103. LADWP has repeatedly stated its intentions to convert each of its four power plants to
10 hydrogen combustion. This has been conveyed through (1) statements from LADWP management and
11 (2) LADWP plans and documents.

12 104. First, LADWP management has repeatedly expressed its intention to transition all its
13 plants to hydrogen combustion. In August 2021, LADWP’s then-General Manager Martin Adams
14 stated that “LADWP now plans to build a new power plant capable of running on a natural gas-
15 hydrogen mix on the Scattergood site, followed by conversions at the other three plants.” (Tom
16 DiChristopher, *Los Angeles Aims to Be Nation’s First Green Hydrogen Hub*, S&P Global (May 19,
17 2021), [https://www.spglobal.com/market-intelligence/en/news-insights/articles/2021/5/los-angeles-](https://www.spglobal.com/market-intelligence/en/news-insights/articles/2021/5/los-angeles-aims-to-be-nation-s-1st-green-hydrogen-hub-64376930)
18 [aims-to-be-nation-s-1st-green-hydrogen-hub-64376930](https://www.spglobal.com/market-intelligence/en/news-insights/articles/2021/5/los-angeles-aims-to-be-nation-s-1st-green-hydrogen-hub-64376930).)

19 105. Martin Adams further confirmed this intention in an October 2023 interview, stating that
20 “...we have large arteries coming out of Scattergood, Harbor, Haynes and Valley generating plants.
21 Those first few on the coast all need work. You also have Valley Generation which is in an underserved
22 community. This is a golden opportunity to say we're going to keep these plants and we're also going to
23 go green, which means we can't burn natural gas. Our solution is to go to hydrogen.” (VerdeXChange,
24 *LADWP’s Marty Adams on Sustainability Goals, Promise of Hydrogen, & Career Highlights*, (Summer
25 2023), available at <https://archive.verdexchange.org/issue/summer-2023>.)

26 106. As it relates to official LADWP documents and plans, it first acted in 2021 when it
27 issued Request for Information (RFI) 8.5.21-POWER-SAL “requesting information from interested
28 parties experienced in the planning, design, and deployment of hydrogen and/or hydrogen

1 infrastructure.” (LADWP, Green Hydrogen Request for Information (RFI 8.5.21–POWER–SAL) (Aug.
2 5, 2021), available at [https://www.ammoniaenergy.org/wp-](https://www.ammoniaenergy.org/wp-content/uploads/2021/09/Green_Hydrogen_RFI_-_8.5.21-Power_SAL.pdf)
3 [content/uploads/2021/09/Green_Hydrogen_RFI_-_8.5.21-Power SAL.pdf](https://www.ammoniaenergy.org/wp-content/uploads/2021/09/Green_Hydrogen_RFI_-_8.5.21-Power_SAL.pdf).) The RFI’s intent was, in
4 part, “to obtain information on the types of solutions and capabilities available with respect to pathways
5 for green hydrogen-based electricity generation that are commercially available or under development.”
6 The RFI also included a table listing the estimated hydrogen-based capacity at each of its four
7 generating stations. By 2035, the possible total in-basin hydrogen capacity ranged from 2,099—3,550
8 MW.

9 107. Later, in 2022, LADWP released its SLTRP, which “confirmed” that “generating units
10 running on 100% green hydrogen by 2035” would provide the firm and dispatchable generation
11 required to meet LA100. It also states that the remaining green hydrogen-powered units “will be built
12 throughout the 2030s and into the 2040s, [and] are planned to be situated at the Harbor, Haynes,
13 Scattergood, and Valley Generating Stations,” with Scattergood described as “[t]he first such
14 generation unit.” (SLTRP ES-22.) The SLTRP also includes a chart of “[e]xpected in-basin hydrogen-
15 fueled capacity,” demonstrating that LADWP expects Scattergood to achieve hydrogen capacity by
16 2030, and the remaining three power plants to achieve hydrogen capacity by 2035. (SLTRP 2-59.)
17 Unlike in the RFI, this chart contains specific numerical values for the hydrogen capacity at each plant
18 by 2035, with the total number equaling 2,105 MW.

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

25 109. The FEIR also repeatedly implies that impacts to the broader hydrogen system are not
26 reasonably foreseeable when it states it “need only analyze project impacts that are reasonably
27 foreseeable.” (FEIR 2-663.)

28 110. Despite this, the 2026 LA100 Plan, finalized after the FEIR, further reflects the views

1 portrayed in the SLTRP: the only way LADWP conceives that it could achieve LA100 is through in-
2 basin green hydrogen combustion. The scenario that accounts for the possibility of no green hydrogen
3 being available “requir[es] limited natural gas backup.” (2026 LA100 Plan ES-24.)

4 111. Despite consistently stating that the other power plants will be similarly changed to
5 accommodate hydrogen, LADWP failed to consider the environmental impact of its “planned” system-
6 wide shift to hydrogen fuel. Hydrogen conversions at LADWP’s other power plants constitute probable
7 future projects because LADWP has committed significant resources to developing those retrofit
8 projects. The Scattergood Project is the first step. (*City of Carmel-By-The-Sea v. Bd. of Supervisors*
9 (1986) 183 Cal.App.3d 229, 244.) By failing to consider these foreseeable future projects, LADWP’s
10 FEIR did not fully consider the cumulative impacts of the Project.

11 112. Furthermore, these categories of infrastructure are likely to have significant
12 environmental impacts, including but not limited to energy use, land use impacts, water supply impacts,
13 air quality impacts, and hazard and safety impacts. (*Sierra Watch v. County of Placer* (2021) 69
14 Cal.App.5th 86, 102 [ruling “the EIR improperly ignored the expected addition of vehicle miles
15 traveled (VMT) from other anticipated projects, including another large development” because impacts
16 on air quality were significant when considered cumulatively].)

17 113. LADWP’s failure to consider such impacts at all in the EIR (FEIR 2-13, 2-14) violates
18 CEQA’s mandate to consider all reasonably foreseeable cumulative environmental impacts of the
19 Project as proposed. (See CEQA Guidelines, §§ 15064, subd. (h)(1), 15355; *Laurel Heights I, supra*, 47
20 Cal.3d at p. 396.)

21 **The EIR’s Project Description Is Insufficient.**

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

27 115. An accurate and stable project description is necessary so that the lead agency and the
28 public have enough information to “ascertain the project’s environmentally significant effects, assess

ways of mitigating them, and consider project alternatives.” (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1448.)

116. A “curtailed, enigmatic or unstable project description draws a red herring across the path of public support.” (*County of Inyo v. City of Los Angeles* (1981) 71 Cal.App.3d 185, 197-98.) The EIR violates CEQA because it does not accurately describe the project sufficiently to enable public disclosure and informed environmental decision-making.

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

118. A core element of an EIR’s project description is its overview of the project’s technical and environmental characteristics. (CEQA Guidelines, § 15124, subd, (c).) Without an accurate description of this project’s objective and how it would meet it, CEQA’s objective of public disclosure and informed environmental decision-making is impossible.

Need for a Finite Reliability Objective.

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

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

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

1 122. CEQA requires that the EIR specify a finite reliability need because that is the metric
2 against which the Project and potential alternatives must be measured. A project description must
3 include technical characteristics central to the project’s objective. (CEQA Guidelines, § 15124, subd.
4 (c).) Scattergood’s reliability standard is not incidental. The very objective of this Project is to ensure a
5 reliable grid as LADWP transitions to a zero-carbon portfolio.

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

11 124. LADWP’s system reliability standards are set by the Western Electricity Coordinating
12 Council (“WECC”) and the North American Electric Reliability Corporation (“NERC”), but these
13 reliability standards apply to LADWP’s reliability performance at large—not specifically at the project
14 level.

15 125. The EIR states that the project will be used “primarily to meet peaks in the requirement
16 for electrical power during high demand days that exceed renewable energy production and energy
17 storage capacity. In addition, the in-basin units would be used during relatively short-term periods when
18 renewable generation sources and/or transmission assets become unavailable due to emergency
19 circumstances.” (FEIR 1-2.) This is a plain language description of general reliability needs but does
20 not satisfy the technical characteristic of need required by CEQA regulations. (See CEQA Guidelines, §
21 15124, subd. (c) [“A general description of the project’s technical, economic, and environmental
22 characteristics, considering the principal engineering proposals if any and supporting public service
23 facilities.”].)

24 126. CEQA caselaw requires LADWP to state a clear project description to explain the
25 technical project objectives in this EIR so that the public can understand the project and consider
26 alternatives. (See *Sierra Club v. City of Orange*, *supra*, 163 Cal.App.4th at p. 533.) A clear description
27 of the Project’s reliability objectives is required to understand which alternatives should be considered
28 alongside the Project. For example, the reliability objective could be expressed as a set of grid

constraints, demand projection, and duration that the Project is required to meet. Defining reliability needs in finite terms is necessary to determine whether the same need could be fulfilled with in-basin local solar and storage. The reliability objectives must be clearly defined to ensure that LADWP has not prematurely removed less environmentally impactful alternatives from consideration. Without a clear, technical rubric for the project's reliability objectives, the EIR leaves open the possibility that LADWP could arbitrarily exclude reasonable alternatives.

Need for The Project's Capacity Factor.

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

128. The EIR states: "LADWP's in-basin generation units, including the proposed project, are anticipated to be utilized less frequently than under current conditions, primarily to meet peaks in the requirement for electrical power during high demand days that exceed renewable energy production and energy storage capacity." (FEIR 1-2; DEIR 2-10.)

129. The planned operation of the Project is critically important because emissions levels will vary with the Project's capacity factor and the number of startups and shutdowns. The EIR describes pollutant emissions rates but fails to provide sufficient detail to determine how this information will actually apply to the Project. (DEIR 4.2-19 – 23.)

130. Gas plants release their maximum emissions during plant startups and shutdowns when pollution controls are either not operational or ineffective. As an example, the Sunrise Power Plant's Unit 1 has a "median NOx emissions rate of 9.14 pounds per hour while its maximum hourly NOx emissions" during startup and shutdown "was almost 229 pounds per hour - a factor of 25 times greater." (Regenerate California Campaign, The Notorious Nine: Gas Plant Pollution in Environmental Justice Communities (Dec. 10, 2024) p. 10, available at <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 Project, suggesting that a critically important estimate of associated emissions is omitted.

1 131. The updated information in the FEIR does not address this shortcoming, but merely
2 restates the DEIR’s conclusion that no alternative is appropriate to address projected generation
3 shortfalls, and the Project will operate at whatever capacity factor is required. (FEIR 2-9.)

4 132. The EIR’s failure to identify a capacity factor is particularly worrisome considering
5 LADWP’s permit applications to the South Coast Air Quality Management District (“SCAQMD”),
6 which state that the utility expects the plant to be available for 24/7/365 operations. These applications
7 also incorporate high numbers of startups and shutdowns at Scattergood, at almost 2 per day. At an
8 LADWP advisory group meeting on long-term resource planning on December 5, 2024, one energy
9 consultant described that his model projected relatively high capacity factors for LADWP’s four
10 planned hydrogen power plants and that the model had to be manually adjusted to a lower capacity
11 factor to reflect the utility’s preferred lower usage.

12 133. Capacity factor estimates in the EIR are necessary to understand the environmental
13 impacts of the Project. A SWRCB draft report, published March 20, 2026 states that Scattergood Units
14 1 and 2 ran at a capacity factor of 0.51% and 5.47% (average of 3%), respectively, between January and
15 September of 2025. (SWRCB, *Draft 2026 Report of the Statewide Advisory Committee on Cooling*
16 *Water Intake Structures*, (Mar. 20, 2026) p. 10,
17 [https://www.waterboards.ca.gov/water_issues/programs/ocean/cwa316/saccwis/docs/2026/saccwis-](https://www.waterboards.ca.gov/water_issues/programs/ocean/cwa316/saccwis/docs/2026/saccwis-26dfrpt.pdf)
18 [26dfrpt.pdf](https://www.waterboards.ca.gov/water_issues/programs/ocean/cwa316/saccwis/docs/2026/saccwis-26dfrpt.pdf).) LADWP’s 2026 LA100 Plan, signed by Department leadership in 2026, projects that
19 Scattergood’s capacity factor may be as high as 6.5% after the Project is completed. (2026 LA100 Plan,
20 at p. 4-7.) The 2026 LA100 Plan further states “[the] Scattergood green hydrogen-capable combined-
21 cycle (CC) unit in 2029, exhibits the highest capacity factor across the in-basin portfolio.” (*Ibid.*) Other
22 electricity grid sensitivities discussed in the 2026 LA100 Plan suggest a capacity factor closer to 12-
23 13%. (*Id.* at 4-114.) The SLTRP estimated capacity factors at Scattergood as high as 40%. (SLTRP 4-
24 26.)

25 134. 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. The EIR needs to be
27 more specific. Rather than claiming that LADWP expects the Project’s utilization to be “less frequent”
28 than current Scattergood utilization, the EIR needs to express a finite expected numerical range of the

1 Project's capacity factor and number of startups and shutdowns. Stakeholders do not and cannot expect
2 the expectations to be perfectly accurate, but the DEIR's project description must be more specifically
3 described than its current version. The DEIR's "bona fide subject" must be "[t]he defined project and
4 not some different project." (*Concerned Citizens of Costa Mesa, supra*, 42 Cal.3d at p. 938.) Without a
5 clear, finite expected use of the Project, the DEIR's project description fails to comply with CEQA.

6 *Absence of Green Hydrogen System Necessary to Operate the Project.*

7 135. The failure to include an adequate project description infects the EIR's analysis and
8 prevents the EIR from fully disclosing, analyzing, and mitigating the Project's adverse environmental
9 impacts.

10 136. While the FEIR claims that the Project will be supplied by a "green hydrogen system,"
11 there is no description in the FEIR of the hydrogen system that will be built. (FEIR 1-2.) It fails to
12 define the production technologies that it would consider to be "green." It also does not consider the
13 possibility that other sources of hydrogen production will be used, or that natural gas or a fuel mixture
14 will be used indefinitely. In response to Petitioners' comments on the DEIR, LADWP stresses that "the
15 intention of the project is to provide the capability to utilize green hydrogen fuel at Scattergood, and
16 any other potential outcome is speculative and not reasonably foreseeable." (FEIR 2-675.)

17 137. However, Scattergood has just five years to secure this capacity, and this Project is on an
18 unprecedented scale. Globally and in California, green hydrogen supply is limited and available
19 significantly below its demand. There is a very real and reasonably foreseeable likelihood that LADWP
20 will be unable to secure sufficient green hydrogen on a 5-year timeline, but this possibility is entirely
21 dismissed by the EIR.

22 138. It also strains credulity that LADWP knows so little about the buildout of hydrogen
23 infrastructure that it cannot analyze that system at all and yet can also be confident that the system will
24 exclusively supply green hydrogen. Both statements cannot be true.

25 139. LADWP has access to, or even controls the information needed to describe its planned
26 "conversion from natural gas to green hydrogen in its in-basin generation system." (DEIR 4.3-12.) The
27 EIR describes a hydrogen-capable CCGS, that will support the City's transition to a carbon-free
28 electrical grid. (DEIR 3-1; FEIR 1-2.) That the CCGS is capable of burning hydrogen (which is carbon-

1 free when combusted) is at the core of the Project: “*the ability to operate on a fuel mixture of natural*
2 *gas and hydrogen* would increase generation efficiency and reduce the combustion of fossil fuels and
3 thereby reduce GHGs.” (DEIR 3-11 (emphasis added).) The EIR describes targeted fuel blends, starting
4 at 30% hydrogen, 70% methane by volume and increasing to 100% hydrogen to achieve the City’s
5 carbon free grid. (DEIR 3-11, 4.2-23.) LADWP also describes emissions from its blend targets and a
6 gross generation capacity of 346 MW. (*Ibid.*) The EIR even describes some hydrogen supply system
7 equipment for the CCGS; gas compressors and pressure reducers required to pressurize the hydrogen
8 and methane arriving at the plant prior to combustion. (DEIR 3-14.)

9 140. Taken together, LADWP holds all the information necessary to disclose to the public the
10 expected hydrogen gas demands at the plant and what infrastructure will be necessary to support that
11 level of use. That LADWP does not know what specific pipelines, production, and storage facilities will
12 carry the hydrogen does not abrogate it the responsibility providing an accurate, stable and finite
13 description of infrastructure that is absolutely necessary to meet the objectives sought by the Project.
14 (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.)

15 141. Instead, the EIR both assumes hydrogen will be available when the Project comes online
16 in 2029, and refuses to describe that system or how the Project will operate without it. By failing to
17 detail the effects if green hydrogen is not available, LADWP prevents decisionmakers from
18 determining whether the Project is worth the risk of green hydrogen being unavailable. What’s worse,
19 LADWP presents the public with a moving target spanning several vastly different impact scenarios,
20 thwarting decisionmakers and meaningful public participation. (See *Save Our Capitol! v. Dept. of Gen.*
21 *Services* (2023) 87 Cal.App.5th 655, 674 (*Save Our Capitol!*).) If adequate information were available,
22 decisionmakers may have decided that one of the alternatives was preferable.

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

28 143. Ultimately, based on the EIR’s admission that the availability of green hydrogen is

1 “entirely speculative” at this point, it is misleading for the Project description to mention hydrogen
2 combustion at all. In reality, the Project is simply a natural gas repowering of Scattergood to eliminate
3 OTC operations, but the environmental analysis in the EIR does not reflect such a project description.
4 Conflicting signals about the nature and scope of the activity being proposed render a project
5 description misleading and legally inadequate. (*San Joaquin Raptor Rescue Center v. County of Merced*
6 (2007) 149 Cal.App.4th 645, 655.) The EIR’s Project description misleads the public into believing the
7 Project is a “clean energy” project, thwarting meaningful public participation and precluding informed
8 decisionmaking by the LADWP Board of Commissioners and other City officials.

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

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

14 145. A project’s existing environmental setting “will normally constitute the baseline physical
15 conditions by which a lead agency determines whether an impact is significant.” (CEQA Guidelines, §
16 15125, subd. (a)(1).)

17 146. However, “where necessary to provide the most accurate picture practically possible of
18 the project’s impacts, a lead agency may define existing conditions by referencing ... conditions
19 expected when the project becomes operational.” (CEQA Guidelines, § 15125, subd. (a)(1).) CEQA,
20 therefore, expressly authorizes a lead agency to use a CEQA baseline of expected future conditions
21 when the “use of existing conditions would be either misleading or without informative value to
22 decision-makers and the public.” (CEQA Guidelines, § 15125, subd. (a)(2); see also *Neighbors for*
23 *Smart Rail, supra*, 57 Cal.4th at p. 449 [lead agencies must “employ a realistic baseline that will give
24 the public and decision makers the most accurate picture practically possible of the project’s likely
25 impacts”].)

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

1 148. The baseline conditions used in the EIR are inaccurate and misleading because they rely
2 on historical conditions that do not accurately describe conditions expected when the Project becomes
3 operational. Specifically, the EIR's baseline conditions are based on 2-years of historical Scattergood
4 Units 1 and 2's operations (between 2021 and 2023). (DEIR 4-1, 4.2-5, 4.7-1.)

5 149. Scattergood's once-through cooling Units 1 and 2 are required to cease operations
6 completely by the end of 2029 under SWRCBs OTC Policy. The EIR recognizes this. Absent the
7 Project, the SWRCB policy would still require closure of Units 1 and 2.

8 150. Accordingly, it is misleading and inaccurate for the EIR to rely upon a baseline of
9 Scattergood's current plant operations that will not be allowed after 2029.

10 151. Even so, the EIR sets its baseline of emissions from the Scattergood facility as the
11 emissions from the plant based on its current operations using OTC.

12 152. The EIR misleads the public by assuming that, absent the completion of the proposed
13 modernization Project, Scattergood would continue to rely on OTC operations and natural gas
14 combustion under similar conditions to its current operations.

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

23 154. The DEIR claims this baseline is accurate because the Scattergood Project is expected to
24 be completed by the end of 2029. Given LADWP's own admissions that it is currently unknown
25 whether and how it will procure green hydrogen gas for combustion at Scattergood and delays in gas-
26 turbine procurement, this timeline is unlikely.

27 155. That the DEIR includes a 100 percent methane vendor in its impact analysis
28 demonstrates a lack of certainty that Scattergood can be retrofitted to burn hydrogen blends and procure

hydrogen in just four years. Unless (a) green hydrogen availability is proven on the market or (b) LADWP concedes that this Project is a gas repowering project rather than a “hydrogen modernization project,” LADWP cannot mislead the public by assuming current emissions will continue beyond 2029.

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

157. But even were the plant to be completed by 2029 and even were it to be 100% hydrogen, the baseline would still be inaccurate because the current regulatory requirements mean that there will be zero emissions after 2029. Any environmental analysis must be measured from zero not from 2021-23 operations.

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

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

The EIR’s Analysis of Alternatives is Inadequate.

160. The Supreme Court has long identified the alternatives analysis as the “core of an EIR.” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (*Citizens of Goleta Valley*).) “One of [an EIR’s] major functions ... is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official.” (*Id.* at p. 565.) The EIR fails to meet that function. 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).)

161. CEQA contains substantive provisions with which agencies must comply. “The most important ... is the provision requiring agencies to deny approval of a project with significant adverse

1 effects when feasible alternatives ... can substantially lessen such effects.” (*Sierra Club v. Gilroy City*
2 *Council* (1990) 222 Cal.App.3d 30, 41, disapproved of on other grounds by *Western States Petroleum*
3 *Assn. v. Superior Court* (1995) 9 Cal.4th 559; see also Pub. Resources Code, § 21002.)

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

7 163. “Each public agency shall mitigate or avoid the significant effects on the environment of
8 projects that it carries out or approves whenever it is feasible to do so.” (*Lincoln Place Tenants Assn. v.*
9 *City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 (emphasis added) (*Lincoln Place Tenants*
10 *Assn.*)).

11 164. Rejected alternatives must be “truly infeasible.” (*City of Marina v. Bd. of Trustees of the*
12 *Cal. State Univ.* (2006) 39 Cal.4th 341, 369, 356 (*City of Marina*)). The alternatives analyzed must
13 represent a “reasonable range,” (CEQA Guidelines, § 15126.6, subd. (c)), and “provide enough of
14 variation to allow informed decision-making.” (*Cal. Native Plant Society v. City of Santa Cruz* (2009)
15 177 Cal.App.4th 957, 988.)

16 165. The analysis of alternatives must also include “facts, independent analysis, or
17 meaningful detail” that supports the lead agency’s conclusion to not go with a given alternative.
18 (*Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1357.)

19 166. Petitioners identified numerous feasible alternatives throughout the administrative
20 process. Even so, LADWP declined to analyze some of these feasible alternatives and improperly
21 rejected other feasible alternatives.

22 167. For example, the SCAQMD recommended that LADWP consider alternatives that
23 would achieve energy reliability through zero emissions technologies. However, every alternative that
24 satisfies these criteria was dismissed by the EIR as “Considered but Dismissed from Detailed
25 Analysis.” These alternatives include: (1) alternative in-basin clean energy generation, (2) increased
26 demand side management programs, (3) new and upgraded transmission lines, and (4) retrofit unit 1
27 and/or unit 2,

28 168. LADWP declined to adopt or incorporate these alternatives into the Project without

1 showing alternatives were truly infeasible. The EIR is also required to identify project objectives, as a
2 “clearly written statement of objectives will help the lead agency develop a reasonable range of
3 alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement
4 of overriding considerations, if necessary. The statement of objectives should include the underlying
5 purpose of the project and may discuss the project benefits.” (CEQA Guidelines, § 15124.)

6 169. Use of unduly narrow project objectives violates CEQA. (*In Re Bay Delta Coordinated*
7 *Environmental Impact Report Proceedings* (2008) 43 Cal.4th 1143, 1166 [“a lead agency may not give a
8 project’s purpose an artificially narrow definition”].) Narrowly defining objectives and using that to
9 dismiss consideration of potential alternatives prejudicially prevents informed decision making and
10 public participation. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668, 671;
11 *We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683, 692
12 (“If the principal project objective is simply pursuing the proposed project, then no alternative other
13 than the proposed project would do. All competing reasonable alternatives would simply be defined out
14 of consideration.”)).

15 170. Even so, this is exactly what the EIR does. Most of the alternatives dismissed from
16 detailed analysis were dismissed due to broad concerns about reliability.

17 171. Although the NREL LA100 study identified multiple viable pathways to reach the City’s
18 climate goals, each relying on rapid deployment of a combination of wind, solar, and battery storage
19 technologies, LADWP narrowly determined that it would need to replace Scattergood’s natural gas
20 combustion system with one capable of combusting hydrogen gas.

21 172. In February 2023, the City of Los Angeles ordered LADWP to complete an analysis of
22 alternatives to the proposed Project’s combustion of hydrogen. However, this analysis was not released
23 until March 4, 2025, months after the DEIR was released for public review and circulation.

24 Accordingly, the timing of the DEIR release precluded consideration of the City-commissioned
25 alternatives to hydrogen combustion in the DEIR. Moreover, interested members of the public had
26 limited time to review the City-commissioned alternatives analysis during the DEIR comment period.

27 173. Moreover, CEQA requires consideration of alternatives to the Project site when
28 necessary to significantly lessen or avoid environmental impacts. (CEQA Guidelines, § 15126.6, subd.

(b); see also *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089.) The EIR omits consideration of alternatives that would reduce or avoid the environmental impacts of Scattergood's current operations. It also fails to credit Project alternatives for eliminating these impacts.

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

175. LADWP dismissed all other options considered or presented.

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

177. For example, a hydrogen fuel cell alternative was dismissed due to costs of proton exchange membrane fuel cells and a 50 percent labor surcharge for the Southern California market, uncertainty about fuel cell module prices, and maximum contingencies. It was also dismissed because it would increase the footprint of construction, thus worsening the environmental impact. Yet the Scattergood Project would face the same labor costs, price uncertainties, and uncertainty about hydrogen supplies. Furthermore, transporting hydrogen would require a pipeline or other mechanism, similarly increasing the footprint of construction.

178. The DEIR further dismisses a hydrogen fuel cell alternative as an unproven technology that would be less reliable than the proposed Scattergood Project, even though it recognizes the alternative would meet project objectives and reduce air pollution. The DEIR claims this "unproven technology" may "take up to a decade to implement." However, the Scattergood Project, too, is an unproven technology that has never been utilized at the proposed scale. The Project relies on buildout of an entirely new hydrogen pipeline distribution system across Southern California and an as-yet nonexistent green hydrogen market. In particular, the Alternatives Analysis considers the hydrogen fuel cell alternative "infeasible" because "the extensive infrastructure required for fuel cells to operate on 100% green hydrogen at the Scattergood location does not exist and is unlikely to be available before 2030." This rationale applies equally to the Project. The DEIR and LADWP's approval documents lack

1 substantial evidence for this rejection.

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

6 180. The DEIR also failed to consider the fact that changes at its other power plants have
7 increased its land availability by at least 20 acres. Particularly, there is “an approximately 8-acre vacant
8 area in the central part of Haynes that can be used in the future for new facilities, including potential
9 energy storage and/or renewable energy generation projects.” (LADWP, Draft Initial Study/Mitigated
10 Negative Declaration for Haynes Generating Station Unit 8 Recycled Water Cooling System Retrofit
11 Project (Nov. 2021), at 1-6.) There is also the land once occupied by Valley Generating Station’s Units
12 1—4, which was “identified as available land for installation of a future renewable energy project to
13 help LADWP meet Senate Bill (SB) 350 requirements and greenhouse gas (GHG) reduction goals.”
14 (LADWP, Initial Study/Mitigated Negative Declaration for Valley Generating Station Demolition
15 Project (Units 1—4 and Associated Structures) (Jan. 2021), at 11.) This project is expected to make two
16 6-acre plots of land available for future use. (LADWP, *Valley Generating Station Updates: Future*
17 *Plans*, [https://www.ladwp.com/community/construction-projects/east-valley/valley-generating-station-](https://www.ladwp.com/community/construction-projects/east-valley/valley-generating-station-updates#latest-news)
18 [updates#latest-news.](https://www.ladwp.com/community/construction-projects/east-valley/valley-generating-station-updates#latest-news))

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

1 182. The EIR’s reasoning is especially unclear because the Project Objectives do not include
2 a finite reliability standard that the Project must achieve. The EIR rejects alternatives for failing to meet
3 its undefined standard.

4 183. The EIR rejects battery storage due to land constraints but fails to consider vertical
5 stacking of batteries or leasing additional land to deploy the storage required to meet Project objectives
6 without emissions impacts on nearby communities.

7 184. LADWP failed to analyze a hybrid energy storage and demand-side alternative, as
8 described in the Physicians, Scientists, and Engineers for Healthy Energy (“PSE”) Report’s section
9 5(c). Such an alternative would be based on multiple technologies that, together, would provide
10 reliability and grid management without imposing air quality impacts on communities near Scattergood
11 and within the Southern California Air Basin.

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

17 186. The PSE Report further identified 94 schools within five miles of the Project site that
18 could host solar plus storage facilities.

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

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

24 189. The alternatives analysis improperly relies on the LA100 Study to justify the need for in-
25 basin generation. However, the LA100 Study did not require combustion “firm capacity.”

26 190. The alternatives analysis, therefore, fails to study alternatives to the Project designed to
27 significantly lessen or avoid the Project’s environmental impacts, and rejects feasible alternatives
28 without evidence.

1 **The EIR Failed to Adequately Disclose and Analyze Impacts to Environmental Justice**
2 **Communities.**

3 191. CEQA requires a lead agency to consider whether a project's effects, despite appearing
4 limited on their own, are cumulatively considerable and therefore significant. (Pub. Resources Code, §
5 21083, subd. (b)(3).)

6 192. Where a community already experiences a high cumulative pollution burden, the
7 "relevant question" is "whether any additional amount" of the proposed project's pollution "should be
8 considered significant in light of the serious nature" of the existing pollutants in the community. (*Kings*
9 *County Farm Bur. v. City of Hanford*, 221 Cal.App.3d 692, 718, reh'g denied and opinion modified
10 (July 20, 1990).)

11 193. The Scattergood Generation Station address in El Segundo straddles the border of SB
12 535 Disadvantaged Communities census tracts 6037980028 and 6037980030, characterized by high
13 pollution burden and low population count. Per CalEnviroScreen 4.0, the current version of the
14 California Communities Environmental Health Screening Tool, the Pollution Burden score for these
15 immediately adjacent census tracts falls in the 97th percentile. Tract 6037980028 includes all of Los
16 Angeles International Airport.

17 194. According to CalEPA's "Final Designation of Disadvantaged Communities Pursuant to
18 Senate Bill 535" from May 2022, the agency formally designated the following as one category of
19 geographic areas as a DAC: "Census tracts lacking overall scores in CalEnviroScreen 4.0 due to data
20 gaps, but receiving the highest 5 percent of CalEnviroScreen 4.0 cumulative pollution burden scores."
21 The justification for such designation is that: "It would be inconsistent with the spirit of SB 535 to
22 exclude tracts that are in fact disadvantaged from a DAC designation solely on account of unreliable
23 data," including low population count. Therefore, the Scattergood facility and this proposed project take
24 place in a state designated DAC, regardless of its Grand Avenue address technically lying outside of the
25 DAC tracts.

26 195. But Scattergood is not the only LADWP Power Plant located in a disadvantaged
27 community—both Harbor Generating Station *and* Valley Generating Station are also located in such
28 communities.

1 196. The FEIR fails to analyze impacts to environmental justice communities in four main
2 ways. First, even under LADWP’s improperly narrow conception of the Project, it is occurring within
3 environmental justice communities. Despite this, LADWP improperly failed to discuss the cumulative
4 effects of adding additional pollution sources to these already overburdened communities.

5 197. LADWP justifies its decision by claiming that “there are no *populated* disadvantaged
6 communities in close proximity to the project.” (FEIR 2-17 (emphasis added).)

7 198. However, that is not relevant to whether the EIR needed to consider the effects on
8 disadvantaged communities. Particularly, individuals can feel the effects of multiple pollution sources
9 without residing in a given census tract. LADWP explicitly explains how the directly adjacent tracts
10 consist primarily of other pollution sources where individuals work, including “the El Segundo
11 Refinery and El Segundo Power Plant,” as well as the “Los Angeles International Airport (LAX),
12 Hyperion Water Reclamation Plant, Scattergood, and several small commercially zoned uses.” (FEIR 2-
13 17). For LADWP to have sufficiently considered the Project’s cumulative impacts under CEQA, it
14 should have taken into account the extent of heavy industrial use in these two census tracts alone and
15 the health effects of adding an additional source of danger and pollution.

16 199. Second, by narrowing the DEIR to its current state without considering (1) the
17 production and transportation of hydrogen or (2) the planned basin-wide electrical system change,
18 LADWP further ignores the Project’s impacts on the City’s environmental justice communities—this
19 constitutes unlawful piecemealing of environmental effects.

20 200. Relating to the planning basin-wide system change, both Harbor and Valley Generating
21 Stations are located in communities long exposed to energy system pollution. Like Scattergood, both
22 Harbor and Valley are located within a quarter mile of homes. Unlike Scattergood, the two unstudied
23 plants are located in some of the lowest income and most polluted neighborhoods in all of Los Angeles.
24 By improperly focusing on Scattergood in isolation, LADWP is setting into motion the first piece of a
25 larger initiative that will render subsequent EIRs for its other power plants, including Harbor and
26 Valley, far less effective. These communities require far more rigorous review due to their
27 environmental and economic vulnerability. Such review will be far less likely once the hydrogen
28 infrastructure required for this and subsequent projects is built.

1 201. By failing to consider the environmental effects of the hydrogen infrastructure that the
2 Project requires, LADWP avoids having to consider the environmental justice communities that live
3 just miles from the site. No matter how hydrogen is transported to the facility, whether by truck or
4 pipeline, nearby disadvantaged communities will be affected. Scattergood is also located in a
5 disadvantaged community, where many individuals spend a lot of time working—this community will
6 be deeply affected by the chosen infrastructure. By failing to consider its effects on the surrounding
7 communities, LADWP is ignoring the cumulative sources of pollution and harm that its project will
8 significantly exacerbate.

9 202. Third, by failing to include sufficient technical details in its project description, LADWP
10 risks exacerbating harm to nearby environmental justice communities.

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

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

23 205. Without including the specific reliability standard, LADWP conceals its reasoning on
24 alternatives and prevents adequate consideration of whether there are renewable sources of energy that
25 could meet its needs.

26 206. Finally, LADWP also failed to sufficiently address comments raised throughout the
27 entire CEQA process. Particularly, environmental justice concerns were raised in comments at the
28 Initial Study/Notice of Preparation stage. However, the DEIR showed no signs that LADWP took heed

of any of these concerns in designing the Project or analyzing its effects. When responding to comments in the FEIR, LADWP claimed it did not have to consider the effects of increased hydrogen gas demand and continued methane gas combustion on environmental justice communities, as “the agency is not required to consider the impacts of non-project scenarios,” and “[t]he intention of the project is to provide the capability to utilize green hydrogen fuel at Scattergood.” (FEIR 2-675.) Despite these bare assertions, a significant number of projects using hydrogen have been delayed in recent years due to a lack of supply. While LADWP calls the possibility of green hydrogen not being available “speculative,” LADWP has also stated that it will not produce the hydrogen itself. As a result, it is reliant on other parties to produce the hydrogen and transport it to Scattergood at a price that LADWP can afford—this makes the possibility of not having access to hydrogen a likely scenario.

The FEIR Failed to Adequately Respond to Comments.

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

208. 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 Univ. of Cal.* (1993) 6 Cal.4th 1112, 1124 (“*Laurel Heights II*”).)

209. 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”].)

210. 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.)

211. The courts have held that inadequate responses to comments – alone – can be grounds for voiding a project’s approval. (See *Environmental 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.)

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

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

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

17 215. The final EIR’s response to comments section is also often characterized by bad faith,
18 inadequate analysis of Petitioners’ well-reasoned analysis and thorough DEIR comments regarding the
19 significant environmental impacts of the hydrogen system required to support this highly speculative
20 project.

21 216. For example, with respect to the water required to produce hydrogen, instead of
22 meaningfully engaging with the evidence and arguments articulated in Petitioners’ DEIR comments
23 about electrolysis of water, the final EIR states different methods for producing green hydrogen “require
24 different amounts of water,” so it would “therefore be therefore be speculative to analyze the
25 environmental impacts of supplying water relying on the estimates cited by commenters in the Sierra
26 Club technical study and brief because those are based on only one possible method of hydrogen
27 production that may or may not be used to supply Scattergood in the future.” Just because the
28 Scattergood Project might ultimately source hydrogen produced by a different method does not obviate

1 the need to analyze at least some forms of water usage in hydrogen production in the EIR. Electrolysis
2 of water is a reasonably foreseeable pathway to produce hydrogen. As such, the EIR should have
3 analyzed it rather than improperly dismissing it.

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

8 218. The FEIR also characterizes the proposed project on the one hand as “renewably fueled
9 combustion turbines” and repeatedly, on the other hand, as capable (and likely to do so) of running on
10 100% methane gas, a non-renewable resource.

11 219. The final EIR failed to provide the requisite good-faith responses in violation of CEQA.
12 **The EIR Impermissibly Piecemeals Environmental Analysis.**

13 220. LADWP impermissibly piecemeals its CEQA analysis by breaking off crucial elements
14 that are essential to the Project, were reasonably foreseeable at the time the EIR was completed, and
15 significantly change the scope of environmental effects of the Project. The crucial elements excluded
16 from analysis in the EIR are the Project’s hydrogen supply systems (hydrogen production, storage and
17 transportation infrastructure).

18 221. Under CEQA, an EIR must be “prepared as early in the planning process as possible” for
19 all projects that may have a significant effect on the environment. (*Bozung v. Local Agency Formation*
20 *Commission of Ventura County* (1975) 13 Cal.3d 263, 282 (*Bozung*).) The EIR must analyze “the whole
21 of an action,” including “all phases of project planning, implementation, and operation.” (CEQA
22 Guidelines, §15063, subd. (a)(1).)

23 222. The court in *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*
24 (2007) 155 Cal.App.4th 1214, noted three factors to be considered to determine what constitutes the
25 “whole” of a project that must be analyzed for environmental impacts: (1) relationship in time; (2)
26 physical location; and (3) the entity undertaking the action. (*Id.* at 1227.)

27 223. Improper piecemealing can occur where future actions are reasonably foreseeable and
28 significantly change the scope or environmental effects of an initial project (*Laurel Heights I, supra*, 47

1 Cal.3d at p. 399), or where “crucial elements” that are essential to the proposed project are not included
2 in the EIR (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, *supra*, 27 Cal.App.4th
3 at p. 732).

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

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

11 226. It is not sufficient for agencies to claim that some parts of the Project or its effects are
12 uncertain. Rather, an agency is expected to “attempt in good faith to fulfill its obligation under CEQA
13 to provide sufficient meaningful information regarding the types of activities and environmental effects
14 that are reasonably foreseeable” from a given project. (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 399.)

15 227. LADWP commits unlawful piecemealing in violation of CEQA by refusing to analyze
16 the environmental impacts from necessary hydrogen gas supply infrastructure.

17 228. Notably, SCAQMD raised this issue in its comment on the Project. Specifically, it said
18 that, “[e]ven though the Lead Agency intends to analyze the supply of hydrogen in a separate
19 environmental review, Staff recommends that the Lead Agency should include a worst-case scenario
20 analysis of the different scenarios on how the green hydrogen can be delivered to the Proposed Project
21 site, such as via delivery trucks or transfer via pipelines. For instance, if trucks are used to transfer the
22 green hydrogen to the facility, the Lead Agency should estimate the number of trucks that will be
23 needed per day (based on the amount of hydrogen needed) with the truck routes, re-calculate the
24 operational emissions, and re-estimate the health risk assessment to account for the additional trucks
25 coming and leaving the Proposed Project site. If transferring via pipeline, then the Lead Agency should
26 include an analysis of constructing a new pipeline (if applicable) and update the construction analysis in
27 the Final EIR accordingly. Regardless of the method, the emissions associated with hydrogen delivery
28 should be incorporated into the associated construction or operation phases and compared to the

1 corresponding South Coast AQMD regional thresholds.”

2 229. In 2021, SoCalGas presented slides which showed ten proposed routes for a hydrogen
3 pipeline to Scattergood. This indicates that LADWP has considered methods for transporting hydrogen
4 to the site.

5 230. The SLTRP repeatedly stresses the importance of converting its power plants to utilize
6 “green hydrogen” to meet Los Angeles City Council’s target of 100% carbon free by 2035. (SLTRP
7 ES-42 – 43, 1-13, 1-15, 1-21.) LADWP has repeatedly reinforced the importance of this target, stating
8 that “LADWP has committed to achieving a carbon-free energy system for the City.” (FEIR 3-11, 2-
9 232.)

10 231. The EIR claims the CCGS is specifically designed and intended to burn green hydrogen,
11 and the gas compressors and pressure reducers included in the Project are likewise hydrogen-specific
12 equipment. (DEIR 3-14.) This point is emphasized by LADWP in the FEIR, stating that “the intention
13 of the project is to provide the capability to utilize green hydrogen fuel at Scattergood, and any other
14 potential outcome is speculative and not reasonably foreseeable.” (FEIR 2-675.) LADWP makes clear
15 that the project is “integral to the goal of implementing a carbon free energy system” outlined in the
16 SLTRP. (FEIR 1-1.)

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

23 233. Statements made by City officials prior to the final determination for the Project
24 corroborate that hydrogen supply infrastructure is a crucial Project element. At the March 3, 2026,
25 hearing on the administrative appeal before City Council’s Energy and Environment Committee, then
26 Assistant General Manager of Power Planning and Grid Modernization for LADWP, Jason Rondou,
27 stated: “the EIR assumed, based on the available evidence, that hydrogen would be available to supply
28 the project *by the time it was operational.*” (Statement to Los Angeles City Council Energy and

1 Environment Committee regarding the Appeal of Certification of Final Environmental Impact Report
2 for Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project (Mar.
3 3, 2026) at 1:29:32, <https://www.youtube.com/watch?v=niwbECuiJAM>(emphasis added).)

4 234. At the same meeting, Councilmember and Committee Chair Adrin Nazarian stated: “the
5 document before you completes the promise made to this Committee and the City Council years ago
6 when they authorized DWP to pursue a new Scattergood plant that would be built to run on clean green
7 hydrogen, initially as a blend with natural gas and then 100% hydrogen and 100% carbon-free.”
8 (Statement to Los Angeles City Council Energy and Environment Committee regarding the Appeal of
9 Certification of Final Environmental Impact Report for Scattergood Generating Station Units 1 and 2
10 Green Hydrogen-Ready Modernization Project (Mar. 3, 2026) at 2:02:15,
11 <https://www.youtube.com/watch?v=niwbECuiJAM>.)

12 235. At the August 4, 2026, City Council meeting, Councilmember Traci Park, in whose
13 district Scattergood sits, stated: “this is not some backroom deal to keep the gas industry in business.
14 DWP has confirmed to me many times, and I am going to put it on the record now, that this is not a
15 plan to continue or expand that [methane] infrastructure.” (Statement to Los Angeles City Council
16 regarding the Appeal of Certification of Final Environmental Impact Report for Scattergood Generating
17 Station Units 1 and 2 Green Hydrogen-Ready Modernization Project (Aug. 4, 2026) at 2:17:37,
18 <https://www.youtube.com/watch?v=UkdZRHDB9qs>.)

19 236. Despite LADWP’s claim in the FEIR that “details related to the [green hydrogen]
20 infrastructure needed to support the proposed project do not currently exist,” City officials at every
21 level represented that hydrogen supply infrastructure at or shortly after Project completion is crucial to
22 the primary Project’s purpose. (FEIR 2-13.)

23 237. LADWP uses uncertainty to avoid discussing the effects of necessary hydrogen
24 infrastructure. It claims that, because it “would not implement or operate the infrastructure that supplies
25 hydrogen to Scattergood and would instead be a purchaser of hydrogen for the proposed project,” and
26 because specific details on the infrastructure are “entirely speculative at this point,” it need not analyze
27 the environmental effects at this time. (FEIR 2-13) LADWP also points to two possible methods for
28 transporting hydrogen—truck delivery, which it calls “unlikely,” and “a pipeline delivery system”—but

claims that any effects from these methods would currently be “entirely speculative” and “vary widely” based on the specific method and route selected. (*Ibid.*) Finally, it vaguely states that the green hydrogen system “will be analyzed in a separate environmental review and approval process by the separate designated lead agency” in the future, when more details are known. (*Ibid.*)

238. Meanwhile, the EIR describes targeted fuel blends, starting at 30% hydrogen, 70% methane by volume and increasing to 100% hydrogen to achieve the City’s carbon free grid by 2035. (*Id.* at 3-11, 4.2-23).

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

240. An EIR on necessary hydrogen infrastructure in the future, after the Project has progressed, would have minimal utility. There would be no real opportunity to evaluate the effects and determine if, in light of any negative impacts, LADWP should pursue green hydrogen. The question would be *how* the hydrogen is transported to Scattergood, not *whether* it should be at all.

241. LADWP holds all the information necessary to disclose to the public the expected hydrogen gas demands at the plant and what infrastructure will be necessary to support that level of use. That LADWP does not know what specific pipelines, production, and storage facilities will carry the hydrogen does not abrogate its responsibility of analyzing important components that are both foreseeable and crucial to the project. (*Laurel Heights I, supra*, 47 Cal.3d at p. 396; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, supra*, 27 Cal. App. 4th at p. 732.)

242. LADWP and the City cannot have it both ways; assuming, “based on available evidence,” that hydrogen would be available to supply the project by the time it was operational, representing the project as 100% hydrogen and 100% carbon-free, all while refusing to study the impacts of hydrogen supply infrastructure because infrastructure details are “entirely speculative.” (FEIR 2-13.)

243. Further, to the extent the hydrogen projects planned at the Haynes, Harbor, and Valley Generating Stations are not considered as cumulative impacts of the Project as discussed above, the failure to consider those impacts is also piecemealing.

1 244. By focusing on Scattergood in isolation while excluding reasonably foreseeable
2 elements that are crucial to the Project, the FEIR improperly piecemealed its analysis of environmental
3 effects in violation of CEQA.

4 **The EIR Failed to Mitigate Substantial Environmental Impacts.**

5 245. An EIR shall describe feasible measures “which could minimize significant adverse
6 impacts.” (CEQA Guidelines, § 15126.4, subd. (a)(1).) That discussion must contain “facts and
7 analysis” not just bald conclusions to meet CEQA’s informational disclosure requirements. (*Sierra*
8 *Club v. County of Fresno, supra*, 6 Cal.5th at p. 522.) Beyond this informational requirement, a “public
9 agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or
10 approves whenever it is feasible to do so.” (Pub. Resources Code, § 21002.1, subd. (b).) Mitigation
11 measures must be “fully enforceable.” (CEQA Guidelines, § 15126.4, subd. (a)(2).)

12 246. CEQA contains substantive provisions with which agencies must comply. “The most
13 important ... is the provision requiring agencies to deny approval of a project with significant adverse
14 effects when ... feasible mitigation measures can substantially lessen such effects.” (*Sierra Club v.*
15 *Gilroy City Council, supra*, 222 Cal.App.3d at p. 41.)

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

19 248. “Each public agency shall mitigate or avoid the significant effects on the environment of
20 projects that it carries out or approves whenever it is feasible to do so.” (*Lincoln Place Tenants Assn.,*
21 *supra*, 130 Cal.App.4th at p. 1508.)

22 249. The EIR fails to adequately mitigate a swath of significant environmental impacts
23 including those from greenhouse gas emissions, air pollutants, and hazards. For example, the EIR’s
24 hazards mitigation measures are entirely inadequate. The EIR departs from prior construction and
25 demolition hazards mitigation practices at Scattergood itself, adopting a waste management plan
26 without inclusion of the standards or explicit testing practices previously used at the Project site.
27 (Compare DEIR 1-14 with Unit 3 FEIR 1-9.) The EIR further declines entirely to adopt mitigation
28 measures for hazardous impacts during operations. (DEIR 1-14.)

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

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

5 251. When an agency seeks to approve a project despite its significant unmitigated impacts on
6 the environment, the agency must adopt a statement of overriding considerations. (Pub. Resources
7 Code, § 21081.)

8 252. A statement of overriding considerations must include two specific findings, supported
9 by substantial evidence. The first finding that must be made is that “There is no feasible way to lessen
10 or avoid the significant effect...” of the project. (CEQA Guidelines, §§ 15043, 15093, subd. (b).) The
11 second finding is that the project’s benefits outweigh its significant adverse environmental impacts.
12 (CEQA Guidelines, § 15093, subd. (a).) These findings must both be supported by substantial evidence.
13 (CEQA Guidelines, § 15093, subds. (a)-(b).)

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

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

22 255. The final EIR rejected as infeasible numerous alternatives and mitigation measures that
23 might have made the Project more costly or less profitable but would not have made it impractical to
24 proceed. “CEQA does not authorize an agency to proceed with a project that will have significant,
25 unmitigated effects on the environment ... unless the measures necessary to mitigate those effects are
26 *truly* infeasible.” (*City of Marina, supra*, 39 Cal.4th at p. 368 (emphasis added.)) “[I]f the project can be
27 economically successful with mitigation, then CEQA requires that mitigation.” (*Uphold our Heritage v.*
28 *Town of Woodside* (2007) 147 Cal.App.4th 587, 600.)

256. These alternatives and mitigation measures have been implemented in other projects, and are objectively feasible. (*Western States Petroleum Assn. v. Southern Cal. 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].)

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

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

259. Thus, LADWP's findings regarding the rejection of alternatives and mitigation measures and regarding Project benefits lack substantial evidence, thereby violating CEQA (CEQA Guidelines, § 15091, subd. (b)), and failing as a basis for LADWP's Statement of Overriding Considerations. (CEQA Guidelines, § 15093, subd. (b).)

PRAYER FOR RELIEF

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

WHEREFORE, Petitioners pray for relief as follows:

1. For an alternative and peremptory writ of mandate, commanding Respondents:
 - A. To set aside and vacate the certification and approval of the FEIR, Findings of Fact and Statement of Overriding Conditions, any Conditions of Approval, and Mitigation Monitoring

1 and Reporting Program supporting the approval of the Project; and

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

4 3. For an order staying or preliminarily and permanently enjoining Respondents/Defendants
5 from taking any action to construct any portion of the Project or to develop or alter the Project site in
6 any way that could result in a significant adverse impact on the environment unless and until a lawful
7 approval is obtained from Respondents/Defendants after the preparation and consideration of a legally
8 adequate FEIR and adoption of all feasible alternatives and mitigation measures;

9 4. For costs of the suit;

10 5. For reasonable attorneys' fees; and

11 6. For such other and further relief as the Court deems just and proper.

12
13 DATED: September 2, 2026

Respectfully Submitted,

CARSTENS, BLACK & MINTEER LLP

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15 By: 

Douglas Carstens

Michelle Black

Sunjana Supekar

Attorneys for Petitioners/Plaintiffs Los

Angeles Waterkeeper and Sierra Club

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20 LAW OFFICE OF JONATHAN WEISSGLASS

21 By: /s/ Jonathan Weissglass

Jonathan Weissglass

Attorney for Petitioners/Plaintiffs

Communities for a Better Environment,

Food & Water Watch, and Physicians for

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VERIFICATION

I, the undersigned, declare that I am the Managing 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 FIRST AMENDED 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 2 day of September, 2026 in Los Angeles, California.



Kelly Shannon McNeill

VERIFICATION

I, the undersigned, declare that I am the Executive Director at Physicians for Social Responsibility - Los Angeles, one of the Petitioners in this action, and I am authorized to make this verification. I have read the foregoing FIRST AMENDED 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 1st day of September, 2026 in Los Angeles, California.

Martha Argüello

Martha Dina Argüello

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VERIFICATION

I, the undersigned, declare that I am a senior staff attorney at Food and Water Watch, one of the Petitioners in this action, and I am authorized to make this verification. I have read the foregoing FIRST AMENDED 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 1st day of September, 2026 in Boise, Idaho.



Tyler Lobdell

VERIFICATION

I, the undersigned, declare that I am the Executive Director of Communities for a Better Environment, one of the Petitioners in this action, and I am authorized to make this verification. I have read the foregoing FIRST AMENDED 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 1st day of September 2026 in Huntington Park, California.



Darryl Molina Sarmiento
Executive Director
Communities for a Better Environment

VERIFICATION

I, the undersigned, declare that I am a Senior Attorney at Sierra Club, one of the Petitioners in this action, and I am authorized to make this verification. I have read the foregoing FIRST AMENDED 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 2nd day of September, 2026 in Palo Alto, California.



Katherine Ramsey

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

September 1, 2026

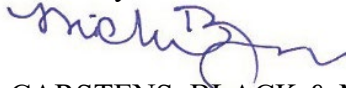
By U.S. Mail
David W. Hanson, Interim General Manager
Los Angeles Department of Water and Power
John Ferraro Building
111 North Hope Street
Los Angeles, CA 90012

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 Mr. Hanson,

Please take notice that Communities for a Better Environment, Los Angeles Waterkeeper, Sierra Club, Physicians for Social Responsibility – Los Angeles, and Food and Water Watch plan to file a First Amended Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief 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
Attorneys for Los Angeles Waterkeeper and Sierra Club

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass
Attorneys for Communities for a Better Environment,
Physicians for Social Responsibility – Los Angeles, and
Food and Water Watch

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 September 1, 2026 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 September 1, 2026 at Redondo Beach, California 90277.

/s/ Sarah Bloss
Sarah Bloss

SERVICE LIST

David W. Hanson, Interim General Manager
Los Angeles Department of Water and Power
John Ferraro Building
111 North Hope Street
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

September 1, 2026

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 Communities for a Better Environment, Los Angeles Waterkeeper, Sierra Club, Physicians for Social Responsibility – Los Angeles, and Food and Water Watch plan to file a First Amended Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief 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
Attorneys for Los Angeles Waterkeeper and Sierra Club

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass
Attorneys for Communities for a Better Environment,
Physicians for Social Responsibility – Los Angeles, and
Food and Water Watch

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 September 1, 2026 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 September 1, 2026 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

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

September 2, 2026

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

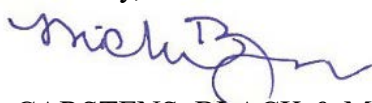
Re: Challenge under the California Environmental Quality Act to approve the
environmental impact report and approval of the Scattergood Generating Station
Units 1 and 2 Hydrogen Ready Modernization Project

Honorable Attorney General:

Please find enclosed a copy of the First Amended Petition for Writ of Mandate and
Complaint for Injunctive and Declaratory Relief 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
Attorneys for Los Angeles Waterkeeper and Sierra Club

LAW OFFICE OF JONATHAN WEISSGLASS
Jonathan Weissglass
Attorneys for Communities for a Better Environment,
Physicians for Social Responsibility – Los Angeles, and
Food and Water Watch

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 September 2, 2026, I served the within documents:

**FIRST AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT
FOR INJUNCTIVE AND DECLARATORY RELIEF**

VIA ELECTRONIC MAIL.

Based on Public Resources Code section 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 September 2, 2026, 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 C

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.*

1 **PROOF OF SERVICE**

2 I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California.
3 I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast
4 Highway, Ste. 200, Redondo Beach, CA 90277-2147. On September 2, 2026, I served the within documents:

5 **FRIST AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR
6 INJUNCTIVE AND DECLARATORY RELIEF**

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

15 ☐ **VIA OVERNIGHT DELIVERY.** I enclosed the above-referenced document(s) in an
16 envelope or package designated by an overnight delivery carrier with delivery fees paid or
17 provided for and addressed to the person(s) at the address(es) listed below. I placed the
18 envelope or package for collection and overnight delivery at an office or a regularly utilized
19 drop box of the overnight delivery carrier.

20 ☒ **VIA ONE LEGAL E-SERVICE.** By submitting an electronic version of the document(s) to
21 One Legal, LLC, through the user interface at www.onelegal.com.

22 ☐ **VIA EMAIL OR ELECTRONIC SERVICE.** Based on a court order or an agreement of
23 the parties to accept service by electronic transmission, I caused the above-referenced
24 document(s) to be sent to the person(s) at the electronic address(es) listed below.

25 I declare that I am employed in the office of a member of the bar of this court whose direction the
26 service was made. I declare under penalty of perjury under the laws of the State of California that the above is
27 true and correct. Executed on September 2, 2026, at Redondo Beach, California.
28

/s/ Sarah Bloss

Sarah Bloss

SERVICE LIST

*Counsel for Respondents City of Los Angeles and
Los Angeles Department of Water and Power*

Hydee Feldstein Soto, City Attorney

Melanie A. Tory, Assistant City Attorney; melanie.tory@ladwp.com

Morgan Hector, Deputy City Attorney; morgan.hector@ladwp.com

221 North Figueroa Street, Suite 1000

Los Angeles, CA 90012

Tel: (213) 367-4500 | Fax: (213) 367-4588

Kathryn L. Oehlschlager; Kathryn.oehlschlager@stoel.com

Amy R. Higuera; amy.higuera@stoel.com

Sam D. Bacal-Graves; sam.bacal.graves@stoel.com

STOEL RIVES, LLP

1 Montgomery Street, Suite 3230

San Francisco, CA 94104

Tel: (415) 500-6538

Co-Counsel for Petitioner/Plaintiff Los Angeles Waterkeeper

Benjamin A. Harris; ben@lawwaterkeeper.org

LOS ANGELES WATERKEEPER

360 E. 2nd Street, Suite 250

Los Angeles, CA 90012-4609

Tel: (310) 394-6162

*Counsel for Petitioners/Plaintiffs Communities for a Better Environment, Food & Water
Watch, and Physicians for Social Responsibility – Los Angeles*

Jonathan Weissglass; jonathan@weissglass.com

LAW OFFICE OF JONATHAN WEISSGLASS

1939 Harrison Street, Suite 150-B

Oakland, CA 94612

Tel: (510) 836-4200

Counsel for Petitioner/Plaintiff Communities for a Better Environment

Theodore Caretto; theodore@cbecal.org

Kendall Chappell; kchappell@cbecal.org

COMMUNITIES FOR A BETTER ENVIRONMENT

6325 Pacific Blvd., Suite 300

Huntington Park, CA 90255

Tel: (323) 826-9771

1 *Counsel for Petitioner/Plaintiff Sierra Club*

2 Katherine Ramsey; Katherine.ramsey@sierraclub.org

3 SIERRA CLUB

4 2101 Webster St., Suite 1300

5 Oakland, CA 94612

6 Tel: (415) 977-5627

7 *Counsel for Petitioner/Plaintiff Food & Water Watch*

8 Tyler Lobdell; tlobdell@fwwatch.org

9 FOOD & WATER WATCH

10 1616 P Street NW, Suite 300

11 Washington, D.C. 20036

12 Tel: (208) 209-3569