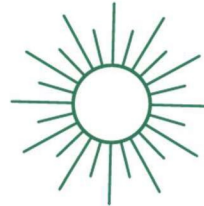




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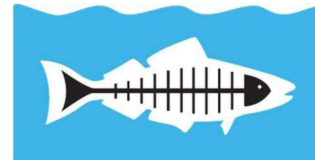
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Heal the Bay

June 29, 2023

To: Los Angeles Department of Water and Power Board of Commissioners

Re: Comments on the May 15, 2023 Notice of Preparation of a Draft Environmental Impact Report for the Scattergood Generating Station Units 1 and 2

Dear Members of the Board,

These comments are submitted on behalf of the Natural Resources Defense Council, Communities for a Better Environment, Los Angeles Waterkeeper, Sierra Club, Heal the Bay, Food & Water Watch, Pacoima Beautiful, and Physicians for Social Responsibility Los Angeles in response to LADWP's May 15, 2023 Notice of Preparation of a Draft Environmental Impact Report for the Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project prepared by the Los Angeles Department of Water and Power, and the May 2023 Initial Study: Scattergood Generating Station Units 1 and 2 Green Hydrogen-Ready Modernization Project (the Project).

SUMMARY OF COMMENTS

In order for LADWP to prepare a legally sufficient draft environmental impact report (DEIR), it must incorporate the following ten topics, all critical for full and accurate CEQA analysis on the proposed Project.

First, LADWP may not isolate its analysis to just the Scattergood repower project; to do so would be illegal piecemealing under well-settled CEQA law. LADWP's own documents show that the Project is just one part of a larger plan to repower four fossil gas-fueled powerplants with hydrogen-fueled facilities –

with up to 100% hydrogen as fuel – and extend waivers of the relevant once-through cooling deadlines. These repowering projects will have the effect of keeping fossil-gas fueled plants operating for years to come, including not only Scattergood but also the Haynes and Harbor plants, at minimum. All four sites that are the subject of the LADWP hydrogen repower plan should be analyzed as a whole, including consideration for the production and transport of green hydrogen as well as the impending closure of once-through cooling (OTC) units at these plants, to avoid piecemealing. The DEIR must analyze all construction, operation and cumulative impacts caused by the combined repowering projects.

Second, LADWP must fully investigate and disclose all project-related NOx emissions. Hydrogen burns hotter than methane, therefore combustion of hydrogen creates more NOx emissions than fossil gas. There is no proven large-scale technology to control these additional NOx emissions in the power generating sector. Because the South Coast Air Basin is in extreme non-attainment for the 8-hour ozone NAAQS, and because NOx is a precursor to ozone, additional NOx emissions should be ruled out. The DEIR must include NOx related impacts, focusing on the environmental justice implications of allowing more NOx emissions in the Basin.

Third, LADWP must fully investigate and disclose all project-related GHG emissions from the continued production and combustion of fossil gas, including methane leakage. Instead of phasing out once-through cooling as state law currently requires, LADWP intends to extend the lives of the Scattergood, Haynes, and Harbor once-through cooling facilities by introducing combustion of hydrogen, thereby creating more fossil gas-related GHG emissions than would occur if the plants were closed. Analysis of the additional GHG emissions from hydrogen leakage must also be included in the DEIR.

Fourth, LADWP must fully investigate and disclose all project-related safety considerations and climate impacts linked to hydrogen infrastructure. The DEIR must analyze the production, handling, transportation, and storage of hydrogen and must include best-in-class safety protocols and standards. LADWP must ensure that environmental justice communities are not saddled with the burden of hydrogen infrastructure. While the IS/NOP claims that hydrogen-related issues will be handled separately, that would be classic piecemealing as identified above and cannot occur.

Fifth, LADWP must fully investigate and disclose the effects of prolonging use of methane in the power sector after the currently-required shutdown dates of the once-through cooling electrical generating units.

Sixth, LADWP must fully analyze all possible project alternatives including, but not limited to, those identified in the LA100 study. This project will exacerbate and extend the harms gas burning power plants inflict on the communities they border, both at the Scattergood site and at Haynes, Harbor, and Valley generating stations.

Seventh, LADWP must fully investigate and disclose Project impacts on environmental justice communities in the South Coast Air Basin.

Eighth, LADWP must fully investigate and disclose Project impacts to neighboring biological resources, including the Project's potential risks to coastal wildlife that the Initial Study fails to acknowledge.

Ninth, LADWP must give full consideration to the tribal consultation processes required by AB 52, as well as those required by SB 18 in the event of land use changes.

Finally, LADWP must fully investigate and disclose the negative effects of another extension to the deadline for ceasing coastal once-through cooling in the LADWP service area.

These issues are considered in more detail below.

1. LADWP MUST AVOID PIECEMEALING THE ANALYSIS OF THIS PROJECT

CEQA prohibits piecemealing, or breaking up of a large project into smaller pieces to avoid comprehensive environmental review.

It is well-settled that “[a] public agency is not permitted to subdivide a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole.” *Orinda Assn. v. Board of Supervisors*, 182 Cal.App.3d 1145 (1986); *see also Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.*, 91 Cal.App.4th 1344 (2001). This is because the requirements of CEQA “cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.” *Orinda* at 1171.

“The CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, covering the entire project, from start to finish.” *Natural Resources Defense Council v. City of Los Angeles*, 103 Cal.App.4th 268, 271 (2002). CEQA requires analysis of “the whole of an action” and prohibits evading comprehensive CEQA analysis by “chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences.” (CEQA Guidelines § 15378; *Bozung v. LAFCO*, 13 Cal.3d 263, 283-84 (1975). The whole of the project for which environmental review must occur includes “all phases of project planning, implementation, and operation.” (CEQA Guidelines §15063, subd. (a)(1).)

The core test for piecemealing is whether individual projects are determined to be part of a larger whole. *See, e.g., San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th 713, 730 (1994) (“‘Project’ is given a broad interpretation” under CEQA to ensure “that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences”); *Del Mar Terrace Conservancy, Inc. v. City Council of the City of San Diego* 10 Cal.App.4th 712, 733-34 (1992) (determination of whether projects are separate for CEQA purposes rests in part on whether they have “independent utility”).

The project description must, thus, include not only the Scattergood conversion but also planned conversions at other LADWP plants and changes to LADWP gas infrastructure necessary to safely supply hydrogen gas to Scattergood. Failing to do so deprives the public, and decisionmakers of key information about the project and its impacts. A project description that omits these key plans will also result in inadequate alternatives analyses and mitigation measures that do not address the significant impacts the project may have.

Even if that does not happen, it is imperative that the analysis of all four sites – including Scattergood – include a cumulative impacts analysis that includes impacts of the others – including the impact of increased emissions from combustion of hydrogen and fossil gas. As the CEQA Guidelines provide:

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Cal. Code Regs. Tit. 14, § 15355.

LADWP must conduct a cumulative impacts' analysis for all reasonably foreseeable repowering projects. The LADWP DRAFT 2022 Power Strategic Long-Term Resource Plan (at ES 20-21) states:

One of the key findings of the LA100 Study was the need for firm and dispatchable generation near the primary customer load center to ensure reliability of LADWP's electricity grid, specifically during stressed load conditions such as wildfires. The SLTRP's Core Cases also 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 percent green hydrogen by 2035. The first such generation unit is anticipated to commence commercial operations in 2029 and will be situated at LADWP's Scattergood Generating Station. This generating unit is assumed to be a fast-ramping combined cycle unit capable of burning 30 percent green hydrogen by volume at its commencement of commercial operations. This percentage will be increased such that it will run on 100 percent green hydrogen by 2035. Several other units slated to be running on green hydrogen are assumed to be built during the 2030s and 2040s, situated at LADWP's Harbor, Haynes, Scattergood, and Valley Generating Stations. These green hydrogen resources will transform LADWP's in-basin generation to maintain reliability and resiliency metrics with increasing load growth primarily driven by electrification using carbon-free generation.

From the same LADWP document, at 1-20:

Cases 1, 2, and 3 in this SLTRP assume the use of green hydrogen-powered in-basin combustion, beginning with the construction of a new combined-cycle generating unit located at the Scattergood Generating Station in 2029. These cases, all of which meet the Los Angeles City Council's motion to prepare a resource plan achieving 100% carbon-free energy by 2035, assume the buildout of several additional green hydrogen-powered generating units. The green hydrogen-powered units, which will be built throughout the 2030s and into the 2040s, are planned to be situated at the Harbor, Haynes, Scattergood, and Valley Generating Stations. The firm, dispatchable generation provided by green hydrogen is essential for maintaining LADWP's grid reliability and resiliency as an increasing proportion of intermittent renewables are integrated into our generation portfolio.

Thus, it is clear that the Scattergood project is the first of four that are proposed as part of a unified plan to reach a common objective.¹ LADWP's own planning documents show that the project at issue here is not a one-off but an integral part of a system-wide change in power generation in the LADWP jurisdiction.

The Project Initial Study (at 6) states that: "While it is anticipated that a sufficient supply of green hydrogen may be available to support the proposed project dual-fuel CCGS when it is fully commissioned in 2029, the nature of the green hydrogen system in terms of production, transport, and storage is currently unknown. Therefore, the following Initial Study does not, and the EIR will not, address the supply of green hydrogen, which will be analyzed under a separate CEQA document when the necessary information to support an adequate analysis of potential environmental impacts is available."

The lifecycle emissions and environmental impacts of the Scattergood Hydrogen-Ready Modernization Project must take into account not only the end use but also production and transport of hydrogen given their significant potential environmental impacts. Currently, no utility-scale source of green hydrogen is available. Nearly all hydrogen used in California today is produced through the fossil-based steam reformation of methane ("SMR"), which emits NOx, fine particulate matter, carbon monoxide, and volatile organic compounds.²

As green hydrogen is so untested as a significant generation source that the infrastructure does not currently exist, LADWP must admit this fact in the DEIR and should a source of electrolytic green hydrogen not materialize, its entire project description will have to be revised.

A lifecycle analysis of the Project must also consider the significant water resources required to produce green hydrogen, particularly given the water constraints often felt in Southern California. Sierra Club and CEJA have calculated that "creating sufficient electrolytic hydrogen to power one facility like Los Angeles Department of Water and Power's Scattergood Generating Station for just 1,500 hours per year would take hundreds of thousands of gallons of water per day and require the build-out of between 900 and 3,389 MW of renewable generation resources."³

Leakage from hydrogen production and transport also has significant greenhouse gas (GHG) impacts, which are elaborated below under "GHG Emissions."

¹ See also *Id.* at 4-56: "With respect to GHG emissions, all three carbon-free cases and the Reference Case (SB 100 Case) start at about 8 million tons in 2022 and reduce this by almost half by 2025, as can be seen in Figure 4-47. This single most significant reduction in carbon emissions throughout the entire study horizon results from LADWP fully divesting away from our last remaining coal asset in 2025, as coal-fired generation at the Intermountain Power Project is replaced by cleaner generation from green hydrogen-capable units, which in 2025 operate off a fuel blend capable of 30% green hydrogen and 70% natural gas (by volume), and eventually run completely off of green hydrogen starting in 2035."

² Pinping Sun et al., Criteria Air Pollutants and Greenhouse Gas Emissions from Hydrogen Production in U.S. Steam Methane Reforming Facilities, 53 *Env't Sci. & Tech.* 7103 (2019), available at <https://www.osti.gov/pages/biblio/1546962>.

³ A.22-02-007 (Angeles Link) Opening Brief of Sierra Club and California Environmental Justice Alliance (July 29, 2022) at 2, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M496/K341/496341723.PDF> (citing GE Gas Power, Hydrogen and CO2 Emissions Calculator, <https://www.ge.com/gas-power/future-of-energy/hydrogen-fueled-gas-turbines/hydrogen-calculator>.)

Last, operation of the proposed project would require wastewater to be either recycled or treated at the adjacent Hyperion Water Treatment Plant, which would require installation of an entirely new pipeline to transmit the wastewater and necessitate expansion of water treatment equipment. New water infrastructure should be evaluated as part of the Scattergood DEIR.

Piecemealing the CEQA analysis in these circumstances is a mistake legally and factually.

2. LADWP MUST ANALYZE ALL PROJECT-RELATED NO_x EMISSIONS

The South Coast Air Basin is in extreme non-attainment for ozone, and the South Coast Air Quality Management District bases its attainment strategies on control of NO_x, an ozone precursor. Hydrogen combustion releases significant NO_x.

In fact, hydrogen burns hotter than methane and when combusted creates more NO_x emissions than fossil gas. See, e.g., <https://insideepa.com/share/227828>:

The Clean Energy Group (CEG), a nonprofit advocacy organization, is warning that hydrogen (H₂) energy widely touted as a carbon-free source that can be used to limit greenhouse gases (GHG) could create “dangerously high” nitrogen oxide (NO_x) levels if blended with natural gas and combusted for power generation.

See also The LADWP DRAFT 2022 Power Strategic Long-Term Resource Plan at 2-69 (“Hydrogen has a larger flammability range and a lower ignition point compared to natural gas). Excessive NO_x emissions would be especially unacceptable were LADWP to run the Project as a peaker plant, as LADWP proposes to do.

The Project Initial Study (at 27) states that: “because the construction and operation of the proposed project would create air pollutant emissions, the impact is considered potentially significant, and this issue will be further analyzed in the EIR.” As of today, there is no proven large-scale technology to control these additional NO_x emissions. Accordingly, the DEIR must analyze NO_x emissions at all levels of hydrogen use in the entire power sector project, including the effects of the Project on South Coast AQMD’s ability to achieve ozone NAAQS attainment, and provide suitable mitigation as CEQA requires⁴. We simply cannot absorb additional NO_x in the Air Basin, and indeed, we must see significant reductions in NO_x emissions.

⁴ In that connection the LADWP DRAFT 2022 Power Strategic Long-Term Resource Plan states at 5-7: “SLTRP Advisory Group stakeholders have requested that LADWP analyze the potential changes to air quality and public health caused by changes to operations of in-basin LADWP-owned electricity generation units (EGUs), under the various scenarios developed in the 2022 SLTRP process. In response, LADWP has partnered with NREL to conduct an Air Quality and Health Impacts Study for the SLTRP to ensure that emissions do not increase for any period of time at the source level (as required by Los Angeles City Council Motion 22-0255) and translate that to impacts to air quality and health. Development of emissions inventory for each scenario, running air quality models, and inputting the concentrations to a health benefit model to estimate changes to health were all steps that were followed. Preliminary results on current and future in-basin power plant emissions relative to other economic sectors will be included in an appendix in this SLTRP and more detailed analysis on air quality and health metrics will be included as part of next year’s 2023 SLTRP. The appendix will be created to house the NREL Air Quality and Health Impacts Study, once review is complete.”

Lastly, because the LADWP DRAFT 2022 Power Strategic Long-Term Resource Plan states that its green hydrogen plants are intended to run during stressed load conditions such as wildfires and heat waves, LADWP's power plants, including Scattergood, could operate simultaneously when air quality is already poor. The DEIR must analyze NOx emissions under extreme heat scenarios like those seen in September of 2022 where LA basin gas plants ramped up generation, selling power back to the state grid and emitting additional pollutants into nearby neighborhoods.⁵ The DEIR must evaluate and disclose the acute emissions contribution these power plants could have under stressed load conditions on extreme-weather days that are likely to already have poor air quality, rather than averaging annual emissions.

3. LADWP MUST ANALYZE ALL PROJECT-RELATED GHG EMISSIONS

GHG emissions from the Project will arise both from combustion of methane that would not occur if the once-through cooling plants closed as required by current law, and from leakage during the production and distribution of hydrogen, which is itself an indirect greenhouse gas.

The Project Initial Study states at 46: "The proposed project would generate greenhouse gas (GHG) emissions during temporary construction activities and long-term operations. Construction would result in short-term GHG emissions produced by construction equipment exhaust as well as on-road truck and other vehicle trips. Operation of the CCGS would result in GHG emissions from the combustion of natural gas. This impact is considered potentially significant, and this issue will be further analyzed in the EIR."

The Project Initial Study acknowledges at 27 the excess use of diesel-based trucks (40-60 anticipated trucks) during the construction phase of this Project. Although most of the impacts discussed in this report should address the long-term effects, it is essential to also consider mitigation measures for the short-term adverse effects caused by these increased construction operations and continued use of the generating plant since it is in area of already highly industrialized networks which includes LAX, Hyperion, and the nearby oil refineries.

Staging of trucks, diesel ignition idling, and Truck haul routes also have the potential to extend the emissions footprint of the Project beyond its borders. Additionally, the nearest waste facilities are located far from the Project in already pollution burdened communities such as the Northeast San Fernando Valley and therefore this Project has the potential to increase the pollution burden even further.

LADWP should analyze in the DEIR the shortest haul route options, best practice of diesel fuel storage, and traffic peak hour considerations to reduce the potential of increased emission of air pollutants.

Regarding leakage during transport, methane already leaks from existing gas pipelines, at rates higher than initially understood, and it is likely that hydrogen—a much smaller molecule—may pose an even higher leakage risk, posing climate and safety concerns. Therefore, analysis of the GHG effects of hydrogen (including from leakage) should also be included; see, e.g. this study in the 2006 Int. J. of Nuclear Hydrogen Production and Applications: <https://agage.mit.edu/publications/global-environmental-impacts-hydrogen-economy>, whose abstract states:

⁵ Regenerate California, California's Underperforming Gas Plants: How Extreme Heat Exposes California's Flawed Plan for Energy Reliability, June 2023 (available at <https://caleja.org/wp-content/uploads/2023/06/2023-Regenerate-Heat-Wave-Report.pdf>)

Hydrogen-based energy systems appear to be an attractive proposition in providing a future replacement for the current fossil-fuel based energy systems. Hydrogen is an important, though little studied, trace component of the atmosphere. It is present at the mixing ratio of about 510 ppb currently and has important man-made and natural sources. Because hydrogen reacts with tropospheric hydroxyl radicals, emissions of hydrogen to the atmosphere perturb the distributions of methane and ozone, the second and third most important greenhouse gases after carbon dioxide. Hydrogen is therefore an indirect greenhouse gas with a global warming potential GWP of 5.8 over a 100-year time horizon. A future hydrogen economy would therefore have greenhouse consequences and would not be free from climate perturbations. If a global hydrogen economy replaced the current fossil fuel-based energy system and exhibited a leakage rate of 1%, then it would produce a climate impact of 0.6% of the current fossil fuel-based system. Careful attention must be given to reduce to a minimum the leakage of hydrogen from the synthesis, storage, and use of hydrogen in a future global hydrogen economy if the full climate benefits are to be realized.

As to hydrogen leakage, see <https://www.energypolicy.columbia.edu/publications/hydrogen-leakage-potential-risk-hydrogen-economy/>:

A high-risk scenario based on hydrogen demand from the International Energy Agency (IEA) net-zero scenario (528 million tons [Mt] by 2050) (IEA 2021) could potentially lead to a 5.6 percent economy-wide leakage rate, compared with an estimated 2.7 percent in 2020.

Thus, the role of hydrogen as a greenhouse gas in connection with the project should be analyzed, including the Project's relationship to California's GHG goals.⁶

4. LADWP MUST ANALYZE ALL SAFETY CONSIDERATIONS AND CLIMATE IMPACTS RELATED TO HYDROGEN INFRASTRUCTURE

The Project would be an untested and experimental generation source in a number of ways. The LADWP DRAFT 2022 Power Strategic Long-Term Resource Plan at 2-69 states:

Hydrogen has a larger flammability range and a lower ignition point compared to natural gas. Additionally, hydrogen is odorless, it has the propensity to leak, and its flame is colorless. These properties of hydrogen make it difficult to handle while increasing safety risks.

Moreover:

As of right now, there is no local green hydrogen infrastructure in Los Angeles. Significant infrastructure to support green hydrogen production, storage, and transportation will be required. These projects will be capital intensive and new pipelines will be difficult to permit, particularly in urban areas where local communities are unlikely to support bulk

⁶ See also Bertagni, et al, Risk of the Hydrogen Economy for Atmospheric Methane, *Nature Communications*, December 2022, available at: <https://www.nature.com/articles/s41467-022-35419-7>.

storage of hydrogen or its carriers. Hydrogen's low density makes most forms of transportation expensive and cumbersome in comparison to fossil fuels. In addition, the operations and logistics across the full value chain must be established to ensure the fuel can be reliably supplied to the generating stations.

Id at 2-67⁷.

Los Angeles is not an outlier in its lack of hydrogen infrastructure. Only a few thousand miles of hydrogen pipelines exist nationwide.⁸ The absence of significant hydrogen infrastructure speaks to a greater gap in scientific and technical understanding of how to safely, cleanly, and efficiently move large volumes of hydrogen. CEQA demands that the hydrogen infrastructure issues relevant to the Project must not be kicked down the road to some future analysis. Cumulative, life-cycle impacts analyses for all four sites – not just Scattergood – must be completed now.

5. LADWP MUST ANALYZE ALL IMPACTS RELATED TO PROLONGING THE USE OF METHANE IN THE POWER SECTOR

The three once-through cooling plants involved in the Project are currently scheduled to close, and the City of LA is committed to ending its reliance on fossil fuels. But the Project proposes to keep Scattergood, Haynes, Harbor and Valley open and burning methane until 2035 or beyond. LADWP anticipates that Scattergood may even run completely on methane gas after 2029, once the retrofit is completed.

The Project Initial Study (at 6) states: “the impacts related to the combustion of 100 percent natural gas will also be analyzed in the EIR based on a conservative assumption that this may be the circumstance during the initial phases of operation of the proposed CCGS.”

Thus, the DEIR should include a detailed analysis of prolonging LADWP's dependence on fossil gas, including the lifecycle impacts of natural gas production, transport, storage, and combustion. The analysis should include both GHG and criteria pollutant analyses, given NOx emissions from combusting methane and hydrogen.

6. LADWP MUST FULLY ANALYZE PROJECT ALTERNATIVES

We recognize that LADWP has commissioned studies on how best to achieve carbon-free power generation in its service territory. But those studies have not been subjected to analysis under CEQA.

In particular, we recommend that LADWP consider alternatives, including the ones identified in the LA100 study, which would make more sense for our communities. As described by the February 17, 2023 comments by Sierra Club and Communities for a Better Environment, and separately by PSE Healthy Energy, many alternatives to LADWP's SLTRP hydrogen plan exist and must be explored.⁹ Both transmission solutions and demand-side resources including conservation, efficiency, demand response,

⁷ See also the Initial Study at 6: “The necessary infrastructure for the production, transport, and storage of green hydrogen to support the proposed project currently does not exist.”

⁸ For context, the United States hosts over 300,000 miles of fossil gas transmission pipelines, and more than 2 million miles of distribution lines.

⁹ PSE Healthy Energy, Comments on LADWP's Draft 2022 Strategic Long-Term Resource Plan at 7-11, Feb. 17, 2023; Sierra Club & Communities for a Better Environment, Draft 2022 SLTRP Comments at 12-35, February 17, 2023.

and distributed generation should all play a bigger role in our transition than is currently being imagined at LADWP, and might negate the need for expensive, centralized projects that are infrequently utilized and concentrate both benefits and burdens in specific communities. This project may have a myriad of unintended consequences of large-scale hydrogen use and storage in an urban environment that scientific studies have not yet been able to explore.

CEQA's requirements for a robust alternatives analysis must be honored here. Otherwise, the DEIR will fail if it only analyzes one pre-determined project.

7. LADWP MUST ANALYZE ALL ENVIRONMENTAL JUSTICE IMPACTS

The unified project will increase criteria pollutant emissions, especially NO_x, compared to the baseline in which all four plants close. Increased emissions will impact already pollution-burdened communities, like those in the South Coast Air Basin, most heavily. Those effects should be analyzed and mitigated in the Project DEIR. The plants directly located in environmental justice communities aggravate existing conditions, and fail to accord particular weight to the voices of these impacted communities perpetuates environmental injustice in the City of LA.

Though it is commendable that LADWP contemplates using only "green hydrogen" produced by electrolysis of water and powered with renewable energy, the IS does not protect against serious environmental justice concerns associated with green hydrogen production. Indeed, unless appropriately addressed, producing green hydrogen in the basin could increase reliance power from gas plants. By diverting renewable electricity toward hydrogen electrolysis and increasing in basin electricity demand, the LADWP project could cause greater hours of operation for gas plants in communities already burdened by heavy truck traffic, refining, industrial manufacturing, and dirty hydrogen production.

LADWP's decision not to discuss the new turbine's supply of green hydrogen in either the IS or DEIR casts the shadow of this proposed project further over environmental justice communities. The project shows an understanding that hydrogen blending increases risk of embrittlement in gas systems but declines to address risks related to hydrogen storage at the Scattergood site, or transmissions to the site. With acknowledged, gaping blind spots around blended hydrogen pipelines, and already leaking fossil gas facilities, the handling of hydrogen feedstock around this project must be analyzed for its environmental justice impacts.¹⁰

8. LADWP MUST ANALYZE IMPACTS TO BIOLOGICAL RESOURCES

Currently, the Initial Study states no biological resources are expected to be significantly impacted. However, a neighboring Project led by LA Sanitation known as the Venice Dual Force Main and approximately two miles north of the proposed Scattergood Project was required to increase their mitigation measures to address the increased risks to the coastal deterioration of local biologic resources including nesting birds and local tree fauna. Although the Project is bounded by Vista Del Mar and Grand Ave, the Project is approximately five hundred feet east of an identified Significant Ecological Zone (SEZ) as defined by the City of Los Angeles Municipal Code SEC. 64.70.01.

¹⁰ Accufacts Inc., Report: Safety of Hydrogen Transportation by Gas Pipelines at 15-17, November 28, 2022 (available at <https://pstrust.org/wp-content/uploads/2022/11/11-28-22-Final-Accufacts-Hydrogen-Pipeline-Report.pdf>).

Pg. 33 of the Initial Study also states the Project is not in a coastal zone as defined by the California Coastal Act. That is not correct. The Project is in fact located in a dual jurisdiction zone requiring clearances from both the State and City levels to grant a Coastal Development Permit. Again, the Venice Dual Force Main Project was also required to fulfill this compliance and has a similar inland boundary as the proposed Scattergood Project. Therefore, prior to the issuance of a State and Local Coastal Development Permit which will be required, LAMC SEC. 12.20.2 requires the protection of SEZ zones to prevent its deterioration and destruction and LADWP must instead consider indirect effects of the construction related activities as direct effects to the ocean biota, the coastal zone, and the SEZ. The DEIR must address extensive mitigation measures to address the potential spills of contaminated water runoff, construction related water runoff, and any associated hydrogen/methane contamination that may occur at the time of construction operations.

9. LADWP MAY HAVE TO FOLLOW ADDITIONAL SB18 TRIBAL CONSULTATION PROCESS REQUIREMENTS

LADWP states on pg. 67 of the Initial Study:

“Pursuant to Assembly Bill 52, LADWP has notified California Native American tribes known to be ancestrally affiliated with the project area and is conducting consultation with tribes that have requested such regarding specific knowledge of potential tribal cultural resources on or near the project site. The impact is potentially significant, and this issue will be further analyzed in the EIR.”

AB 52 only requires Project consultation with California Native American Tribe(s) that have specifically requested to be on Agency’s permanent Tribal notification list before a Project is undertaken. The problem with this is not every impacted tribal entity is necessarily represented on this list. In contrast, the State Bill 18 process requires additional coordination with the Native American Heritage Commission (NAHC) to address the concerns of individuals listed by the NAHC with “ancestral affiliations” with the Project area. However, the SB 18 process is only required if there are changes to the General Plan or changes to land use designations. Should LADWP alter the use of a designated zone or issue a Conditional Use Permit changing the usage that extends beyond the parameters of the Project, the SB 18 process must be initiated. The DEIR must give full consideration to the AB 52 process and to the SB 18 process if initiated.

10. LADWP MUST ANALYZE IMPACTS OF ONCE-THROUGH COOLING EXTENSIONS

The Project contemplates extending the operating lives of three LADWP once-through cooling facilities to 2035 or beyond. In the CEQA process, LADWP must look at a once-through cooling compliance alternative (by 2024 without an extension or by 2029) with a five-year extension) and a non-compliance alternative (2035). In both cases, in order to comply with Section 316(b) of the Clean Water Act, the SWRCB’s developed once-through cooling power plant regulations for 19 coastal power plants that require a 93% reduction in the use of seawater for cooling purposes. OTC kills millions of fish, and fish and invertebrate larvae through impingement on screens and entrainment of planktonic larvae in the cooling water. In response to the OTC policy, ten of the nineteen coastal OTC power plants have shut down, and some have opted to shift to closed cycle cooling processes.

Scattergood units 1 and 2, which use approximately 500 MGD of ocean cooling water, are required to comply with state OTC policy by 12-31-24. LADWP is not planning to meet the compliance deadline and instead is seeking a five-year extension of the compliance deadline – independent of the Project -- under the guise of needing more time to provide grid reliability for the utility and their customers. We are concerned not only about the 2029 extension request, but also that LADWP may request yet another extension to line up with its 2035 goal. LADWP was already given 14 years to comply with the state policy which led to 14 years of ongoing harm to marine life. LADWP had over a decade to plan accordingly and comply with state OTC policy, but instead, the Department now seeks an extension to an already generous timeline for compliance.

The CEQA process must include a thorough analysis of the harm to marine life that Scattergood has already caused, will cause if granted an extension, and will cause if LADWP does not meet the 2029 deadline and/or seeks further extensions beyond 2029. The original analyses of OTC power plant harm to marine life have not been updated in over a dozen years. The SWRCB is currently reevaluating and will update the analyses by early 2024. The CEQA analysis should utilize the updated methods to analyze harm to marine life.

We also note that the SWRCB mitigation approach has not been adequate and that none of LADWP's mitigation funds have actually been used to mitigate for losses of marine life. Accordingly, the DEIR needs to develop meaningful and timely mitigation measures if once-through cooling is to continue to 2029 and possibly beyond.

Finally, the DEIR must explain and analyze the water use of the Project, whether once-through cooling is in effect or not, including the source, consumption, loss, and fate of water used for all purposes.

CONCLUSION

Thank you for your consideration of these comments. We look forward to commenting on the draft environmental impact report.

Sincerely,

Olivia Walker
Equitable Building Decarbonization Advocate
Natural Resources Defense Council

Shana Lazerow
Legal Director
Communities for a Better Environment

Benjamin Harris
Staff Attorney
Los Angeles Waterkeeper

Teresa Cheng

Senior Campaign Representative - California
Sierra Club

Annelisa Ehret Moe
Water Quality Scientist
Heal the Bay

Andrea Vega
Southern California Organizer
Food & Water Watch

Annakaren Ramirez
Policy Director
Pacoima Beautiful

Alex Jasset
Nuclear Threats & Energy Justice Manager
Physicians for Social Responsibility Los Angeles