



November 20, 2017

VIA ELECTRONIC MAIL

Erik Krause
Interim Deputy Director of Community Development
City of Glendale
Community Development Department
633 East Broadway, Room 103
Glendale, CA 91026-4386
ekrause@glendaleca.gov

Re: Comments on the Draft Environmental Impact Report for the Grayson Repowering Project

Dear Mr. Krause:

In accordance with the California Environmental Quality Act (CEQA), we submit these comments on behalf of the Sierra Club on the Draft Environmental Impact Report (DEIR) for the Grayson Repowering Project (Grayson Project).

The Glendale Department of Water and Power (GWP) proposes a project that demolishes the whole Grayson Power Plant, including all its ancillary buildings, with the exception of the recently constructed Unit 9. Following demolition, GWP proposes to build an entirely new 278 Megawatt (MW) natural gas-fired power plant.¹ This new power plant will consist of four separate turbine blocks as well as an array of support and ancillary buildings and equipment. This new power plant will be 43 MWs larger than the current power plant and is a significant expansion beyond the plant currently at the site. For context, the California Independent System Operator (CAISO) estimates that 43 MWs is enough energy for 32,250 households.² There were roughly 71,500 households in the City of Glendale in the 2011-2015 time period.³

¹ Stantec, Draft Environmental Impact Report Grayson Repowering Project, September 15, 2017, at 2.2 (hereinafter "DEIR").

² California ISO, Glossary http://www.energy.ca.gov/glossary/ISO_GLOSSARY.PDF

³ United States Census Bureau, Quick Facts: Glendale, CA <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia/HSD410215#viewtop>. The DEIR notes that GWP has "88,100 electric customers." DEIR 2.8.

With the addition of the new Grayson Project, GWP will have a total generation capacity of 328 MWs at the Grayson site.⁴

While it seems cost of this undertaking has not yet been finalized, the current estimate is half-a-billion dollars (\$500,000,000). This estimate is already \$160,000,000 more than the highest estimated provided by GWP in 2015 when it sought approval from the City Council to proceed with a new 250 MW power plant at the Grayson site.⁵ Further, it is unclear how accurate this half-a-billion dollar cost estimate is because GWP would not provide details about how the estimate was constructed, about what is included in the estimate, we do not know how accurate assigned costs are.⁶ While the cost of the power plant is not an environmental impact, understanding the projected cost is critically important here because cost is used as a basis for rejecting cleaner alternatives to the Grayson Project.

Overall, the DEIR reveals that GWP has failed to undertake the type of through analysis required by CEQA prior to approving this project. Instead, this DEIR minimizes the real and significant environmental harms that will result from building this power plant in order to make it easier to avoid scrutiny from the public and to get approval from the Glendale City Council.

In contrast to the process unfolding here, the fundamental goal of CEQA is to ensure that decisionmakers, including the public, have complete information about the environmental impacts of a proposed project before its approval. This core informational aspect of the DEIR is important to ensure the long-term protection of the environment. At the core of this effort is the Environmental Impact Report that the Courts describe as “an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”⁷ Here, the DEIR fails to meet this core requirement as it proposes to build a massive fossil-fueled power plant, claiming that doing so is the only possible way to meet Glendale’s energy need and claiming that the brand new

⁴ “As shown in Table 2-1, the Project includes replacing 235 MW gross (219 MW net) of generation capacity with 278 MW gross (262 MW net) of generation capacity. The Project would increase the total Grayson Power Plant generation capacity from 286 MW gross (267 MW net) to 328 MW gross (310 MW net), for a net increase of 42 MW gross (43 MW net).” DEIR 2.2.

⁵ City of Glendale, Report to the City Council, Agenda Item: Integrated Resource Planning Report, June 2, 2015, at 4 (hereinafter June 2015 Report to Council).

⁶ Letter from Christine A. Godinez to Angela Johnson Meszaros dated November 8, 2017, stating that “the budget estimate for the Grayson Repowering Project is \$500 Million” but declining to provide details of the estimate, stating “Please be advised that preliminary drafts, notes, or interagency or intra agency memoranda are withheld pursuant to California Government Code § 6254(a).”

⁷ *County of Inyo v. Yorty*, (1973) 32 Cal.App.3d 795, 810

Grayson Power Plant will have no significant environmental impacts. Such a determination flies in the face of facts about environmental and health impacts of fossil fueled energy. Further, the DEIR rejects clean energy alternatives that could meet the city of Glendale's energy needs without adequately exploring the feasibility of those alternatives.

CEQA does not mandate any particular outcome, but it does require that decisionmakers are fully aware of the environmental consequences of the decision being made. CEQA also requires that GWP avoid or reduce environmental damage whenever feasible by requiring changes in a project through the use of alternatives or mitigation measures. It is, therefore, unlawful for an Environmental Impact Report (EIR) to hide or conceal environmental impacts of a proposed project. Similarly, it is unlawful for an EIR to stack the deck in favor of project approval by obscuring the true scope of the project and its environmental impacts. The DEIR runs afoul of both the spirit and the law regarding disclosure of environmental impacts.

I. The project's description is inaccurate because it fails to disclose that Grayson has been sized to allow Glendale Water and Power to sell energy to the energy market.

An accurate project description, including the project's objectives, "is the *sine qua non* of an informative and legally sufficient EIR," while an inaccurate or incomplete project description "draws a red herring across the path of public input."⁸ The court will reject an EIR with an inaccurate or incomplete project description.

The Grayson DEIR lists nine objectives for the Project, all of which focus on meeting Glendale's energy needs. For example, objective number two is "Utilize current and reliable technology and control systems to provide reliable, cost effective, and flexible generation capacity for the City to serve its customer load."⁹ Purportedly, the Grayson DEIR's proposal of a new 278 MW power plant is based upon Glendale's need. However, it is clear from looking at information developed prior to the Grayson DEIR that the DEIR is hiding from the public important information necessary for understanding the massive size of this fossil fueled project: selling the energy produced by an over-sized power plant.

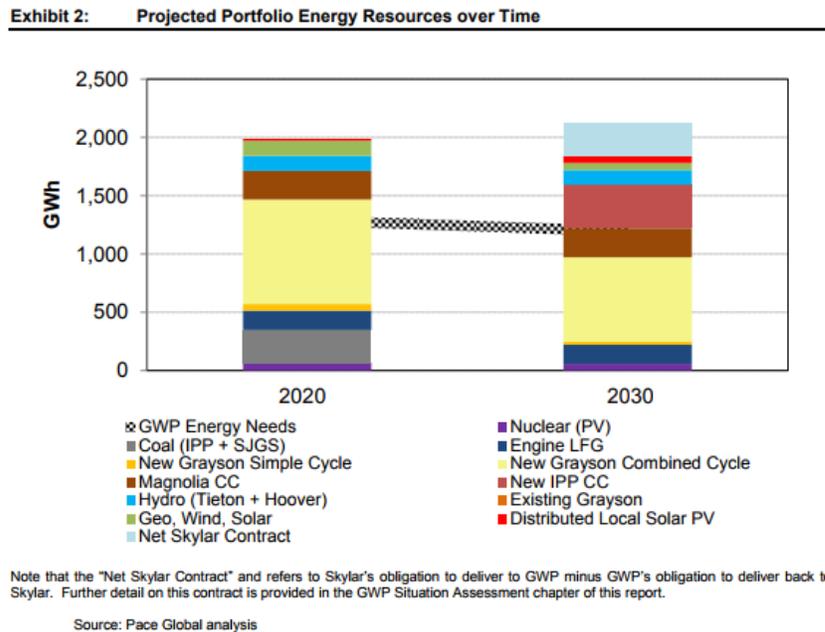
In 2015, the City of Glendale developed an Integrated Resource Plan Report (IRP). The IRP purported to "provide a roadmap for future resource decisions for GWP."¹⁰ The document also included many references to the fact that rebuilding Grayson will cause the GWP to have more energy than needed to serve Glendale's energy needs. The IRP suggests that excess energy could be sold to offset the financial risk associated with the overbuild.

⁸ *County of Inyo v. City of L.A.* (1977) 71 Cal.App.3d 185.

⁹ DEIR 2.15.

¹⁰ Pace Global, 2015 Integrated Resource Plan Report, June 30, 2015, at 6 (hereinafter "IRP"). This is the most recent IRP that GWP has developed.

For example, a graph showing the “projected portfolio energy resources over time” demonstrated that in 2020 and in 2030 GWP’s “energy needs” will be far, far below the proposed energy portfolio that includes a 250 MW Grayson power plant.¹¹ Indeed, the IRP specifically points out that “notably, GWP’s energy resources are projected to be greater than its needs, meaning that excess sales opportunities are likely to be available.”¹²



Indeed, the IRP summarized the “preferred resource plan strategy” related to Grayson as: Proceed with a re-powering of the natural gas-fired Grayson Power Plant with a combination of simple cycle and combined cycle combustion turbines totaling around 250 MW, pending further engineering study. Find a long-term municipal partner to contract for a share of the new plant’s capacity and energy in order to reduce market exposure associated with potential excess energy sales.¹³

And the “summary of key metrics for preferred resource plan” noted in the “risk” section that “since there is a larger reliance on excess energy sales, a partner for long-term offtake of

¹¹ Of course, the proposed Grayson Project is for 262 MWs, even more than was contemplated in the IRP.

¹² IRP at 7.

¹³ IRP at 6.

capacity or energy is recommended in order to mitigate the risk of relying on short-term, spot markets.”¹⁴

In conducting the portfolio analysis to compare various Grayson repower options, the IRP writes:

As can be seen, the portfolios with new combined cycles at Grayson have the capability to produce more energy than is required for meeting GWP’s native system needs, opening up the opportunity for revenues from sales of surplus power.¹⁵

Then, the IRPs “summary of portfolio analysis findings” reports under “risk” performance metric that “the 250D portfolio offers a hedge against high market prices, but relies heavily on market sales, suggesting that a long-term offtake agreement may be recommended.”¹⁶ And under the “financial flexibility” metric that “the 250D portfolio requires the highest capital expenditures and new debt. However, a contract arrangement with an offtaker could provide security in future revenue.”¹⁷

In its final summary of the portfolio analysis, the IRP notes “the 250D MW option has the highest capital investment but lowest range of costs; it has highest reliance of off-system sales in order to keep costs down.”¹⁸ Another way the IRP summarized this was to say: “the larger capacity additions at Grayson require more capital and potentially pose a risk to GWP’s financial stability.”¹⁹

It is strikingly clear from the IRP that the 250 MW option produces far more energy than is needed to meet the GWP’s energy needs. It is also clear that under the “environmental stewardship assessment” metrics—which looked only at emissions of CO₂—the 250 MW scenario was the worst environmental performer—as would be expected. For example, the IRP

¹⁴ IRP at 8.

¹⁵ IRP at 47.

¹⁶ IRP at 52.

¹⁷ IRP at 52.

¹⁸ IRP at 52.

¹⁹ It is not at all clear who the buyer of all of this surplus fossil energy could be or whether the price, if a buyer were to be found, would be sufficient to justify the high capital cost of the new fossil facilities at Grayson. Indeed, both the California Public Utilities Commission and the California Independent System Operator have found that a large surplus of natural gas plants currently exists and that this surplus will only grow in the future as the state increases its use of renewable resources. See, e.g., Ivan Penn and Ryan Menezes, Californians are paying billions for power then don’t need, Los Angeles Times, February 5, 2017, (<http://www.latimes.com/projects/la-fi-electricity-capacity/>). See, generally, California’s electricity glut, Los Angeles Times (<http://www.latimes.com/projects/la-fi-electricity-glut/>)

acknowledges that “portfolios with more energy generation...also produce larger amounts of CO2.”²⁰ And the “summary of portfolio analysis findings” notes for “environmental stewardship: Portfolios with more local generation have the highest CO2 emission footprint.”²¹

Interestingly, the DEIR confirms the fact that all the energy from the Grayson Project is not critical to meeting Glendale’s energy need by providing two pieces of information: Grayson’s construction schedule and plans for contracting with the Los Angeles Department of Water and Power (LADWP) during construction. The DEIR explains:

The demolition at the Grayson Power Plant would commence in the second quarter or early in the third quarter of 2018, and be completed in the first quarter of 2019. Construction of the Project is scheduled to commence during the first quarter of 2019.

In order to facilitate the Repowering of Grayson, Los Angeles Department of Water and Power (LADWP) has agreed to assist GWP during the repower Project in accordance with the following terms; Term – up to eight years beginning January 1, 2015, Delivery at Air Way receiving station, *Quantity up to 75 MW during peak period hours and up to 25 MW during off-peak hours, to ensure that the City will have sufficient electrical energy to serve its customers.*²²

Here, the project description is inadequate because the DEIR fails to explain that the project has been sized to do more than simply ensure that that Glendale can meet its energy needs, rather, its size is driven by the ability to sell excess energy from the power plant.²³ Further, despite the IRP’s conclusion that a 250 MW power plant would exceed Glendale’s energy need,

²⁰ IRP at 52.

²¹ IRP at 52.

²² DEIR 3.45. (emphasis added)

²³ The DEIR argues extensively that GWP has an obligation under federal law to generate enough energy to serve all of Glendale’s need at a level of the highest peak usage plus 100 MW to allow for the loss of the single largest source of energy, which is loss of a power line. *See, e.g.* DEIR 2.11. However, this requirement actually applies to the Balancing Authority within which Glendale sits—the LADWP Balancing Authority—not to Glendale. As the City acknowledged in response to a question posed seeking clarification about these purported requirements:

With respect to the single largest contingency (also known as the "most severe single contingency") and balancing authority obligations, the applicable federal reliability standard is WECC Standard BAL-002-WECC-2a. This standard requires the Balancing Authority to maintain a minimum amount of contingency reserves. GWP operates as a metered subsystem within the LADWP Balancing Authority Area. As a metered subsystem, *GWP must either self-provide or purchase from LADWP or other[] regulation and balancing services to balance the loads and resources within its metered subsystem* (i.e. within GWP's service area).

Letter from Christine A. Godinez to Angela Johnson Meszaros, October 26, 2017, at 2. (emphasis added)

GWP proposed a 278 MW power plant with no explanation for the increased size, while construction planning makes clear that without Grayson a maximum of 75 MWs is needed “to ensure that the City will have sufficient electrical energy to serve its customers.

GWP is proposing to build a power plant that is bigger than is needed to meet the City of Glendale’s native energy requirements. Building and operating this large power plant will result in increased environmental impacts beyond what would occur if the DEIR’s project was sized to only meet the City’s native load. Further, GWP overstatement of Glendale’s need facilitates the rejection of clean energy alternatives that would easily meet the actual need had it been properly stated. Because the DEIR hides this underlying objective, the public and other decisionmakers are unable to make an informed decision about the Grayson Project—and resulting environmental impact—rendering the DEIR unlawful.

II. The DEIR improperly rejects feasible alternatives that would reduce environmental impacts while meeting the project’s stated objectives

The DEIR “must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation.”²⁴ The DEIR “shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”²⁵ The DEIR has failed to meet this basic legal standard because it constructed alternatives that do not truly inform the decisionmakers and the public about reasonable, feasible, and available clean energy alternatives that would significantly reduce or eliminate environmental impacts of the Grayson Project. Further, the DEIR failed to support important assertions of fact including assertions about the costs of alternatives as compared to the project’s cost and the purported need to build more transmission capacity to use less polluting energy alternatives.

a. Clean Energy can provide feasible alternatives to the Grayson Project

There was a time, perhaps only a few years ago, when building a new massive fossil fueled power plant seemed proper for meeting energy needs. That time has passed. Now, the reality that clean energy choices can reliably and cost-effectively meet both capacity and peaking needs has been established. As a result, a DEIR that dismisses clean energy alternatives with the scant consideration given here fails to meet the information requirements of CEQA as well as the environmental protection goals that CEQA mandates.

²⁴ Guidelines 15126.6(a).

²⁵ Guidelines 15126.6(d). (emphasis added)

First, because the DEIR overstates Glendale's energy need, all of the alternatives are improperly drawn. The alternatives available to meet a 75 MW peak need are very different from those available for a 278 MW project to meet Glendale's energy need and to sell energy.

Second, recent changes in California law combined with three recent examples in the Southern California region highlight the reality of the shift to clean energy.²⁶ California's adoption of SB 350 in 2015 requires utilities to get 50 percent of their energy from renewable energy sources and double energy efficiency savings by 2030.²⁷ Of critical importance here, all of the IRP scenarios modeled Glendale's alternatives based upon reaching a 33 percent renewables mandate by 2030, not the 50 percent mandate established by SB 350.²⁸ This mistake alone requires the DEIR to completely reanalyze all the alternatives at 50 percent renewables. Also, last year, the legislature nearly passed SB 100, which would have established a 100 clean energy target by 2045 and accelerated SB 350's 50 percent mandate to 2026 and changed the 2030 mandate to 60 percent. SB 100 will be taken up again in 2018. All indications are that California will only increase and accelerate its renewable mandates and the Grayson Project will hinder, rather than support, Glendale's efforts to comply with these mandates.

- i. The California Energy Commission is proposing to reject a fossil fuel power plant license application because the identified energy need can be met with clean energy.*

In 2015, NRG submitted an Application for Certification for the proposed Puente Power Project (P3). The 271 MW power plant was to be located on the existing site of the aging Mandalay Generating Station. NRG sought certification for the project after P3 had been chosen by Southern California Edison to fill a local capacity need identified by the California Independent System Operator (CAISO) for the Ventura/Santa Barbara County region. After more than two years of an intense licensing proceeding before the California Energy Commission (CEC), the Commissioners conducting the proceeding issued a statement

²⁶ GWP's assertions in the DEIR that building Grayson increases, rather than decreases, its ability to integrate renewables is unsupported by any analysis and conflicts with the analysis in the DEIR about Glendale's energy portfolio. In particular, the DEIR shows that if GWP builds Grayson it alone would be sufficient to meet Glendale's energy needs almost every day of the year. This means that almost every day of the year *every* MW of renewable energy will be in excess of Glendale's energy need. Put another way, almost every day of the year Glendale's ratepayers will be paying for energy that they do not need, cannot use, and Glendale will not be meeting California's mandate to meet its energy need with renewable energy.

²⁷ Clean Energy and Pollution Reduction Act of 2015 (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB350); see also California Public Utilities Commission, Implementation of SB 350 (<http://www.cpuc.ca.gov/sb350/>)

²⁸ IRP at 47.

informing the parties that “it intended to issue a [proposed decision] that recommends denial of the Project.”²⁹ This proposed denial came after CAISO released a study³⁰ demonstrating that clean energy resources, including battery storage and other clean energy resources “are technologically feasible to meet local capacity requirements” in the area.³¹ CAISO also pointed out that the only way to really know the cost of deploying feasible clean resources is by putting out a Request for Offers to receive bids for providing those resources.³² As a result, the CEC has granted NRG’s request to suspend the P3 project application for six-months pending the outcome of a new process by Southern California Edison and the Public Utilities Commission to identify available, cost-effective clean energy resources to meet the energy need in the local area.

This stunning shift from meeting an identified energy need with Puente’s 271 MW fossil fueled power plant to a process to identify clean energy sources to meet that need shows how dramatically the energy landscape has changed. California energy regulators understood that moving forward with P3 in the face of the state’s focused efforts to address climate change and move the state to clean energy means making choices today that do not lock us into more fossil fuel powered energy.

- ii. *The Los Angeles Department of Water and Power has paused its plans to rebuild its natural gas plants to fully explore how to meet energy needs with clean energy.*

The Los Angeles Department of Water and Power (LADWP) has known since 2010, when the State Water Resources Control Board approved the policy to eliminate the use of ocean water to cool power plants, that it would no longer be able to avoid the need to retire its aging coastal power plant fleet. It determined that it would replace every megawatt of the existing energy capacity with a new fossil fueled fleet of power plants and began a \$2.2 billion capital effort.³³ This year, LADWP decided to “put on hold all planned local repowering projects until a

²⁹ California Energy Commission, Committee Statement Regarding the State of the Presiding Member’s Proposed Decision (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-01/TN221401_20171005T173308_Committee_Statement_re_PMPD_Status.pdf)

³⁰ California Independent System Operator, Moorpark Sub-Area Local Capacity Alternative Study, August 16, 2017. (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-01/TN220813_20170816T165328_Moorpark_SubArea_Local_Capacity_Study.pdf)

³¹ Letter from California Independent System Operator to the California Energy Commission, September 29, 2017. (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-01/TN221345_20170929T153404_CAISO_Comments_regarding_Puenete_Power_Project.pdf)

³² Ibid.

³³ Los Angeles Department of Water and Power, 2016 Briefing Book at 12. (https://www.ladwp.com/cs/idcplg?IdcService=GET_FILE&dDocName=OPLADWPCCB423407&RevisionSelectionMethod=LatestReleased)

system-wide, in-depth, and independent study/analysis is conducted to analyze the necessity for repowering [and to] identify all viable alternatives to repowering.”³⁴

iii. Southern California Edison launched a successful Preferred Resources Project to avoid building a natural gas plant to serve the energy need of more than 250,000 residential and 30,000 commercial customers

In 2015, Southern California Edison launched a project to meet a projected 300 MW of load growth in Orange County without building a fossil fueled power plant.³⁵ The first phase of this plan, called the “Preferred Resource Pilot” secured roughly 40 percent of this target with a mix of “Preferred Resources”--including battery storage, demand response, and solar—to “meet the needs of a metropolitan area, delivering the energy that is needed, when it is needed, and for as long as it is needed.”³⁶ More solicitations are planned.

b. The DEIR improperly rejected the alternatives

CEQA requires an in-depth discussion of each alternative and its impacts in a way that the public and decisionmakers can undertake a meaningful comparison with the proposed project. “An agency may not approve a project unless it finds the alternatives are infeasible, a finding that must be supported by substantial evidence in the record.”³⁷

The DEIR proposes four alternatives in addition to a “No Project” alternative required by CEQA. The four alternatives are Energy Storage Project Alternative (Storage Project), Alternative Energy Project Alternative (Alternatives Project), 150 MW Project Alternative (150 Project), and the 200 MW Project Alternative (200 Project).³⁸ Ultimately, the GWP rejected each alternative by arguing, that it “failed to meet the Project objectives to the same extent as the Project.”³⁹ The standard for consideration, however, is not whether the alternative meets the

³⁴ Los Angeles Department of Water and Power, L.A.’s Clean Energy Future, June 6, 2017. Slide 6. (http://clkrep.lacity.org/onlinedocs/2016/16-0243_misc_8-1-17.pdf)

³⁵ Southern California Edison, Preferred Resources Pilot, August 17, 2015. Slide 2. (http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-07/TN205728_20150813T151843_PREFERRED_RESOURCES_PILOT_BY_CAROLINE_McANDREWS_OF_SCE.pptx)

³⁶ O.C. Pilot Tests Whether Clean Energy Resources Can Meet Growing Needs of Major Metro Area: SCE contracts for 125 megawatts of power, including batter storage and solar, September 9, 2016. (<https://www.insideedison.com/stories/orange-county-pilot-tests-whether-clean-energy-resources-can-meet-major-metro-needs>)

³⁷ PRC § 21081.5; *Save Panoche Valley v. San Benito County*, 158 Cal.Rptr.3d 719.

³⁸ DEIR 5.3 – 5.4.

³⁹ DEIR 5.15.

objective “to the same extent as the Project” but whether the alternative would meet the basic objectives of the project while reducing environmental impacts.

While the DEIR goes out of its way to argue why each alternative purportedly does not meet certain objectives, it does not find that any of the alternatives are infeasible. Indeed, as outlined above, the state of California mandates the use of clean energy to meet energy needs and using clean energy to meet the need previously served by fossil fuel power plants is feasible.

The DEIR rejects each alternative without adequate evidence to support key assumptions underlying the basis for the rejection. For example, the DEIR provides no support for its bare assertions that there would not be sufficient energy available to recharge the batteries in the Storage Project, which is the primary reason for rejecting that alternative⁴⁰, nor is there analysis to support the assertion that new transmission lines are required for the Alternatives Project⁴¹ and the 150 Project,⁴² which is the primary reason for rejecting those alternatives. In fact, a recent planning study conducted by the California Natural Resources Agency, called “RETI 2.0,” concluded that “confirm[ed] that existing transmission capacity is available to interconnect a substantial amount of new renewable generation in several areas of the state.”⁴³

The DEIR rejected the 200 Project after acknowledging it would have less environmental impact and “meet most of the Project objectives” because it purportedly is “a higher cost option

⁴⁰ “The Energy Storage Project Alternative is completely dependent on excess energy being available to charge the batteries, primarily through daily imports over the transmission systems. During high load periods, there will not be sufficient excess capacity to charge the batteries thus compromising the ability of this Alternative to reliably serve the residents and customers of the City. While this Alternative, using batteries alone, does have reduced local environmental impacts, it does not meet several critical project objectives with regards to assuring reliability of supply at reasonable cost.” DEIR 5.30.

⁴¹ “The Alternative Energy Project Alternative produces less potential air quality, greenhouse gas emissions, hydrology and water quality, and noise impacts than the proposed Project, but it would create greater impacts in several other resource categories because this Alternative requires additional development of transmission facilities on remote site(s); it requires a significantly greater amount of land to be disturbed in connection with development of new transmission line routes.” DEIR 5.30.

⁴² “This Alternative would create greater impacts in several resource categories described above because it would require a significantly greater amount of land to be disturbed for the development of new transmission line routes.” DEIR 5.30.

⁴³ Renewable Energy Transmission Initiative 2.0 Plenary Report, California Natural Resources Agency, February 23, 2017, at 9.

than the proposed project.”⁴⁴ However, the DEIR does not provide sufficient information to support the claim that the 200 Project option is “higher cost” and seems to reach that conclusion by adding “the impact of the cost of periodic battery replacement as well as the need to dispose/recycle the batteries when they reach end of life.”⁴⁵ This is improper because there is no support for the cost numbers that are included in the DEIR for the 200 Project. Further, the DEIR does not provide *any* information at all about the cost of the proposed Grayson Project, and includes no information about the ongoing operation costs for the proposed fossil fueled power plant. Therefore, not only is a cost comparison between the 200 Project (or any of the alternatives) and the Grayson Project not possible, it seems the DEIR is rejecting the 200 Project on the basis of costs of both construction and operation. This approach adds costs to the 200 Project that are not disclosed for either the Grayson Project or any other alternative rendering this cost approach completely without basis and therefore unlawful.

In comparing the potential environment impacts of the alternatives as compared to the project, the DEIR finds that *every* alternative, *including the no project alternative*, would have similar or less environmental impact than the Grayson Project, unless a new transmission line is built.⁴⁶ However, the DEIR does not provide any meaningful analysis to establish that a new transmission line would be needed and merely speculates about environmental impacts of a transmission line. These unsupported assertions and speculations do not meet the informational requirements found in CEQA law and are not substantial evidence to support the rejection of the alternatives. Strangely, after finding that the 200 Project would have less environmental impact compared to the project, the DEIR declared the Grayson Project to be “the Environmentally Superior Alternative.”⁴⁷ That declaration, too, is unsupported by evidence in the record.

III. The DEIR Improperly Asserts That Air Quality, Geology & Soils, and Greenhouse Gas Emissions of the New Power Plant Will Be Less Than Significant

a. The air emissions are significant

As the lead agency, GWP is responsible for determining whether this power plant will have significant air quality impacts. To make that determination, GWP is required to identify a significance threshold against which to compare the emissions from the power plant. In the DEIR, GWP choose to use the South Coast Air Quality Management District’s (SCAQMD) daily

⁴⁴ DEIR 5.30.

⁴⁵ DEIR 5.27.

⁴⁶ DEIR 5.29.

⁴⁷ DEIR 5.29.

significance thresholds for operations as the threshold.⁴⁸ Every air pollutant GWP analyzed will increase as a result of building this new power plant.⁴⁹ Two of the pollutants, Nitrogen Oxides (NOx) and Volatile Organic Compounds (VOCs) clearly exceed the SCAQMDs significance threshold. The significance threshold for both NOx and VOCs is 55 pounds per day, the power plant will have a net increase of 1,475 pounds per day for NOx and 102 pounds per day for VOCs. This exceedance of the significance threshold is clearly presented in the summary chart on page 4.3.34 of the DEIR:

Table 4-26 Project Maximum Net Daily Emissions

Pollutant	NO _x (lbs./day)	CO (lbs./day)	VOC (lbs./day)	PM10 (lbs./day)	PM2.5 (lbs./day)	SO _x Lbs./day
New turbines (without maint.)	648	623	179	173	173	101
New Turbines (with maint.)	1,570	1,017	191	173	173	101
New Emergency Engine	6	3	0.19	0.01	0.01	0.01
New Cooling Towers	0	0	0	5.4	5.4	0
Facility Occupancy	0.58	1.45	0.69	0.40	0.12	0.006
Less: Replaced Equipment (actual historic)	102	497	90	162	162	26
Net Increase (turbines without maint.)	553	130	90	16	16	75
Net Increase (turbines with maint.)	1,475	524	102	16	16	75
Sig. Thresholds (Operation)	55	550	55	150	55	150
Exceed Thresholds	YES	NO	YES	NO	NO	NO
Exceed Thresholds after New Source Review Offsets	NO	N/A	NO	NO	N/A	NO
Note:						
1. The net emissions increase does not reflect emission offsets that will be required pursuant to SCAQMD Rule 1302. With the retirement of emission offsets to offset any emission increase of NO _x , VOC, PM10 and SO _x ; the net increase of all pollutants will be below the significance thresholds.						
2. CO and PM2.5 emissions are not required to be offset per SCAQMD Rule 1302 nor do they exceed the applicable SCAQMD daily mass emissions thresholds.						

While it is clear that the significance thresholds are exceeded, the DEIR seeks to confuse the otherwise clear next step in the analysis. Under CEQA, once a project's impacts exceed the significance threshold the proponent must identify that impact as significant. The next step for the CEQA analysis is to seek feasible mitigation measures to avoid significant impacts. CEQA requires that feasible mitigation be adopted. If, after adopting all feasible mitigation, the identified impacts remain significant, then the agency can do a "statement of overriding

⁴⁸ DEIR 4.3.33 ("To evaluate the air quality impacts of the Project, maximum daily emissions from the new equipment were compared with the significance daily thresholds for operations.")

⁴⁹ This table also misses a key step in the SCAQMD process for determining significance thresholds by omitting the requirement to first reduce historic actual emissions from the existing Grayson power plant to current state of the art pollution control called "Best Available Control Technology" (BACT). This BACT discount significantly increases the "net increase" in emissions resulting from the project. Taking this BACT discount into account may result in PM also exceeding the significance threshold and, therefore, also requiring mitigation.

considerations” to explain to the public why the project will move forward despite its significant environmental impact.

Here, GWP inserted an unauthorized and deeply misleading sub-step to the significance finding: it argues that the project no longer exceeded the significance threshold “after New Source Review Offsets.”⁵⁰ This sub-step short-circuits CEQAs required process of examining mitigation and alternatives for the significant air pollution that would be caused by the Grayson Project, and is therefore unlawful.

What the DEIR calls “New Source Review Offsets” are Emission Reduction Credits required by the Federal Clean Air Act as part of the Act’s tools to edge the South Coast Air Basin toward meeting the health-based National Ambient Air Quality Standards. Glendale sits in an area that is unique in the United States: this area is the only one that has *never* met *any* of the Act’s Ozone⁵¹ standards. The first Ozone standard became effective in 1979. This region has not met that standard. Subsequent to the first standard, new standards were established in 1993, 1997, 2008, and 2015. None of those standards have been met. Failure to meet this standard has real and significant environmental and health impacts, and the Grayson Project’s significant air pollution emission cause Ozone. Ozone is formed when NOx and VOC emissions combine with heat and sunlight. Ozone causes significant health problems from burning eyes to asthma and heart attack.

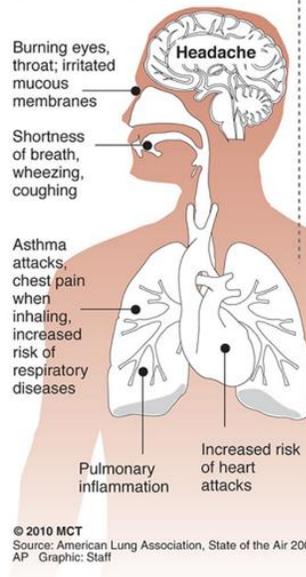
⁵⁰ DEIR 4.3.34

⁵¹ Ozone is also known as “smog.”

Why smog is harmful

Ozone, the main ingredient in smog, is one of the most widespread air pollutants and among the most dangerous.

Effects on health



How ozone forms

- 1 Oxygen in the atmosphere O_2
- 2 Nitric oxide, byproduct of combustion NO
- 3 Sunlight breaks up nitric oxide N O
- 4 Ozone formed by three oxygen atoms O_3

U.S. ozone limits

In parts per billion

• 1997-2008	84
• 2008-present	75
• New EPA proposal	60-70

© 2010 MCT
Source: American Lung Association, State of the Air 2008, AP Graphic Staff

Because the South Coast Air Basin's Ozone is so bad, and because the environmental health impacts of ozone are so severe, the significance thresholds for NO_x and VOCs are low. Those thresholds reflect the importance of facilities doing everything possible to reduce emissions at the source. In the context of CEQA, the thresholds reflect the requirement that facilities take seriously the environmental impacts of NO_x and VOCs and identify and use all feasible mitigations and alternatives to avoid emitting them. Simply declaring that the NO_x and VOC significance thresholds are not exceeded because Grayson will have Emission Reduction Credits reduces environmental protections required by CEQA to an empty exercise since all new sources of NO_x and VOCs in the South Coast Air Basin require Emission Reduction Credits. Because overall emissions in the Los Angeles Basin must be reduced in order to meet these health-based standards, supply of these Emission Reduction Credits is extremely limited, and, even if available, come at a very high price. Although a small "reserve bank" of offsets is available for "essential public services," the Project would not be eligible to tap this reserve because market sales of surplus energy do not qualify as an essential public service.

b. The greenhouse gas emissions are significant

The DEIR uses an approach to analyzing the significance of greenhouse gases (GHG) that is similar to the improper approach used for analyzing air pollution. In this section, the DEIR calculates the total GHG emission from the Grayson Project as 476,406 Metric Tons per year

(MT/year) of CO₂e⁵² and the net increase after subtracting the current emissions from Grayson as 415,832 MT/year of CO₂e.⁵³ This amount of GHG emissions is significant both because of its impact on the environment and because it clearly exceeds the significance threshold of 10,000 MT/year. Since the Grayson Project's GHG emissions exceed the significance threshold, GWP is obligated to consider all feasible mitigation measures and alternatives. If, after all feasible mitigation is adopted, Grayson's GHG emissions still exceed the threshold then GWP may do a statement of overriding considerations. What GWP cannot do, however, is simply assert that the emissions are not significant because Grayson will be part of California's cap-and-trade program.

First, the increase in GHGs caused by the Grayson Project are significant in terms of their environmental impacts. The climate crisis is real. "Scientists have high confidence that global temperatures will continue to rise for decades to come, largely due to greenhouse gases produced by human activities."⁵⁴ And we are already seeing the effects of climate change here. For example, in the Southwest "increased heat, drought and insect outbreaks, all linked to climate change, have increased wildfires. Declining water supplies, reduced agricultural yields, health impacts in cities due to heat, and flooding and erosion in coastal areas are additional concerns."⁵⁵

The Grayson Project will *add* 415,832 MT/year of CO₂e of GHG emissions. The United States Environmental Protection Agency has a tool that makes GHG emissions, which can be a little abstract, a little more concrete by giving examples of what they mean in every day terms such as how many cars driven, or how many miles by a passenger car, or how many barrels of oil consumed, or how much coal burned, or what it would take to sequester those emissions. For context, here are EPA's estimates for some equivalences of the added emissions from the Grayson Project:

⁵² DEIR 4.5.7.

⁵³ DEIR 4.5.7.

⁵⁴ NASA, Global Climate Change: Vital Signs of the Planet (<https://climate.nasa.gov/effects/>)

⁵⁵ Ibid.



The actual emissions from the Grayson Project are significant.

In addition to the real world significance, the Grayson Project exceeds the significance threshold of 10,000 MT/year of CO₂e. The DEIR explains:

As shown in Table 4-37, the net increase of GHG emissions from the operation of the Project exceeds the significance threshold of 10,000 metric tons per year. The GHG emissions

exceedance is solely contributed from operating the proposed combustion turbines and transformers.⁵⁶

Despite the clarity of this statement, the DEIR then finds that the GHG emissions from the Grayson Project are “Less than significant” before mitigation.⁵⁷ This counterintuitive claim is based on the wrongful assertion that because the Grayson Project “is required to comply with the State cap and trade program” the GHG emissions are not significant. This is wrong. Participation in the cap and trade program does not reduce emissions from the Project, rather is simply requires a Project to buy carbon permits. Its purpose is to put a price on carbon to encourage people to figure out ways to reduce GHGs; the cap and trade program itself does not reduce emissions at a project.⁵⁸ Here, just as with its air pollution, GWP is required to explore mitigation and alternatives that would reduce or eliminate GHG emissions prior to approving the Grayson Project. If the GHG emissions cannot be reduced to a level below the significance threshold, then Glendale may disclose that fact and do a statement of overriding consideration. What Glendale cannot do is ignore its obligations under CEQA.

c. The risks to the power plant from an earthquake are significant

The DEIR identified a “moderate potential for surface rupture from the Verdugo fault and other nearby active faults during the design life of the proposed development.”⁵⁹ Further, it is “expected” that strong ground shaking will occur at the Grayson Project site.⁶⁰ And, the Grayson Project site is in a known “liquefaction” zone.⁶¹ Put another way, there is a significant chance that an active earthquake fault will cause earthquake near the Grayson site and when that happens, the soil can experience significant settlement—“approximately 11 inches.”⁶²

The DEIR establishes that the risk to the project requires mitigation because it is in an established liquefaction zone, writing:

According to the State of California Seismic Hazards Zones – Burbank Quadrangle Map (released March 25, 1999), the Project area is located within a liquefaction zone, which is defined as an area where historic occurrence of liquefaction or where local geological,

⁵⁶ DEIR 4.5.7.

⁵⁷ DEIR 4.5.7.

⁵⁸ Because State law requires that overall carbon emissions be reduced, the “cap” part of cap and trade will reduce the quantity of these permits available for purchase over time. The price of these permits will increase accordingly and add more costs to the Grayson Project over time.

⁵⁹ DEIR 4.4.6.

⁶⁰ DEIR 4.4.7.

⁶¹ “Liquefaction occurs when loose, unconsolidated, water-laden soils are subject to ground shaking, causing the soils to lose cohesion.” DEIR 4.4.7.

⁶² DEIR 4.4.8.

geotechnical, and groundwater conditions indicate a potential for permanent ground displacements *such that mitigation as defined in Public Resources Code Section 2693(c) would be required.*

Being in a mapped liquefaction zone establishes that the risk of liquefaction is significant. As such, as described above, the DEIR must identify the impact as significant and adopt all feasible mitigation or alternatives to reduce that impact below significance. Further, GWP may not simply assert that “the results of additional, forthcoming geotechnical assessments within the Project Area will be utilized to further evaluate potential engineering impacts and to design possible mitigation measures as they pertain to liquefiable soils.”⁶³ CEQA does not allow the DEIR to shift mitigation identification and adoption to after approval as attempted here.⁶⁴

IV. Conclusion

Glendale Water and Power’s Draft Environmental Impact Report does not meet the clear informational requirements of the California Environmental Quality Act. It is clear that the Grayson Project is significantly larger than what is needed to meet Glendale’s energy needs. The DEIR fails both to disclose the fact that the Grayson Project is oversized and fails to clearly establish the environmental impacts of this massive project. In addition, the massive size of the project resulted in flawed construction and analysis of alternatives to the Project. The alternatives analysis that was constructed is legally inadequate because it fails to inform meaningful consideration of feasible alternatives to the proposed project. Finally, the DEIR improperly hides the significant impacts of air pollution, greenhouse gas emissions, and earthquake risk and as a result fails to properly consider mitigation of and alternatives to the Grayson Project. Left uncorrected, each of these defects would render a Final Environmental Impact Report unlawful.

Respectfully submitted,



Angela Johnson Meszaros
Staff Attorney

⁶³ DEIR 4.4.7 – 4.4.8.