

ATTACHMENT 4

Responses to March 13, 2013 letters from CURE
and Pasadena Heritage

C.U.R.E.

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March 13, 2013

Via Email and Overnight Mail

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and Planning Commission
c/o Annabella O. Atendido
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Re: Comments on Final Environmental Impact Report for the Glenarm
Power Plant Repowering Project

Dear Chair Hall and Planning Commissioners:

We write on behalf of California Unions for Reliable Energy ("CURE") to comment on the City of Pasadena's Final Environmental Impact Report ("FEIR") for the Glenarm Power Plant Repowering Project ("Project"). On January 31, 2013, CURE submitted comments on the City's Draft EIR ("DEIR") for the Project. Based on our review of the FEIR, the City failed to adequately respond to those comments, as required by the California Environmental Quality Act ("CEQA"). Importantly, those comments alerted the City to several instances in which the City failed to analyze significant public health and environmental impacts, also as required by CEQA. Therefore, the FEIR does not comply with State law, and a revised EIR must be recirculated for public and agency review.

C-1

The FEIR does not comply with CEQA for three reasons. First, the City made significant changes to the EIR when it added a new alternative, Alternative 3A, after the public review period on the DEIR. The City's new alternative adds significant new information that the City has not previously provided the public with an opportunity to review and comment on. CEQA mandates that the City recirculate an EIR when a public agency adds significant new information after the public review period. Therefore, the City is required to recirculate a revised DEIR to the public before the Planning Commission or the City Council may consider

C-2

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whether to certify the EIR. Second, the City did not provide a good faith, reasoned response to many of CURE's comments on the DEIR, as required by CEQA. The City's failure to provide an adequate response to comments leaves many potentially significant impacts unevaluated and unmitigated in the FEIR. The City must revise the EIR to include an adequate response to agency and public comments, or add the required analysis and recirculate the EIR for public review. Finally, the Project may result in significant unanalyzed and unmitigated impacts.

C-3

C-4

As a result of the City's errors and omissions, the FEIR fails to comply with the requirements of CEQA and may not be used as the basis for approving the Project. We urge the Planning Commission to direct staff to prepare a revised DEIR or recommend that the City Council not certify the FEIR for the Project and deny all permits and entitlements for the Project¹ until an adequate, revised EIR is circulated for public review and comment.

C-5

These comments were prepared with the assistance of technical experts Valorie Thompson and Matt Hagemann. Their comments are attached hereto as Attachments 1 and 2. Their curriculum vitae were submitted with their comments on the DEIR. Our January 31, 2013 comments on the DEIR continue to apply to the FEIR and are incorporated by reference.

C-6

I. THE CITY ADDED SIGNIFICANT NEW INFORMATION THAT REQUIRES RECIRCULATION OF THE EIR FOR PUBLIC REVIEW AND COMMENT

The City made substantive changes to the FEIR, yet failed to recirculate an EIR for public review and comment, as required by CEQA. Contrary to statements made in the FEIR, the changes constitute "significant new information" that requires the City to recirculate the EIR.² The term "information" includes "changes

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¹ These include, but are not limited to, certify the EIR, adopt the findings and approve a Conditional Use Permit in accordance with conditions of approval, adopt the findings and approve a Variance in accordance with conditions of approval, adopt the findings and approve two Minor Variances in accordance with conditions of approval, take action and make findings to close a portion of State Street with conditions, make a finding that closing a portion of State Street is consistent with the General Plan, adopt a resolution of intention to close a portion of State Street and adopt a resolution to close a portion State Street, as set forth in the City's Staff Report for the March 13, 2013 Planning Commission hearing.

² Pub. Resources Code § 21092.1; 14 Cal. Code Regs. § 15088.5 (all further references to Cal. Code Regs. will be "CEQA Guidelines").

in the project or environmental setting as well as additional data or other information.”³ New information is “significant” when its addition deprives the public of a meaningful opportunity to comment on substantial adverse impacts from projects or feasible mitigation measures that the project’s proponents decline to adopt.⁴ Specifically, recirculation is required when the new information added shows: (1) a new significant environmental impact from the project or from a mitigation measure; (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a project alternative or mitigation measure, considerably different from those considered in the EIR, that would lessen the environmental impacts, but the project opponents refuse to adopt it; or (4) the draft EIR was so inadequate and conclusory that public comment was meaningless.⁵

C-7
Cont’d

Here, the FEIR proposes a new alternative, Alternative 3A, which is considerably different from those considered in the DEIR and which is now staff’s “Preferred Alternative.”⁶ Therefore, this new alternative falls squarely within the definition of significant new information triggering recirculation of a DEIR. Alternative 3A includes, among other things, the construction of a new 3,850 square-foot modular building to house the control room facilities, construction of a 12-foot concrete wall, installation of a 10-foot chain link gate, and the removal of trees.⁷

C-8

The FEIR states that Alternative 3A is a “variation on Alternative 3,” which was analyzed in the DEIR, but it is not. Alternative 3A is a significant departure from Alternative 3. Alternative 3, as described and analyzed in the DEIR, proposes that the existing unit B-3 control room on the Broadway Plant site provide control facilities for the new GT-5 unit. Alternative 3A proposes something entirely different. Alternative 3A includes the construction of a 3,850 square-foot modular building to house new control room facilities. The building would occupy a portion of the employee parking identified in the DEIR. Alternative 3A also includes constructing a 12-foot high concrete wall to screen the industrial appearance of the site, a 10-foot high chain link gate along State Street, and the removal of trees.⁸

C-9

³ CEQA Guidelines § 15088.5.

⁴ *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1129-130.

⁵ *Id.* at 1130; CEQA Guidelines § 15088.5(a).

⁶ City’s Staff Report for the March 13, 2013 Planning Commission Hearing, p. 3 (Staff proposes approval of Alternative 3A, the “Preferred Alternative”).

⁷ FEIR, pp. 2-9 – 2-10.

⁸ *Id.*

Alternative 3A is not a variation of Alternative 3 at all – it is an entirely *new* Project alternative that includes the construction of *new* Project components which were *not previously analyzed* in the DEIR.

C-9
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The FEIR states, without any support, that the new Project components proposed in Alternative 3A would result in the same or slightly reduced significant impacts as the Project analyzed in the DEIR.⁹ The FEIR fails to provide any evidence that construction of a 3,850 square-foot building, a 12-foot high concrete wall and a 10-foot high chain link gate, among other components proposed in Alternative 3A, would not result in new or more severe impacts than were analyzed in the DEIR. Alternative 3A constitutes significant new information that the public has not had an opportunity to review and comment upon. The City cannot approve the Project until it recirculates the EIR for public review and comment.

C-10

II. THE CITY REFUSES TO DISCLOSE THE PRESENCE OF A FORMER MUNICIPAL INCINERATOR ON THE PROJECT SITE AND, THEREFORE, THE FEIR'S DESCRIPTION OF THE ENVIRONMENTAL SETTING IS DEFICIENT

C-11

Describing the environmental setting accurately and completely is critical to an accurate, meaningful evaluation of environmental impacts. "Before the impacts of a Project can be assessed and mitigation measures considered, an [environmental review document] must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined."¹⁰ CURE's comments on the DEIR explained that the environmental setting in the DEIR was inadequate because it omitted highly relevant information regarding a former municipal incinerator at the Project site that may have contaminated soil with dioxins. The FEIR is equally deficient.

In comments on the DEIR, CURE and hazardous materials expert Matt Hagemann stated that the City failed to disclose the existence of a former municipal incinerator on the Project site. Mr. Hagemann provided evidence of the incinerator, including maps detailing the location of the incinerator and articles with pictures of the incinerator.¹¹ Mr. Hagemann also explained that the former incinerator is a major source of highly toxic dioxins which may have impacted soils and would pose

C-12

⁹ *Id.*, pp. 2-13 – 2-22.

¹⁰ *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.

¹¹ CURE Comments on DEIR, Attachment 1, pp. 2-3.

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a risk to construction workers.”¹² Further, although soil testing was conducted on the Project site, testing was not performed for dioxins. Thus, the City failed to disclose the potential presence of highly toxic dioxins on the Project site.¹³

C-13

Despite this evidence, the City still refuses to disclose the existence of the incinerator on the Project site. In response to CURE’s and Mr. Hagemann’s comments and evidence, the FEIR states that the “City has no extant records of the existence of a municipal incinerator on the Power Plant property, and cannot provide any further information.”¹⁴ Despite being provided with the necessary records and information, the City refuses to acknowledge the former municipal incinerator and, as a result, the FEIR fails to describe the existing setting for purposes of conducting an analysis of the Project’s potential impacts to workers, nearby residents and schoolchildren from soil contamination.

C-14

III. THE FEIR’S CONCLUSIONS REGARDING POTENTIALLY SIGNIFICANT PROJECT IMPACTS ARE UNSUPPORTED BY SUBSTANTIAL EVIDENCE; THE FEIR FAILS TO INCORPORATE ALL FEASIBLE MITIGATION MEASURES NECESSARY TO REDUCE SUCH IMPACTS TO A LEVEL OF INSIGNIFICANCE

C-15

A. Air Quality Impacts

1. *The FEIR Fails to Disclose that the Project May Be Subject to the Federal Prevention of Significant Deterioration Regulations for PM₁₀*

Federal Prevention of Significant Deterioration (“PSD”) requirements apply to “preconstruction review of stationary sources that emit attainment air contaminants.”¹⁵ The Project is located in the South Coast Air Basin, which is currently a non-attainment area for PM₁₀. However, the California Air Resources Board approved SCAQMD’s PM₁₀ request to redesignate the Basin as an attainment area. In April of 2010, the request was transmitted to the U.S. EPA for review and approval. Thus, redesignation of the South Coast Air Basin to an attainment area for PM₁₀ is pending and, according to air quality expert Dr. Valorie

¹² *Id.*, p. 4.

¹³ *Id.*

¹⁴ FEIR, p. 2-157.

¹⁵ South Coast Air Quality Management District (“SCAQMD”) Rule 1701(b).
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Thompson, will likely be approved.¹⁶ This means that PSD requirements would apply to the Project and a PSD permit must be evaluated in an environmental review document, pursuant to CEQA. However, the FEIR does not analyze such a permit or the applicable requirements.

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CURE commented that the DEIR failed as an informational document because it did not disclose that the Project may be subject to PSD regulations and failed to show how the Project would comply with PSD requirements. Dr. Thompson provided an analysis of the applicability of PSD requirements to the Project. Dr. Thompson concluded that, because the Project's two turbine options would both cause a significant increase in PM₁₀ emissions (defined by SCAQMD as 15 tons/year), the Project would be subject to PSD requirements if, prior to SCAQMD's issuance of a permit for the Project, the U.S. EPA redesignated the South Coast Air Basin as an attainment area for PM₁₀. In response, the FEIR states that the Project is exempt from PSD requirements because *at the time the City submitted its permit application to SCAQMD*, the South Coast Air Basin was designated as a non-attainment area for PM₁₀.¹⁷ The FEIR provides no further analysis of the applicability of PSD requirements to the Project for PM₁₀.

The FEIR fails to account for the likelihood that the U.S. EPA will redesignate the South Coast Air Basin as an attainment area for PM₁₀, and that if redesignation occurs prior to SCAQMD's issuance of a permit for the Project, the Project would be subject to PSD requirements. If the U.S. EPA redesignates the South Coast Air Basin as an attainment area for PM₁₀ *prior to SCAQMD's issuance of a permit for the Project*, the Project will be subject to PSD requirements.¹⁸ Therefore, the FEIR's conclusion that the Project is exempt from PSD requirements is not supported by substantial evidence. The City must revise and recirculate an EIR that discloses the potential applicability of PSD regulations to the Project and provides a description of how the Project will meet the requirements of PSD regulations.

¹⁶ See Attachment 1: Thompson Comments on Glenarm Power Plant Repowering Project FEIR, March 12, 20113, p. 1.

¹⁷ FEIR, p. 2-260.

¹⁸ Memorandum from Stephen D. Page, U.S. EPA Office of Air Quality Planning and Standards, *Timely Processing of Prevention of Significant Deterioration (PSD) Permits when WPA or a PSD-Delegated Air Agency Issues the Permit*, October 15, 2012.

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2. *The FEIR Fails to Adequately Analyze Significant Impacts from the Project's Contribution to Existing Violations of PM_{2.5} Standards*

C-16

The DEIR concluded that the Project would not cause significant impacts from an increase of PM_{2.5} emissions.¹⁹ Based on Dr. Thompson's analysis, CURE commented that the DEIR's analysis of potentially significant impacts from PM_{2.5} emissions was flawed because it failed to account for background concentrations of PM_{2.5}, including emissions from the four turbines that exist on the Project site, GT-1 through GT-4. CURE provided evidence that, had the City properly considered background concentrations of PM_{2.5}, the DEIR's conclusion would have been different – i.e., the Project would contribute to existing violations of the California Ambient Air Quality Standard and National Ambient Air Quality Standard for PM_{2.5}.

In response to CURE's and Dr. Thompson's comments, the FEIR now admits that emissions of PM_{2.5} during Project commissioning are above SCAQMD's significance threshold of 55 lbs/day.²⁰ Despite this, the FEIR concludes that the Project would not result in a significant impact from PM_{2.5} emissions because dispersion modeling shows that the incremental increase in PM_{2.5} concentration is less than SCAQMD's incremental impact threshold of 2.5ug/m³.²¹ The City's analysis is flawed and its conclusion is not supported by substantial evidence.

C-17

As Dr. Thompson explains in her attached comments, the FEIR misinterprets and misapplies SCAQMD's significance thresholds.²² Dr. Thompson goes on to describe how to appropriately apply SCAQMD's significance thresholds. SCAQMD has two significance thresholds, which apply to projects within the South Coast Air Basin: (1) the emissions significance threshold, which is defined by an emission level (in the case of PM_{2.5}, the emission threshold is 55 lbs/day); and (2) the localized significance threshold, which is defined by an incremental increase in pollutant concentration (in the case of PM_{2.5}, the concentration threshold is 2.5 µg/m³).²³ The emissions significance threshold is an indication of whether a project would result in a significant regional impact to the air basin.²⁴ If a project's emissions are above

C-18

¹⁹ DEIR, pp. 4.B-44 – 45.

²⁰ FEIR, p. 2-263.

²¹ *Id.*

²² Attachment 1, pp. 2-3.

²³ *Id.*, p. 2.

²⁴ *Id.*

the emissions significance threshold, SCAQMD views the impact as significant.²⁵ The localized significance threshold (defined in terms of an incremental increase in pollutant concentration), on the other hand, is used to determine whether a project would result in a significant localized impact to nearby receptors.²⁶

C-18
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Here, the Project's PM_{2.5} emissions during Project commissioning are more than SCAQMD's emissions significance threshold of 55 lbs/day.²⁷ Therefore, the Project would result in a significant regional impact to the South Coast Air Basin. The FEIR fails to disclose this significant impact and the FEIR's conclusion that the Project would not result in a significant impact from PM_{2.5} emissions is not supported by substantial evidence.

3. *The FEIR Fails to Adequately Analyze Potentially Significant Impacts to Sensitive Receptors from TAC Emissions*

C-19

The DEIR evaluated impacts to sensitive receptors from toxic air contaminant ("TAC") emissions and acknowledged that the Project would result in TAC emissions from the combustion of natural gas in GT-5 and from the cooling tower.²⁸ The DEIR provided that the nearest sensitive receptors to the Project are residences approximately 64 meters to the west and 130 meters to the south, and a school approximately 1,967 meters to the east.²⁹ However, The DEIR concluded that the Project's impacts to sensitive receptors from the Project's TAC emissions would be less than significant.³⁰

Based on Dr. Thompson's analysis of the Project's air quality impacts, CURE provided evidence that the DEIR underestimated and failed to fully analyze the Project's potentially significant impacts to sensitive receptors, including nearby residences and schoolchildren, from TAC emissions. CURE provided evidence that the DEIR underestimated TAC emissions from commissioning and startup of GT-5 because the DEIR failed to account for stack parameters during commissioning and startup. CURE also commented that the DEIR failed to support its conclusion that Project impacts from construction-related diesel particulate emissions would be less than significant because the DEIR did not provide a quantitative analysis of

C-20

²⁵ *Id.*

²⁶ *Id.*, pp. 2-3.

²⁷ FEIR, p. 2-263.

²⁸ DEIR, p. 4.B-47.

²⁹ *Id.*, p. 4.B-45.

³⁰ *Id.*, p. 4.B-46.

lifetime cancer risk that included diesel particulate emissions from construction equipment and on-road trucks.

C-20
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The City's response in the FEIR states that it is not appropriate to add TAC emissions from short-term activities, such as commissioning and construction, to an assessment of long-term health risks.³¹ The FEIR also states that "20 haul trucks traveling on an adjacent roadway passing by a receptor is an insufficient number of trucks to result in elevated DPM concentrations at a single location what would exceed risk-based concentration thresholds," and, therefore, the Project would not result in a significant health risk.³² The City's response is not supported by substantial evidence.

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Evidence shows that the City should include TAC emissions from commissioning and construction in its long-term health risks assessment. As Dr. Thompson explains in her attached comments, several agencies in the Los Angeles area properly include short-term construction emissions in health risk assessments in order to provide a complete assessment of TAC impacts.³³ For example, the Ports of Long Beach and Los Angeles include construction emissions in their health risk assessments in accordance with their health risk assessment protocols that were developed in coordination with SCAQMD.³⁴ The Los Angeles Department of Water and Power also includes construction health risk assessments in their CEQA documents.³⁵ To adequately evaluate the Project's impacts to sensitive receptors from TAC emissions, the City must include TAC emissions from commissioning and construction in its long-term health risks assessment.

The City's analysis must include, among other TACs, diesel particulate emissions from construction-related on-road trucks. Dr. Thompson explains that the FEIR's conclusion, that construction trucks traveling from the Project site would not cause significant health risks to sensitive receptors from diesel particulate emissions, is unsubstantiated.³⁶ The FEIR states that, because construction activities would not result in an exceedance of the localized significance threshold for PM_{2.5}, the Project would not result in a significant health risk.³⁷ Dr. Thompson

³¹ FEIR, p. 2-267.

³² *Id.*, pp. 2-266 – 2-267.

³³ Attachment 1, p. 3.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*, pp. 3-4.

³⁷ FEIR, p. 2-266.

explains that the FEIR's analysis is all wrong. According to Dr. Thompson, it is incorrect to use the localized significance threshold for PM_{2.5} as a basis for determining significant health risks from exposure to diesel particulate emissions – they are two different issues.³⁸ In her attached comments, Dr. Thompson provides an example which shows that a significant health risk may result from exposure to diesel particulate emissions even if construction activities would not cause an exceedance of the localized significance threshold for PM_{2.5}.³⁹

C-21
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The FEIR continues to underestimate the Project's potentially significant impacts to sensitive receptors from TAC emissions. The City must conduct an adequate analysis which includes emissions from construction and commissioning. The City cannot approve the Project until it revises the EIR to include a complete analysis of the Project's potentially significant impacts to sensitive receptors from TAC emissions.

C-22

4. *The FEIR Fails to Adequately Mitigate Significant Impacts from PM_{2.5} Emissions*

C-23

The DEIR acknowledged that the Projects PM_{2.5} emissions are above the SCAQMD significance threshold of 55 lbs/day.⁴⁰ Yet, the DEIR concluded that the Project's impacts from PM_{2.5} emissions would be less than significant and provided no mitigation to reduce impacts from PM_{2.5} emissions.

CURE commented, based on Dr. Thompson's expert opinion, that the Project would result in potentially significant impacts from PM_{2.5} emissions and the EIR must provide mitigation measures for these significant impacts. CURE's comments included possible mitigation measures, such as the installation of particulate control devices that are designed to reduce directly emitted PM_{2.5} on the existing on-site combustion sources, reducing the temperature of the gas stream and increasing collection of condensable PM_{2.5} through use of a wet electrostatic precipitator or other control device, and the installation of diesel oxidation catalysts and/or filters on existing diesel-fired equipment on site.

Despite CURE's and Dr. Thompson's comments, the FEIR concludes that the Project would not result in a significant impact from PM_{2.5} emissions and, therefore,

³⁸ Attachment 1, p. 4.

³⁹ *Id.*

⁴⁰ DEIR, p. 4.B-38.
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no mitigation measures are required. The FEIR's conclusion is not supported by substantial evidence.

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As described above, expert evidence shows that the Project would result in significant impacts from PM_{2.5} emissions. Therefore, mitigation measures to reduce the impacts to less-than-significant levels are required. The measures proposed by CURE in its comments on the DEIR (described above) remain applicable to the Project and should be included in a revised EIR.

B. Impacts from Soil Contamination

C-24

As discussed above in comments regarding the Project's environmental setting, the FEIR still severely understates the nature and extent of on-site contamination because the FEIR completely fails to disclose a municipal incinerator formerly located on the Project site. CURE submitted comments on the DEIR, supported by substantial evidence, stating that during the 30 years that the municipal incinerator operated on the Project site, dioxins likely formed and settled on soils that will be disturbed during Project construction. CURE provided evidence that construction workers, nearby residents and schoolchildren may be significantly impacted from exposure to highly toxic dioxins during Project construction. Based on hazardous materials expert Hagemann's opinion, CURE recommended that the City conduct soil sampling for dioxins in the area where Project construction will occur. Further, if the results exceed construction worker and human health screening levels, CURE commented that the City must notify the appropriate regulatory agencies, must conduct site specific health risk evaluations, and must provide mitigation measures to ensure that workers, nearby residents and schoolchildren will not be significantly impacted by the excavation of dioxin-contaminated soil.

The City discounted all of CURE's and Mr. Hagemann's comments regarding the former municipal incinerator and dioxins contamination. The FEIR states that the "City has no extant records of the existence of a municipal incinerator on the Power Plant property, and cannot provide any further information."⁴¹ As Mr. Hagemann states in his attached comments, the City's response is completely

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⁴¹ FEIR, p. 2-157.
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unsupported and is "wholly inadequate."⁴² The FEIR contains no analysis of the Project's potentially significant impacts associated with the former incinerator.

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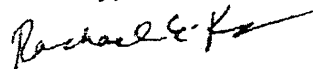
In his comments, Mr. Hagemann reiterates the need for the City to evaluate soils at the Project site for the presence of dioxins.⁴³ Mr. Hagemann explains that no previous soil contamination investigations conducted on the Project site evaluated the potential presence of dioxins on the Project site.⁴⁴ Thus, the Project's potentially significant impacts to construction workers, nearby residents and schoolchildren from exposure to highly toxic dioxins remain completely unanalyzed. As a result, the FEIR also fails to include any mitigation measures to ensure that workers, nearby residents and schoolchildren will not be significantly impacted by the excavation of dioxin-contaminated soil.

V. CONCLUSION

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On a procedural level, significant new information has been added to the FEIR without an opportunity for public review and comment. Therefore, CEQA requires the City to recirculate the EIR. On a substantive level, the FEIR is inadequate because it does not address many of the significant concerns raised during the public comment period on the DEIR. The FEIR fails to provide substantial evidence to support its conclusions about existing environmental conditions, severity of environmental impacts, and the feasibility of mitigation measures, as required by CEQA. Therefore, the Planning Commission must either direct staff to prepare and recirculate a revised DEIR or recommend that the City Council not certify the FEIR for the Project and deny all permits and entitlements for the Project until an adequate, revised EIR is circulated for public review and comment.

Sincerely,



Rachael E. Koss

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Attachments

⁴² See Attachment 2: Hagemann Comments on Glenarm Power Plant Repowering Project FEIR, March 12, 2013, p. 1.

⁴³ *Id.*

⁴⁴ *Id.*, pp. 1-2.

ATTACHMENT 1



March 12, 2013

Ms. Rachael Koss
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Ste. 1000
South San Francisco, CA 94080

Dear Ms. Koss:

Per your request I have reviewed the *Final Environmental Impact Report* for the Glenarm Power Plant Repowering Project, including the responses to comments I provided on the Air Quality and Greenhouse Gas Analyses in December 2012. In my opinion, the responses to comments do not address all of the issues raised in my comments. I have therefore provided additional comments on the responses as follows:

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1. **The Response to Comments does not address the potential that the project may be subject to the Federal Prevention of Significant Deterioration Regulations.**

C-28

As stated in my December 2012 comments, the GE LM6000 turbine would result in a net emission increase of 16 tons/year of both PM₁₀ and PM_{2.5}, and the Rolls Royce Trent 60 turbine would result in a net emission increase of 20 tons/year of both PM₁₀ and PM_{2.5}. According to the PSD regulations, as adopted in South Coast Air Quality Management District (SCAQMD) Regulation XVII, a significant increase in air contaminant emissions is defined as 15 tons/year for PM₁₀. The California Air Resources Board (ARB) approved the SCAQMD's PM₁₀ Redesignation Request, Maintenance Plan, and Transportation Conformity Budgets for the South Coast Air Basin, and on April 28, 2010, the Redesignation Request was transmitted to the U.S. EPA. Redesignation of the South Coast Air Basin to an attainment area for PM₁₀ is pending, and will likely be approved.

The response to comments indicates that no Federal Register notice has been issued indicating that the South Coast Air Basin has been redesignated as an attainment area for PM₁₀. While I agree that the redesignation has not yet been approved, the Project has not received a Permit to Construct from the SCAQMD. The response to comments incorrectly states that an excerpt from the Permit to Construct/Permit to Operate was included in Appendix C of the Draft EIR.¹ Appendix C of the Draft EIR² does not

¹ City of Pasadena, 2013. *Final Environmental Impact Report, Pasadena Water and Power Glenarm Repowering Project* (Final EIR), Page 2-260.



contain an excerpt from the Permit to Construct/Permit to Operate, which would have been issued by the SCAQMD; the Appendix only contains an excerpt from the Application for Permit to Construct without any communication or confirmation from the SCAQMD as to the status of the permit application. It cannot be concluded based on the submittal of an application whether the SCAQMD has reviewed the application or whether the SCAQMD has deemed the application complete, and until the permit is actually issued, the City cannot conclude that the South Coast Air Basin will not be redesignated as an attainment area, and that the Federal Prevention of Significant Deterioration regulations will not apply. As stated in the U.S. EPA's Technical Memorandum to Regional Air Division Directors,³ new regulations may become effective after the date that EPA or the applicable regulatory agency has deemed the application complete. The new regulations would apply to any final permit issued to a source after the effective date of the requirements unless the EPA has specifically provided for grandfathering of specific requirements on applications. As EPA states, when permitting requirements change, an application that does not address the new requirements will be incomplete by operation of law.

C-28
Cont'd

II. The Response to Comments did not address the Project's contribution to existing violations of the PM_{2.5} standards.

C-29

The response to comments acknowledges that emissions of PM_{2.5} during commissioning are above the SCAQMD's significance threshold of 55 lbs/day.⁴ The response to comments then states that air dispersion modeling was conducted and that, because the modeling demonstrates that the incremental increase in PM_{2.5} concentration is less than the incremental impact threshold of 2.5 µg/m³ that is set forth in Rule 1303 and the SCAQMD's Localized Significance Thresholds guidance,⁵ there is no significant impact. The SCAQMD does not interpret their significance thresholds in this manner.

According to the SCAQMD,⁶ there are two significance thresholds, both of which apply to projects within the South Coast Air Basin: the emissions significance threshold, which is defined by an emission level (in the case of PM_{2.5}, the emission threshold is 55 lbs/day), and the localized significance threshold, which is defined by an incremental increase in pollutant concentration (in the case of PM_{2.5}, the concentration threshold is 2.5 µg/m³). The SCAQMD does not utilize the emission threshold as a means of determining whether modeling is required. Rather, the emission threshold is an

² City of Pasadena. 2012. *Draft Environmental Impact Report, Pasadena Water and Power Glenarm Repowering Project*, Appendix C.

³ U.S. EPA. 2012. *Timely Processing of Prevention of Significant Deterioration (PSD) Permits when EPA or a PSD-Delegated Air Agency Issues the Permit*. Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards, October 15.

⁴ Final EIR, Page 2-263.

⁵ SCAQMD. 2008. *Final Localized Significance Threshold Methodology*. Revised July.

⁶ Koizumi, James. 2013. Personal communication, March 6.



Scientific Resources Associated

indication of whether the project would result in a significant regional impact to the air basin. If a project's emissions are above the emission threshold, the SCAQMD views the impact as significant. The localized significance threshold (defined in terms of an incremental increase in pollutant concentration) determines whether the project would result in a significant localized impact to nearby receptors rather than indicating the project's contribution to emissions in the air basin.

C-29
Cont'd

The PM_{2.5} impact during commissioning for the Project is above the SCAQMD's significance threshold of 55 lbs/day, and should have been identified as a significant impact. The SCAQMD does not identify a duration above which the significance threshold can be exceeded; therefore, a short term exceedance of this threshold must be identified as a significant impact.

III. The Response to Comments on the Air Quality Analysis did not address the lack of a complete evaluation of potential impacts to sensitive receptors.

C-30

The response states that it is not appropriate to add toxic air contaminant impacts from short-term activities, such as commissioning and construction, to account for their contribution to long-term risk.⁷ Actually, several agencies include short-term construction emissions in the health risk assessment to provide a complete analysis of TAC impacts. The Ports of Long Beach and Los Angeles include construction emissions in their health risk assessments in accordance with their health risk assessment protocols that were developed in coordination with the SCAQMD.^{8,9,10,11} In addition, other agencies such as the Los Angeles Department of Water and Power have included construction health risk assessments in their CEQA documents.¹² The response is therefore not correct in stating that the inclusion of construction and commissioning TAC impacts is not appropriate in evaluating health risks, and these risks should have been included in the analysis.

The Final EIR states that the contribution from trucks traveling from the site would not contribute to substantially elevated DPM concentrations.¹³ The Final EIR indicates that because construction activities would not cause an exceedance of the localized

C-31

⁷ Final EIR, Page 2-267.

⁸ Port of Long Beach. 2007. *Air Quality and Risk Assessment Analysis Protocol for Proposed Projects at the Port of Long Beach*. August.

⁹ U.S. Army Corps of Engineers and Port of Long Beach. 2009. *Middle Harbor Redevelopment Project Final Environmental Impact Statement/Final Environmental Impact Report and Application Summary Report*. April

¹⁰ Port of Los Angeles. 2008. *Health Risk Assessment Protocol for Port of Los Angeles Terminal Improvement Projects*.

¹¹ Port of Los Angeles. 2013. *Southern California International Gateway Project Final Environmental Impact Report*. February.

¹² Los Angeles Department of Water and Power. 2012. *Draft Environmental Impact Report, Tujunga Spreading Grounds*. August.

¹³ Final EIR, Page 2-266.



significance threshold for PM_{2.5}, which is “associated with DPM emissions”, the Project would not result in a significant health risk. This does not amount to a conclusive demonstration that no impact from exposure to DPM would occur. If, for example, the concentration of PM_{2.5} were 6 µg/m³ (which is the localized significance threshold used in their air quality analysis), and if this concentration is adjusted using the U.S. EPA’s scaling factor of 0.2 to convert from a 24-hour concentration to an annual concentration (based on EPA’s recommended 1-hour scaling factors),¹⁴ the annual concentration would be 1.2 µg/m³. If this concentration is multiplied by the unit risk factor for DPM of 3 x 10⁻⁴ (µg/m³)⁻¹, the excess cancer risk would be 360 in a million (3.6 x 10⁻⁴), which is above the SCAQMD’s significance threshold of 10 in a million. While I recognize that the unit risk factor takes into account a 70-year exposure scenario, the analysis should address the contribution from both construction and commissioning emissions to the overall health risks. It is not adequate to compare the localized significance threshold with risk from exposure to DPM; they are two different issues.

C-31
Cont'd

IV. The Response to Comments did not address mitigation measures to address significant impacts.

C-32

The Final EIR states that because impacts from PM_{2.5} are not significant, no mitigation measures are necessary.¹⁵ For the reasons stated in Comments I-III, I disagree that the analysis demonstrates that no significant impacts result from the Project. Because impacts should have been identified as significant, mitigation measures should have been proposed and an evaluation of their potential to reduce impacts to less than significant levels should have been provided. Furthermore, it is not possible to conclude that impacts from DPM are less than significant because a complete analysis was not provided.

V. Conclusions

C-33

In conclusion, the Responses to Comments in the *Final Environmental Impact Report* did not address the potential for significant impacts, and did not provide mitigation measures to reduce these impacts to less than significant levels. In my opinion, the City should include a complete analysis of potential impacts identified in this letter, and should include the requirement for mitigation measures that will be implemented to reduce or avoid the Project’s impacts.

¹⁴ U.S. EPA, 1992: Screening Procedures for Estimating the Air Quality Impact of Stationary Sources. EPA-454/R-92-019.

¹⁵ Final EIR, Page 2-270.



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Sincerely,

A handwritten signature in cursive script that reads "Valorie L. Thompson".

Valorie L. Thompson, Ph.D.
Principal

ATTACHMENT 2



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Newport Beach, California 92660

Matt Hagemann, P.G., C.Hg.
Tel: (949) 887-9013
Email: mhagemann@swape.com

March 12, 2013

Rachael Koss
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Subject: Comments on the Glenarm Repowering Project Final Environmental Impact Report, Pasadena, California

Dear Ms. Koss:

We have reviewed the March 2013 Final Environmental Impact Report (FEIR) for the Glenarm Repowering Project (Project). The FEIR includes responses to the comments we submitted in a December 18, 2012 letter. We have found the responses to our comments to be wholly inadequate and reiterate the need to evaluate soils at the Project site for dioxins from an incinerator that was not disclosed in the DEIR and is not acknowledged in the FEIR.

C-34

Previous investigations did not identify the historical presence of a municipal incinerator at the Project site.¹ None of the investigations performed at the Project site have evaluated the potential for dioxins to be present in soils. The failure to identify a source of potential contamination (the municipal incinerator) and the associated potential for dioxins in Project site soil constitutes an utter failure of the due diligence process.

In response to our finding of a municipal incinerator on the Project site, the FEIR states that the "City has no extant records of the existence of a municipal incinerator on the Power Plant property, and cannot provide any further information" (FEIR, p. 2-157). This is in contrast with our findings of photographs and newspaper articles about the incinerator obtained from the City of Pasadena.² We provided these images with our December 18, 2012 letter. We also provided Sanborn Fire Insurance maps detailing the location of the incinerator. Because we provided, in our DEIR comments, Sanborn Fire Insurance maps, the City in fact does have, in its extant records, identification of a municipal incinerator on the Project site. The City failed to acknowledge the presence of its own incinerator and the FEIR does not evaluate its significance.

C-35

¹ The Project site is defined as being bound to the east by Highway 110, to the north by Glenarm Street, to the west by Fair Oaks Avenue, and to the south by State Street (FEIR, p. 2-249; DEIR, p. 2-1), placing the former location of the incinerator inside the Project site boundary.

² Photographs and newspaper articles were obtained through e-mail correspondence with Dan McLaughlin, history librarian at the Pasadena Public Library, on December 17, 2012.

Our comments noted the need for a Phase I Environmental Site Assessment (Phase I ESA) to be performed at the Project site. The City's response maintains that a Phase I ESA is unnecessary and that "undertaking a formal Phase I would not disclose any impacts that have not already been disclosed" (FEIR, p. 2-249). However, it is clear from our investigation that the potential impacts from a historical municipal incinerator on site have not been disclosed. Obtaining Sanborn Fire Insurance maps are a routine part of Phase I ESA investigations. If the City had conducted a Phase I ESA investigation, the location of the municipal incinerator would have been identified.

C-35
Cont'd

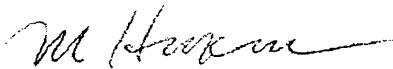
Responses 18-14 and 18-15 cite sampling that was conducted without analysis for dioxins in soil (FEIR, pp. 2-248 – 2-256). This is unresponsive to our concern that an incinerator, which was not recognized in any of the studies cited in Responses 18-14 and 18-15, may have resulted in dioxin contamination, which was not sampled in any of the cited studies.

C-36

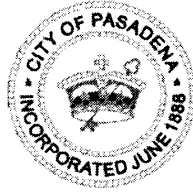
The City has failed to conduct adequate due diligence by not acknowledging the presence of an incinerator and the potential for dioxins at the Project to pose health risks to construction workers and nearby residents. The FEIR should not be certified until documentation can be provided that shows that the California Department of Toxic Substances Control has been notified of Project site conditions and that all necessary assessments and response actions have been conducted under their oversight.

C-37

Sincerely,



Matt Hagemann, P.G., C.Hg.



PASADENA WATER & POWER

APRIL 8, 2013

RESPONSES TO CURE LETTER OF MARCH 13, 2013

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037
Rachael E. Koss

RESPONSE C-1

This comment provides a general introduction to the comments contained in this letter. Responses to the comments in this letter are provided below in Responses C-2 through C-37. It should be noted that most of these comments were already submitted to the City within the commenter's January 31, 2013 Draft EIR comment letter and attachments, and responses have already been provided in the Final EIR, in **Response 18-1** through **Response 18-62** in **Section 2.0, Comments and Responses on the Draft EIR**. As shown in the Final EIR and further explained in the responses to this letter (**Response C-2** through **Response C-37**), the City has adequately responded to the questions raised in the January 31, 2013 letter regarding public health and environmental impacts and compliance with State law.

As further explained in **Responses C-2** through **C-10**, the Final EIR does not include information that would meet the definition of significant new information as defined by the State *CEQA Guidelines*. As further explained in **Responses C-11** through **C-37**, the EIR provides substantial evidence to address the significant concerns raised during the public comment period on the Draft EIR and provides substantial evidence to support the conclusions regarding existing environmental and regulatory conditions, severity of environmental impacts, and the feasibility of mitigation measures as required by CEQA. Therefore, the EIR complies with State law and the City is not required to prepare and recirculate a revised EIR for public and agency review.

RESPONSE C-2

The comment states that the Final EIR introduced a new alternative that provided significant new information after the close of the Draft EIR comment period; that CEQA requires Draft EIR recirculation when significant new information is provided after the public comment period; and that recirculation of a revised Draft EIR is therefore required.

Section 15088.5 of the CEQA Guidelines requires the recirculation of an EIR when "significant new information is added to the EIR after public is given notice of the availability of the Draft EIR for public review...but before certification." Under the CEQA Guidelines, new information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or

avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. In accordance with the CEQA Guidelines, recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. "Significant new information" requiring recirculation includes, for example, a disclosure showing:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it;
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

The inclusion of Alternative 3A in the Final EIR is the result of public and agency comments received on the Draft EIR and/or new information of a financial nature (as opposed to an environmental nature) that became available after publication of the Draft EIR, and it does not constitute significant new information under CEQA.

As is clearly stated and supported by substantial evidence in the Final EIR (see the Topical Response provided on pages 2-9 through 2-22 in Section 2.0, Responses to Comments), Alternative 3A, Revised Project Site Reconfiguration, is a variant on the Draft EIR's Alternative 3, Project Site Reconfiguration. The description of Alternative 3A and environmental impact analysis provided within the Topical Response demonstrate that the differences between Alternative 3 and Alternative 3A are minor and not significant. (See Final EIR, pp. 2-9 to 2-22.) Moreover, Alternative 3A reduces one of the significant and unavoidable land use impacts of the proposed project and Alternative 3. (See Final EIR, p. 2-21.)

Alternative 3 assumed construction and operation of the proposed new Unit GT-5 and eliminated adaptive reuse of the Glenarm Building, and it was assumed the existing Unit B-3 control room would serve proposed Unit GT-5 in the future and existing administrative offices would remain in place. Alternative 3A likewise assumes construction and operation of proposed Unit GT-5, eliminates adaptive reuse of the Glenarm Building, and assumes existing administrative offices would remain in place.

Alternative 3A differs from Alternative 3 only insofar as it proposes exclusive use by PWP employees and visitors of the Broadway Plant site's surface parking lot, currently shared with Jacobs Engineering employees, instead of constructing new parking along the Glenarm Plant's Fair Oaks Avenue frontage; installation of a temporary modular building along the Fair Oaks Avenue frontage to house a new control room to serve the proposed new unit, instead of continuing to use the Unit B-3 control room; construction of a concrete block wall and ornamental plantings along the Fair Oaks Avenue frontage to screen views of the plant's industrial interior, and installation of a ten-foot security gate on the State Street cul-de-sac south of the Glenarm Plant; removal of three non-native trees from the site of the modular building and access

driveway; and the addition of ornamental plantings along a portion of the Broadway Plant's Arroyo Parkway frontage to screen plant views.

These changes do not give rise to any new significant environmental effects, do not increase the severity of any previously identified effects, and do not give rise to any new or modified mitigation measures. Therefore, recirculation of the Final EIR is not required. New information added to an EIR "after the close of the public comment period is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a *substantial* adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." (Laurel Heights Improvement Association v. Regents of the University of California, 6 Cal.4th 1112, 1129, emphasis in original.) Here, the new information is a variant of Alternative 3 that further mitigates effects already analyzed in the EIR, and is the project actually proposed for adoption. Where substantial evidence supports the City's decision not to revise and recirculate the Draft EIR, reasonable doubts are resolved in favor of upholding the City's decision. (Id. at p. 1135.) As set forth in the Final EIR (pp. 2-9 to 2-22) and herein, there is substantial evidence to support the City's decision not to recirculate the Final EIR.

RESPONSE C-3

The City of Pasadena granted this commenter's request to extend the original 46-day Draft EIR comment period by an additional 41 days, and the Final EIR contains all comments on the Draft EIR received by the City during that extended comment period. This includes oral comments provided by the City of Pasadena Planning Commission and members of the general public at the December 12, 2012 public meeting and 19 written comment letters submitted to the City, including six letters from this commenter.

Detailed responses to all comments raised during the December public meeting and in the comment letters, as well as responses to attachments submitted with comment letters, are provided in the Final EIR in Section 2.0, Responses to Comments on the Draft EIR. In addition, a description of proposed Alternative 3A, Revised Project Site Reconfiguration, together with detailed analysis of potential environmental impacts, including comparative analysis to the original proposed project and Alternative 3 in the Draft EIR, was provided on pages 2-9 through 2-22 in a Topical Response included in Section 2.0 of the Final EIR.

The assumptions, data, methodology, analysis, and impact conclusions presented in the Draft and Final EIRs (not including the contents of the comment letters) are supported by substantial evidence in those documents. To the extent that the comment letters and correspondence submitted by the public, including the commenter, are considered expert opinion, Section 15151 of the *CEQA Guidelines* states that disagreement among experts does not invalidate an EIR.

RESPONSE C-4

Although this comment cites the Final EIR, it otherwise restates a comment already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comment 18-17), and a detailed response has already been provided in the Final EIR.

See also Response No. C-3, above. No comments in the letters submitted by representatives for CURE or any other commenter identified significant project impacts that remain unevaluated or unmitigated.

RESPONSE C-5

Although this comment cites the Final EIR, it otherwise restates a comment already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comment 18-19), and a detailed response has already been provided in the Final EIR.

See Response No. C-2, which describes the circumstances under which EIR recirculation is required by CEQA. As stated therein, recirculation of the EIR is not warranted. See also Response No. C-3, which describes the contents of the Final EIR, which contains detailed responses to all comments on the Draft EIR, including attachments submitted with comment letters, received by the City.

RESPONSE C-6

This comment is noted. Responses to the referenced Attachments 1 and 2 are provided in **Response C-27** through **Response C-37**. Responses to the prior January 31, 2013 comments, attachments, and curriculum vitae submitted on the Draft EIR were responded to in the Final EIR in **Response 18-1** through **Response 18-62** in **Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR.

RESPONSE C-7

See Response No. C-2, which describes the circumstances under which EIR recirculation is required by CEQA. As stated therein, recirculation of the EIR is not warranted. With respect to item (a)(3) of Section 15088.5 of the *CEQA Guidelines*, as cited by the commenter, see Response No. C-2, which discusses the differences between the Draft EIR's Alternative 3 and Alternative 3A as presented in the Final EIR. As stated therein, Alternative 3 represents a minor (not "considerably different") variation on Alternative 3, in part to respond to Planning Commission comments and avoid one of the project's significant and unavoidable land use impacts. Alternative 3A also reduces the project's significant but mitigable impacts on historic resources. Moreover, the project proponent, PWP, does not "decline to adopt this alternative", and instead seek its adoption.

RESPONSE C-8

See Response No. C-2, which discusses the differences between the Draft EIR's Alternative 3 and Alternative 3A as presented in the Final EIR. As stated therein, Alternative 3 represents a minor (not "considerably different") variation on Alternative 3, and recirculation of the EIR is not warranted.

RESPONSE C-9

See Response No. C-2, which discusses the differences between the Draft EIR's Alternative 3 and Alternative 3A as presented in the Final EIR. As stated therein, Alternative 3 represents a minor (not "considerably different") variation on Alternative 3, and recirculation of the EIR is not warranted.

RESPONSE C-10

See Response No. C-2, which discusses the differences between the Draft EIR's Alternative 3 and Alternative 3A as presented in the Final EIR. As stated therein, Alternative 3 represents a minor (not "considerably different") variation on Alternative 3, and recirculation of the EIR is not warranted.

See Response No. C-3 regarding the provision of supporting evidence for Alternative 3A impact conclusions in the Final EIR. As stated therein, a description of proposed Alternative 3A and detailed analysis of its

potential environmental impacts, including comparative analysis to the original proposed project and the Draft EIR's Alternative 3, was provided on pages 2-9 through 2-22 of Section 2.0 of the Final EIR.

RESPONSE C-11

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 18-14, 18-15, and 18-41 through 18-46), and detailed responses have already been provided in the Final EIR. As stated therein, the City has conducted a number of studies regarding contamination on the site. Disclosure of the contamination is provided in Section 4.E, Hazards and Hazardous Materials, in the Draft EIR, in the supporting limited Phase II Report, prepared by Hydrologue, Inc. and provided in Appendix D of the Draft EIR, and in documents from prior studies that were appended to the Limited Phase II Environmental Investigation (Appendices C through G), which are also provided in Appendix D of the Draft EIR. A burn pit was shown in the limited phase II environmental Investigation adjacent to the eastern boundary of the subject Site. The open pit incinerator (burn pit) is defined as a device consisting of a pit (into which the material to be combusted is placed) and nozzles pipes and other appurtenances designed and arranged so that theoretically complete combustion is accomplished or approached. Recently, the U.S. Army Center for Health Promotion and Preventive Medicine collected air samples downwind of a burn pit where open burning of solid waste at Joint Base Balad (JBB) was performed using robust equipment.¹ The air samples were analyzed for a wide array of chemicals in August 2004, July 2005, and January, March, and August 2006. The results indicated the occasional presence of dioxins, polyaromatic hydrocarbons (PAH), and volatile organic compounds (VOCs). These chemicals are commonly associated with open burning of municipal wastes and consequently were assumed to be due to the operation of the burn pit. However, the potential short- and long-term risks were estimated to be low due to the infrequent detections of the chemicals.

Results and Risk Assessment: The samples collected from January to April 2007 showed that expected chemicals of potential concern found in smoke from open pit burning of solid waste throughout the world, includes metals, volatile organic compounds, dioxins, furans, and polycyclic aromatic compounds, were within acceptable standards (Military Exposure Guidelines or MEGs). The potential health risk was evaluated using USEPA guidance, the potential risks for cancer and non-cancer risks were within the acceptable range. According to Chapter 16 of the Emission Inventory of USEPA Table 16.4-1, Emission Factors for Open Burning of Municipal Refuse were listed:

Table 16.4-1

Emission Factors for Open Burning of Municipal Refuse (EPA, 1997 AND EPA, 1995a)²

Pollutant	Emissions (lb/ton entire refuse weight)	Emissions (lb/ton actually burned)	Emission Factor Source
Sulfur Oxides	1.0		AP-42 (EPA, 1995a)
Carbon Monoxide	85		AP-42 (EPA, 1995a)
Methane	13		AP-42 (EPA, 1995a)
Nitrogen Oxide	6		AP-42 (EPA, 1995a)
VOCs ^a		8.556	EPA, 1997

¹ U.S. Army Center for Health Promotion and Preventative Medicine, Balad Burn Pit Fact Sheet, n.d. This document is provided as Attachment CURE-1.

² See Attachment CURE-1.

Pollutant	Emissions (lb/ton entire refuse weight)	Emissions (lb/ton actually burned)	Emission Factor Source
PM ₁₀		38	EPA, 1997
PM _{2.5}		34.8	EPA, 1997
Chlorobenzenes		0.0008484	EPA, 1997
Benzene		2.48	EPA, 1997
Acetone		1.88	EPA, 1997
Styrene		1.48	EPA, 1997
Phenol		0.28	EPA, 1997
Dichlorobenzenes		0.00032	EPA, 1997
Trichlorobenzenes		0.00022	EPA, 1997
Tetrachlorobenzenes		0.000148	EPA, 1997
Pentachlorobenzene		0.000106	EPA, 1997
Hexachlorobenzene		0.000044	EPA, 1997
Total Polycyclic Aromatic Hydrocarbons (PAHs) ^b		0.132	EPA, 1997
Acenaphthylene		0.022	EPA, 1997
Naphthalene		0.036	EPA, 1997
Phenanthrene		0.0146	EPA, 1997
Total Polychlorinated dibenzo- p-dioxins (PCDD)		0.000076	EPA, 1997
Total Polychlorinated dibenzo furans (PCDF)		0.0000122	EPA, 1997
Total Polychlorinated biphenyls (PCB)		0.00572	EPA, 1997
Hydrogen chloride (HCl)		0.568	EPA, 1997
Hydrogen cyanide (HCN)		0.936	EPA, 1997

^a The component VOCs measured for this factor include acetone, which is not considered a reactive VOC for ozone inventories (40 CFR 51.100). Reactive VOC can be calculated by subtracting the separate acetone emission factor in this table from the listed VOC factor. The other component VOCs measured are: 1,3-butadiene, 2-butanone, benzene, chloromethane (methyl chloride), ethyl benzene, naphthalene, styrene, and toluene. More detail about measurements of VOC is available in the source document.

^b Total PAH includes emissions from acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(ghi)perylene, benzo(k)fluoranthene, chrysene, dibenzo(ah)anthracene, fluoranthene, fluorene, indeno(123cd)pyrene, naphthalene, phenanthrene, pyrene. Individual emission factors for acenaphthylene, naphthalene, and phenanthrene were provided in the source document and are listed in this table.

Thus, adequate information has been presented to decision makers and the public regarding previous incineration practices and the project's potential to result in impacts relative to the presence of hazardous materials including dioxin in impacted soils associated with a burn pit. The impacted soil associated with the burn pit were delineated, excavated, and disposed off-site during previous Phase II investigations and Phase III operations under oversight of the Pasadena Fire Department, which was disclosed in Section 4.E, Hazards and Hazardous Materials, in the Draft EIR in the supporting limited Phase II Report prepared by Hydrologue, Inc. and provided in Appendix D of the Draft EIR that documents prior studies that were appended to the Limited Phase II Environmental Investigation (Appendixes C through G), which are also provided in Appendix D of the Draft EIR.

It should be noted that selected chemical compounds associated with the open pit burning listed above were used for the purpose of delineating and confirmation sampling of remedial work by the consultant and regulatory agency. Usually, the selection of the analytical test is based on the emission tonnage of the chemical compound (TPH, VOCs, SVOCs, PCBs and CAM metals) since the higher the emission tonnage, the higher the possibility of impact to the soil, the cost, and the availability of the results from the analytical testing. The absence of non-problematic concentrations of TPH, SVOCs, PCBs and CAM metals can be used to demonstrate the absence of dioxin (based on the comparison of the emissions tonnage).

RESPONSE C-12

See **Response C-11**. As is the case with Comment C-11, this comment restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 18-14, 18-15, and 18-41 through 18-46), and detailed responses have already been provided in the Final EIR. The responses to those comments, particularly **Response 18-15 in Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, acknowledges the existence and likely location of the incinerator; states that prevailing winds would carry wind-transported deposits to the east, off-site; and states that dioxin, the contaminant cited in this comment, was not noted as a contaminant of concern in previous Phase II and Phase III investigations on the Power Plant property. The reviewer appears to not be familiar with the terminology (incinerator and burn pit). Usually, the environmental impact associated with a burn pit is more severe than the impact from closed incinerator. Selected chemicals associated with open burn pits (listed in above table) and incinerators other than dioxin are used for the purpose of delineating impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

RESPONSE C-13

See Response C-11 regarding the potential for presence of dioxin on the Power Plant property. As discussed previously, usually other chemicals associated with open burn pits and incinerators other than dioxin are used for the purpose of delineating of the impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

RESPONSE C-14

See Response C-11 regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property. As discussed previously, usually the environmental impact associated with a burn pit is more severe than the impact from closed incinerator. In practice, other chemicals associated with open burn pits and incinerator emissions other than dioxin are used for the purpose of delineating the impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

RESPONSE C-15

As discussed in detail in **Response 18-21 in Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, the proposed project site is located in an area classified as a federal non-attainment area for respirable particulate matter (PM₁₀).³ While the California Air Resources Board (CARB) has transmitted a *Request for PM₁₀ Redesignation and Maintenance Plan for the South Coast Air Basin* (approximately three years ago on April 28, 2010), the U.S. Environmental Protection Agency (USEPA) has not published a final

³ USEPA, "Air Quality Analysis-Particulate Matter (PM-10) Attainment Designations in Region 9," http://www.epa.gov/region9/air/maps/pdfs/AIR1200072_1.pdf. Accessed March 2013.

rule in the Federal Register designating the South Coast Air Basin as attainment for PM10. Therefore, the South Coast Air Basin is non-attainment for PM10 until such time that the USEPA publishes a final rule in the Federal Register that changes the designation. The USEPA has not published a draft rule indicating when or if the designation request will be made final and has not published an effective date of any such future rule. As of March 12, 2013, the Code of Federal Regulations indicates that the South Coast Air Basin is non-attainment for the federal PM10 standards.⁴

Thus, as required by CEQA, the proposed project was assessed relative to existing regulatory conditions and not a hypothetical future regulatory condition. While it is acknowledged that the redesignation request has been submitted by CARB to the USEPA approximately three years ago, future predictions as to when or if the USEPA will publish a final rule in the Federal Register designating the South Coast Air Basin as attainment for PM10 is speculative and thus PM10 analysis with respect to PSD need not be addressed in the EIR.

Furthermore, the SCAQMD, which is the agency that has sole authority to review PSD applicability and permitting for the proposed project, has reviewed and provided comments on the Draft EIR. As stated in **Response 18-21** of the Final EIR, the permit application was submitted to the SCAQMD in June 2012. The SCAQMD CEQA review team coordinated their response on the Draft EIR with the permit review team and PSD was not mentioned as an applicable regulation in need of inclusion in the EIR or permit.⁵ On January 15, 1997, implementation of the Federal PSD regulations (located at 40 CFR 52.21) was delegated to the SCAQMD by USEPA, since it was USEPA's opinion that SCAQMD's PSD regulations (as reflected in rules under SCAQMD Regulation XVII) "generally met the requirements of 40 CFR 52.21." On December 31, 2002, the USEPA issued revised PSD regulations which became effective on March 3, 2003. Since the SCAQMD PSD Regulation XVII did not have these new Federal PSD provisions, the USEPA withdrew its previous PSD delegation to the SCAQMD on March 3, 2003. In particular, although there were several revisions made as part of this rulemaking, and some of these changes have since been stayed by the Courts, there are two revised provisions that is not currently part of SCAQMD Regulation XVII, namely,

- (a) an additional manner in which emissions increases can be calculated in order to determine if underlying changes can become a major modification and can so trigger PSD (i.e., the so-called "actual to projected actual test"); and
- (b) the ability of a source to obtain a Plant wide Applicability Limit (PAL).

Recognizing these developments and as memorialized in an Agreement⁶ between USEPA and SCAQMD, USEPA has approved a partial delegation of PSD authority to the SCAQMD for all Regulation XVII provisions, while noting that the above provisions are not part of Regulation XVII. Thus, to the extent a facility located in the South Coast Air Basin, such as the proposed project would like to avail itself of either of these two new provisions of the current Federal PSD rules, it would have to obtain approval from USEPA directly and not the SCAQMD pursuant to the Agreement referenced earlier. However, PWP does not wish to avail itself of either of provisions in order to determine its PSD applicability for the proposed project. Rather, PWP uses relevant and applicable rules under SCAQMD Regulation XVII in order to determine PSD applicability. Specifically, PWP uses the emissions methodology listed in SCAQMD Rule 1706(c)(1)(A) – the so-called "actual to potential" test – for determining PSD applicability and will not rely on any PAL provisions.

⁴ *Code of Federal Regulations (CFR), Title 40, Section 81.305. CFR data current as of March 12, 2013.*

⁵ *Personal Communication between Dan Garcia, Air Quality Specialist CEQA Section, SCAQMD and Heidi Rous, Vice President/Director of Air Quality, PCR Services Corporation, on or about December 20, 2012.*

⁶ *USEPA-SCAQMD, Agreement for Partial Delegation of Authority to Issue and Modify Prevention of Significant Deterioration Permits Subject to CFR 52.21, July 25, 2007.*

Therefore, per the above Agreement, the authority to review the PSD application for the project rests solely with the SCAQMD, (subject, of course to the usual USEPA oversight as well as notice and comment) and not with the USEPA.

As the SCAQMD is the agency that has sole authority to review PSD applicability and permitting for the proposed project (subject to the usual USEPA oversight as well as notice and comment), and as the SCAQMD has not requested that the project include a PSD analysis for PM10 in the EIR, and as the proposed project was assessed relative to existing regulatory conditions and not a hypothetical future regulatory condition as required by CEQA, the City has determined that a PSD analysis for PM10 need not be addressed in the EIR.

The commenter also states that the “response to comments incorrectly states that an excerpt from the Permit to Construct/Permit to Operate was included in Appendix C of the Draft EIR” and that the “Appendix only contains an excerpt from the Application for Permit to Construct without any communication or confirmation from the SCAQMD as to the status of the permit application.” **Response 18-21 in Section 2.0, Comments and Responses on the Draft EIR**, acknowledged that that excerpts from the PTC/PTO application was included in Appendix C of the Draft EIR: “The proposed project requires a Permit to Construct/Permit to Operate (PTC/PTO) from the SCAQMD and the permit application was submitted to the SCAQMD in June 2012. An excerpt of the [PTC]/PTO can be found in **Appendix C** of the Draft EIR.” It is clear that the reference to PTC/PTO in the second sentence refers to excerpts of the permit application and not the issued permit itself. The responses provided in the Final EIR do not claim that the permit has been issued by the SCAQMD and provided to the City; therefore, it would not have been possible for the City to provide excerpts of the issued permit at the time of the response to comment.

RESPONSE C-16

The commenter states that the analysis of fine particular matter (PM2.5) did not account for background concentrations of PM2.5 and that if it had done so, the Draft EIR would have concluded that the project would contribute to existing violations of the California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS).

The background concentrations were properly included in the analysis in the Draft EIR. As shown in Table 4.B-3 on page 4.B-15 of the Draft EIR, ambient or background concentrations of PM2.5 are provided. The data indicates that ambient or background concentrations of PM2.5 due to emissions from existing pollutant sources in the project area, including the existing turbines on the project site, have exceeded the relevant standards in recent years. Furthermore, as shown clearly in Table 4.B-2 on page 4.B-5 of the Draft EIR, the region is designated as non-attainment for PM2.5, which reflects the fact that ambient or background concentrations of PM2.5 in the South Coast Air Basin, the air basin in which the project is located, exceeds the relevant standards. Thus, contrary to the commenter’s assertions, the Draft EIR accounted for background concentrations of PM2.5 in its analysis and impact determination.

The commenter indicates that merely contributing to existing violations of the CAAQS and NAAQS would change the conclusions presented in the Draft EIR. This claim is not supported by the substantial evidence presented in the Draft EIR. The established threshold of significance that is relevant to this topic is provided on page 4.B-22 of the Draft EIR and is as follows:

AQ-2 Violate any air quality standard or contribute substantially to an existing or projected air quality violation; [emphasis added]

As discussed on page 4.B-21 of the Draft EIR, this threshold is contained in Appendix G of the State *CEQA Guidelines*. As discussed previously, the Draft EIR determined that the South Coast Air Basin, the air basin in which the project is located, is non-attainment for PM2.5 due to ambient or background concentrations that exceed relevant standards. Therefore, the determination as to whether the project would result in a potentially significant impact is not based on if it would merely contribute to existing violations of the relevant standards, but rather it is based on whether the project would “contribute **substantially** to an existing or projected air quality violation” [emphasis added].

As explained on page 4.B-23 of the Draft EIR, the analysis of whether the project would result in potentially significant impact utilizes concentration-based criteria such as those established in the applicable SCAQMD Regulation XIII (New Source Review), Rule 1303, Table A-2.⁷ As discussed on pages 4.B-8 and 4.B-9 of the Draft EIR, the proposed project is subject to Regulation XIII for non-attainment pollutants, with the exception of nitrogen oxides (NO_x) and sulfur oxides (SO_x), which are covered by Regulation XX (Regional Clean Air Incentives Market (RECLAIM)). The Rule 1303 threshold establishes that a “significant change in air quality concentration” for particulate matter less than 10 microns (PM2.5 constitutes a subset of particulate matter less than 10 microns) is 2.5 micrograms per cubic meter (µg/m³) for a 24-hour averaging period. The thresholds apply to the incremental contribution from a source.⁸ In accordance with CEQA, the Lead Agency has the discretion to develop thresholds of significance on a project-by-project basis, particularly where the project may have particularized impacts due to the unique nature of the project.⁹ The City, given its authority under CEQA to established thresholds of significance for the project based on substantial evidence, was very clear that it utilized the Rule 1303 threshold for the proposed project to determine whether emission of PM2.5 would result in “significant change in air quality concentration.” In consideration that the region in which the project is located has ambient or background concentrations that exceed the relevant standards for PM2.5, the Draft EIR assessed whether the project would “contribute substantially to an existing or projected air quality violation” with respect to the standards in Rule 1303, Table A-2. As the proposed project includes the operation of an industrial stationary source (i.e., proposed Unit GT-5), it is subject to SCAQMD regulations and permitting requirements, which provides further substantial evidence that the standards utilized in Rule 1303, Table A-2 are appropriate for determining whether emission of PM2.5 would result in a significant impact. Based on substantial evidence presented in the Draft EIR, the City has determined that the project would not exceed the standards in Rule 1303, Table A-2 and would result in a less than significant PM2.5 impact. Thus, the Draft EIR accounted for background concentrations of PM2.5 in its analysis and there is no change in the conclusions presented in the Draft EIR.

RESPONSE C-17

The commenter asserts that the Final EIR “now admits that emissions of PM2.5 during Project commissioning are above SCAQMD’s significance threshold of 55 lbs/day” and provides a citation to page 2-263 of the Final EIR. This citation appears to refer to a portion of the information presented in **Response 18-23** in **Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR. The portion of the information in this response presents and clarifies information that was previously provided in the Draft EIR. As stated in **Response 18-23** of the Final EIR, “[a]s shown in Table 4.B-4 in **Section 4.B, Air Quality**, of the Draft EIR, the net increase in PM2.5 commissioning emissions would exceed 55 pounds per day.” The assertion that the Final EIR “now admits” such information is erroneous and not supported by the evidence in the Draft EIR. Further, the commenter’s assertion that the “City’s analysis is flawed and its conclusion is not supported by substantial evidence” is also erroneous. As discussed in **Response C-16**, in accordance

⁷ SCAQMD, “Rule 1302. Requirements,” <http://www.aqmd.gov/rules/reg/reg13/r1303.pdf>. Accessed March 2013.

⁸ *Ibid.* As stated in Rule 1303, the 2.5 µg/m³ concentration represents an allowable change in concentration.

⁹ *Save Cuyama Valley v. County of Santa Barbara et al.* (2013) 213 Cal.App.4th 1059 (“Save Cuyama Valley”).

with CEQA, the Lead Agency has the discretion to develop thresholds of significance on a project-by-project basis.¹⁰ The City, given its authority as Lead Agency under CEQA to established thresholds of significance for the project based on substantial evidence, utilized the Rule 1303 threshold for the proposed project to determine whether emission of PM_{2.5} would result in “significant change in air quality concentration.” As the proposed project includes the operation of an industrial stationary source (i.e., Unit GT-5), it is subject to SCAQMD regulations and permitting requirements, which provides further substantial evidence that the standards utilized in Rule 1303, Table A-2 are appropriate for determining whether emission of PM_{2.5} would result in a significant impact. Based on substantial evidence presented in the Draft EIR, the City has determined that the project would not exceed the standards in Rule 1303, Table A-2 and would result in a less than significant PM_{2.5} impact. Thus, the City’s conclusions are in accordance with CEQA and are adequately supported by substantial evidence.

RESPONSE C-18

As discussed in **Response 18-23** in **Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, the threshold used to determine whether the proposed project would “contribute substantially to an existing or projected air quality violation” for PM_{2.5} is based on a two-tiered approach. The first tier utilizes the SCAQMD daily mass threshold of 55 pounds per day for PM_{2.5}. The second tier utilizes concentration-based criteria established in the applicable SCAQMD Regulation XIII, Rule 1303, Table A-2 (see **Response C-16**).

The use of the SCAQMD daily mass thresholds, in this case 55 pounds per day for PM_{2.5}, is not the sole threshold of significance mandated by law. In its *CEQA Air Quality Handbook*, the SCAQMD acknowledges that “the final determination of whether or not a project is significant is within the purview of the lead agency pursuant to Section 15064(b) of the CEQA Guidelines.”¹¹ In accordance with case-law, CEQA also allows the Lead Agency the discretion to develop thresholds of significance on a project-by-project basis.¹² Pursuant to Sections 15064.7(b) and (c) of the *CEQA Guidelines*, the City as Lead Agency has considered the SCAQMD threshold of 55 pounds per day for PM_{2.5} as the first tier in its analysis to determine whether further, more refined, analysis is warranted to determine if the project would result in a potentially significant impact. As shown in the Draft EIR, construction of the project would not exceed 55 pounds per day of PM_{2.5} and would not contribute substantially to an existing or projected air quality violation. As discussed in **Response C-17**, commissioning would exceed 55 pounds per day of PM_{2.5}. However, in accordance with Section 15064.7(c) of the *CEQA Guidelines*, the City as Lead Agency considered thresholds established by the California Energy Commission (CEC) in which it utilized concentration-based thresholds and dispersion modeling instead of daily mass emissions for similar power generation projects.^{13,14} The City utilized concentration-based criteria established in the applicable SCAQMD Regulation XIII, Rule 1303, Table A-2 to determine whether the project would result in a “significant change in air quality concentration” and thus contribute substantially to an existing or projected air quality violation (see **Response C-16**).

Dispersion modeling was used to determine whether the project would exceed the concentration-based criteria in Rule 1303, Table A-2. As shown in **Table 4.B-5** in **Section 4.B, Air Quality**, of the Draft EIR, the dispersion modeling results demonstrate that project emissions would result in an increase in ground-level PM_{2.5} of approximately 1 µg/m³ which is less than the 2.5 µg/m³ incremental threshold. Therefore, substantial evidence is provided that demonstrates that the project would not result in a significant change

¹⁰ *Save Cuyama Valley, ibid.*

¹¹ *SCAQMD, CEQA Air Quality Handbook, Chapter 6 – Determining the Air Quality Significance of a Project (1993) 6-2.*

¹² *Save Cuyama Valley, ibid.*

¹³ *CEC, Watson Cogeneration Steam and Electric Reliability Project, Final Staff Assessment, CEC 700-2011-002-FSA, August 2011.*

¹⁴ *CEC, CPV Sentinel Energy Project, Final Staff Assessment, Air Quality Addendum, CEC 700-2008-005-FSA-AD, April 2010.*

in PM2.5 concentrations. In accordance with CEQA, the City as Lead Agency has developed thresholds of significance for the project based on substantial evidence and, consistent with those thresholds, has determined that the project would result in a less than significant change in air quality concentration with respect to PM2.5 and would thus not contribute substantially to an existing or projected air quality violation.

RESPONSE C-19

This comment provides a brief summary of a portion of the information presented in the Draft EIR related to toxic air contaminant (TAC) emissions and locations of the nearest sensitive receptors. The comment also notes that the Draft EIR concluded that the project's impacts to sensitive receptors from the project's TAC emissions would be less than significant. Since the comment does not raise any new significant environmental issues or address the adequacy of the environmental analysis included in the Draft EIR, no further response is required.

RESPONSE C-20

As discussed in detail in **Response 18-25** in **Section 2.0**, *Comments and Responses on the Draft EIR*, of the Final EIR, commissioning and startup/shutdown activities would not exceed the established thresholds of significance even when considering higher emission rates due to stack parameters. It was acknowledged that commissioning would generate emissions with different stack parameters compared to normal operations. Thus, the level of TAC emissions and associated health impacts could also be different (higher or lower) during commissioning compared to normal operations. An analysis of the emissions profile during commissioning activities compared to the emissions profile during normal operations demonstrates that, while TAC emissions could be higher during commissioning, impacts would remain well below the established threshold of significance. As demonstrated in **Response 18-25** in **Section 2.0**, *Comments and Responses on the Draft EIR*, of the Final EIR, TAC impacts during commissioning and during startup/shutdown would be well under the thresholds of significance, as would also be the case under normal operations. Therefore, it is reasonably determined that commissioning, startup, and shutdown would not result in significant impacts to sensitive receptors and the impacts would not be substantially different than those that have already been identified in the Draft EIR.

In addition, lifetime cancer risk associated with diesel particulate matter from construction would not exceed the established thresholds of significance. In Comment C-31, Dr. Thompson provides an example calculation for estimating the health risk associated with construction-related diesel particulate matter. However, the results from the commenter's screening method are not supported by the project-specific information and are thus erroneous. Comment C-31 clearly states that the screening method takes "into account a 70-year exposure scenario." In essence, the commenter's screening method assumes that construction would be on-going for 365 days per year for 70 years, which is not correct since construction would be short-term and temporary and last for only a fraction of that time. In addition, construction activity would occur for approximately 250 to 260 days per year, accounting for weekends and holidays, and not 365 days per year. By assuming an exposure scenario of 365 days per year for 70 years, the commenter's analysis of construction health risks would be substantially overestimated.

The commenter's screening method uses a USEPA scaling factor that incorporates a degree of conservatism to provide reasonable assurance that maximum concentrations for the annual value will not be underestimated.¹⁵ The USEPA scaling factor would tend to overestimate the actual impacts.

¹⁵ *Ibid.*, p. 15.

The commenter's screening method also estimated the impacts without using the actual emissions from construction of the project. Instead, the commenter's screening method estimates the impacts using an assumed PM2.5 emissions value that is artificially higher and bears no resemblance to the actual project's construction PM2.5 emissions reported in the Draft EIR, which are lower. By assuming an artificially higher PM2.5 emissions value, the commenter's analysis of construction health risks would be substantially overestimated.

The commenter's screening method assumes little to no dispersal effects from wind and other meteorological factors. The inclusion of meteorological data would tend to reduce the estimated pollutant concentrations and the incremental health risk from construction of the project due to the dispersal of pollutants. Thus, by not accounting for meteorological data, the commenter's analysis of construction health risks would be overestimated.

The commenter's screening method assumes construction equipment would operate at distance of 64 meters from the nearest sensitive receptor. This distance is based on the measured distance between the fenceline of the project site and the nearest residential use to the west across Fair Oaks Avenue. However, during construction of the project, equipment would not operate solely at the fenceline of the project site nearest to sensitive receptors. Construction equipment would operate at various locations on the Glenarm site as necessary to conduct site preparation and installation of the proposed Unit GT-5 and associated project components. These project components are not all located at the fenceline nearest to sensitive receptors. Thus, it is unreasonable to assume that all construction equipment would operate at the fenceline every work day during the approximately 23-month construction time period. By not accounting for the increased distance that construction equipment would operate on average during the construction time period, the commenter's analysis of construction health risks would be overestimated.

Furthermore, the analysis provided in the comment does not take into account conditions that PWP has voluntarily agreed to implement to further reduce construction emissions (see **Response 5-5** in Section 2.0, *Comments and Responses on the Draft EIR*, in the Final EIR). PWP would implement conditions that would reduce diesel particulate matter emissions, including PM2.5, from certain large construction equipment by approximately 85 percent.¹⁶ In addition, PWP would require contractors to use model year 2007 or newer diesel haul trucks, which would reduce diesel particulate matter emissions, including PM2.5, by approximately 80 percent compared to the current fleet-averaged diesel particulate matter emissions.¹⁷

Given the above factors, the screening-level health risk value provided in the comment is considerably overestimated and not representative of the proposed project. Based on the short-term and temporary nature of construction, as well as the conditions that PWP would implement that would result in a reduction in diesel particulate matter (i.e., PM2.5) emissions from large construction equipment (85 percent reduction) and from on-road haul trucks (80 percent reduction compared to the fleet-averaged emissions), health impacts due to construction of the proposed project would be less than significant.

RESPONSE C-21

As discussed in **Response 18-26** in **Section 2.0**, *Comments and Responses on the Draft EIR*, of the Final EIR, the SCAQMD recommends that health risk assessments (HRAs) be conducted for substantial sources of diesel particulate matter (which is generally emitted as PM2.5), such as truck stops and warehouse distribution

¹⁶ CARB, "Verification Procedure," <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>. Accessed March 2013. CARB Level 3 verified diesel particulate filters reduce diesel particulate matter by 85 percent.

¹⁷ CARB, *EMFAC2011 for T7 single construction on-road vehicles in the South Coast Air Basin*.

centers. The CARB siting guidance, *Air Quality and Land Use Handbook*,¹⁸ which the SCAQMD cites in its own guidelines, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*,¹⁹ defines a warehouse as having more than 100 truck trips or 40 refrigerated truck trips per day. Based on this, the project's 20 haul trucks traveling on an adjacent roadway passing by a receptor would not be considered a substantial source of diesel particulate matter. Thus, it is determined that substantial evidence exists to support the reasonable and fair argument that construction of the proposed project would not exceed the SCAQMD-recommended thresholds and exposure to construction-related TAC emissions would not exceed the established health risk thresholds of significance. The City also notes that the SCAQMD has reviewed and provided comments on the Draft EIR. However, the SCAQMD did not request that the project include a refined HRA analysis for construction in the EIR.

The commenter cites several environmental documents for projects at the Port of Long Beach (POLB) and Port of Los Angeles (POLA), and a Los Angeles Department of Water and Power (LADWP) Project that included HRAs for construction emissions of TACs. However, these projects are dissimilar to the proposed project. The proposed project is neither a port project nor a project under the control of the POLB or the POLA. The City has not adopted the referenced POLB and POLA protocols as air quality assessment guidelines for the proposed project. Therefore, the POLB and POLA protocols are not applicable to the proposed project.

The Middle Harbor Redevelopment Project at the POLB would be constructed over a 10-year timeframe and would include dredging, excavation, and fill with approximately 10.7 acres of existing land that would be cut away and converted to water area, approximately 680,000 cubic yards (cy) of dredged material, and approximately 6,730,000 cy of import fill, approximately 1,290,000 cy of excavated material, approximately 173,000 cy of export fill, and approximately 844,000 tons and 560,000 tons of rock for a retention dike and revetment, respectively.²⁰ The Southern California International Gateway Project at the POLA would construct and operate a new near-dock intermodal rail facility that would handle containerized cargo transported through the ports of Los Angeles and Long Beach.²¹ The Southern California International Gateway Project would require excavation, repositioning, and compacting of approximately 325,000 cy of earth, the hauling of 175,000 cy off-site for reuse or disposal, delivery of approximately 245,000 cy of aggregate base, pouring of approximately 10,000 cy of reinforced concrete and 310,000 tons of asphalt concrete, installation of approximately 46,000 feet (8.7 miles) of track consisting of ties, rails, tie plates, joint bars, spikes, and other small materials, and replacement of the Sepulveda Railroad Bridge as well as improvements to access roads.²² The LADWP Tujunga Spreading Grounds Enhancement Project would require approximately 1,300,000 cy of soil export and approximately 174,080 one-way (inbound or outbound) truck trips.²³

Unlike these projects, the proposed project would generally result in considerably less construction activity in both intensity and duration. As discussed on page 2-12 in **Section 2.0, Project Description**, of the Draft EIR, the proposed project would require 13,000 cy of cut soil the majority of which would be reused on-site

¹⁸ CARB, *Air Quality and Land Use Handbook: A Community Health Perspective*, (2005).

¹⁹ SCAQMD, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, (2005).

²⁰ U.S. Army Corps of Engineers/POLB, *Middle Harbor Redevelopment Project Final Environmental Impact Statement (FEIS)/Final Environmental Impact Report (FEIR) and Application Summary Report (ASR), Chapter 1 Introduction and Project Description, Table 1.6-3 (2009) 1-23.*

²¹ POLA, *Southern California International Gateway Project, Final Environmental Impact Report*, (2013) 1-8.

²² *Ibid.*, pp. 1-30, 1-31

²³ LADWP, 3-8, 4.1-18.

(approximately 11,700 cy). Construction demolition would generate 1,500 cy of material and the site would require the import of approximately 5,200 cy of fill. Components of the proposed Unit GT-5 would be pre-fabricated and brought to the site in a generally ready-to-assemble state. As a result, the proposed project would require significantly fewer construction equipment and haul trucks than the projects referenced in the comment. As discussed on page 4.B-30, in **Section 4.B, Air Quality**, of the Draft EIR, according to the Office of Environmental Health Hazard Assessment (OEHHA) and SCAQMD methodology, health effects from carcinogenic TACs are described in terms of individual cancer risk, which is the likelihood that a person exposed to concentrations of TACs over a 70-year lifetime will contract cancer, based on the use of standard risk-assessment methodology. As discussed on page 4.B-46 of the Draft EIR, the greatest potential for construction-generated TAC emissions would be related to DPM emissions from heavy-duty equipment use during grading and excavation activities. However, the construction schedule estimates that the activities which require the most heavy-duty diesel equipment usage, such as site grading and excavation, would last no more than two years (up to 23 months). Therefore, refined HRA specific to construction is unnecessary because construction impacts are not anticipated or expected to exceed SCAQMD established health risk thresholds of significance and construction of the project would not result in a significant 70-year lifetime health impact.

As noted in **Response 18-26** in **Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, while an LST analysis is not a health risk assessment per se, it is used to determine whether or not a project may generate significant adverse localized air quality impacts to sensitive receptors and whether or not a project may expose sensitive receptors to substantial pollutant concentrations. As shown in Table 4.B-4 on page 4.B-35, in **Section 4.B, Air Quality**, of the Draft EIR, according to the SCAQMD LST methodology, construction activities would not cause an exceedence of the thresholds of significance, including the threshold for PM2.5.

As discussed in **Response C-20**, lifetime cancer risk associated with diesel particulate matter from construction would not exceed the established thresholds of significance. In Comment C-31, Dr. Thompson provides an example calculation for estimating the risk associated with construction-related diesel particulate matter. However, the results from the commenter's screening method are not supported by the project-specific information. Dr. Thompson in Comment C-31 clearly states that the screening method takes "into account a 70-year exposure scenario." In essence, the commenter's screening method assumes that construction would be on-going for 365 days per year for 70 years, which is not correct. The commenter's screening method also estimates health impacts without using project-specific information, such as the actual emissions from construction of the project. Furthermore, the analysis provided in the comment does not take into account conditions that PWP has voluntarily agreed to implement to further reduce construction emissions (see **Response 5-5** in **Section 2.0, Comments and Responses on the Draft EIR**, in the Final EIR). Thus, the screening-level health risk value provided in the comment is considerably overestimated and not representative of the proposed project. Refer to **Response C-20** for detailed response to the issues raised in this comment.

RESPONSE C-22

As discussed in **Response C-20** and **Response C-21**, substantial evidence provided in the Final EIR demonstrates that the project would not result in TAC emissions that would exceed the established thresholds of significance and the project's TAC emissions would result in a less than significant impact. The conclusions are consistent with the information provided in the Draft EIR and no additional analysis is required.

RESPONSE C-23

As shown in Table 4.B-4 in **Section 4.B, Air Quality**, of the Draft EIR, the net increase in PM2.5 commissioning emissions would exceed 55 pounds per day. However, the use of the SCAQMD daily mass thresholds, in this case 55 pounds per day for PM2.5, is not the sole threshold of significance mandated by law. In its *CEQA Air Quality Handbook*, the SCAQMD acknowledges that “the final determination of whether or not a project is significant is within the purview of the lead agency pursuant to Section 15064(b) of the CEQA Guidelines.”²⁴ In accordance with case-law, CEQA also allows the Lead Agency the discretion to develop thresholds of significance on a project-by-project basis.²⁵ The City as Lead Agency has considered the SCAQMD threshold of 55 pounds per day for PM2.5 as the first tier in its analysis to determine whether further, more refined, analysis is warranted to determine if the project would result in a potentially significant impact. The second tier utilizes concentration-based criteria established in the applicable SCAQMD Regulation XIII, Rule 1303, Table A-2 to determine whether commissioning of the project would result in a “significant change in air quality concentration.” In accordance with Section 15064.7(c) of the *CEQA Guidelines*, the City as Lead Agency considered thresholds established by the CEC in which it utilized concentration-based thresholds and dispersion modeling instead of daily mass emissions for similar power generation projects.^{26,27} Dispersion modeling was used to determine whether the project would exceed the concentration-based criteria in Rule 1303, Table A-2. As shown in **Table 4.B-5 in Section 4.B, Air Quality**, of the Draft EIR, the dispersion modeling results demonstrate that project emissions would result in an increase in ground-level PM2.5 of approximately 1 µg/m³, which is less than the 2.5 µg/m³ incremental threshold in Rule 1303, Table A-2. Therefore, substantial evidence is provided that demonstrates that the project would not result in a significant change in PM2.5 concentrations. Thus, the City has determined that the project would result in a less than significant change in air quality concentration with respect to PM2.5 and would not contribute substantially to an existing or projected air quality violation. As impacts would be less than significant, no mitigation measures are required to reduce the impact to a less-than-significant level.

RESPONSE C-24

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 18-14, 18-15, and 18-41 through 18-46). See **Response C-11** regarding the City’s acknowledgment of the presence and location of the incinerator on the Power Plant property. As discussed, a burn pit was shown in the limited Phase II environmental Investigation adjacent to the eastern boundary of the subject Site. The open pit incinerator is defined as a device consisting of a pit (into which the material to be combusted is placed) and nozzles pipes and other appurtenances designed and arranged so that theoretically complete combustion is accomplished or approached. Recently, the U.S. Army Center for Health Promotion and Preventive Medicine collected air samples downwind of a burn pit where open burning of solid waste at JBB was performed using robust equipment.²⁸ The air samples were analyzed for a wide array of chemicals in August 2004, July 2005, and January, March, and August 2006. The results indicated the occasional presence of dioxins, polyaromatic hydrocarbons (PAH), and volatile organic compounds (VOCs). These chemicals are commonly associated with open burning of municipal wastes and consequently were assumed to be due to the operation of a burn pit. However, the potential short- and long-term risks were estimated to be low due to the infrequent

²⁴ SCAQMD, *CEQA Air Quality Handbook, Chapter 6 – Determining the Air Quality Significance of a Project (1993)* 6-2.

²⁵ *Save Cuyama Valley, ibid.*

²⁶ CEC, *Watson Cogeneration Steam and Electric Reliability Project, Final Staff Assessment, CEC 700-2011-002-FSA, August 2011.*

²⁷ CEC, *CPV Sentinel Energy Project, Final Staff Assessment, Air Quality Addendum, CEC 700-2008-005-FSA-AD, April 2010.*

²⁸ U.S. Army Center for Health Promotion and Preventative Medicine, *Balad Burn Pit Fact Sheet, n.d.* This document is provided as Attachment CURE-1.

detections of the chemicals. The opinions of hazardous materials expert Dr. Hagemann are in contradiction with these recent sampling results and risk assessments.

As discussed in **Response C-11**, the samples collected from January to April 2007 showed that expected chemicals of potential concern found in smoke from open pit burning of solid waste throughout the world, includes metals, volatile organic compounds, dioxins, furans, and polycyclic aromatic compounds, were within acceptable standards (Military Exposure Guidelines or MEGs). The potential health risk was evaluated using USEPA guidance. Based on the USEPA guidance, the potential risks for cancer and non-cancer risks were within the acceptable range.

RESPONSE C-25

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 18-14, 18-15, and 18-41 through 18-46). See **Response C-11** regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property. The City did not discount the comments provided in that letter regarding the past presence of a municipal incinerator; to the contrary, the likely location of the incinerator was acknowledged and the potential for soil contamination disclosed.

RESPONSE C-26

As discussed in **Responses C-1** through **C-10**, the Final EIR does not include information that would meet the definition of significant new information as defined by the State *CEQA Guidelines*. As discussed in **Responses C-11** through **C-37**, the EIR provides substantial evidence to address all significant concerns raised during the public comment period on the Draft EIR and provides substantial evidence to support the conclusions regarding existing environmental conditions, severity of environmental impacts, and the feasibility of mitigation measures as required by CEQA. Therefore, the Planning Commission is not required to prepare and recirculate a Draft EIR and is not required to recommend that the City Council not certify the Final EIR for the project and deny all permits and entitlements.

RESPONSE C-27

This comment provides a brief introduction and summary of the comments raised in **Comment C-28** through **Comment C-33**. Detailed responses to these comments are provided in **Response C-15** through **Response C-23** and in **Response C-28** through **Response C-33**. In summary, the responses demonstrate that the air quality analysis in the Draft EIR fully addresses the project's impacts and any required mitigation pursuant to CEQA.

RESPONSE C-28

Refer to **Response C-15** for discussion of the issues raised in this comment.

RESPONSE C-29

Refer to **Response C-18** for discussion of the issues raised in this comment. In addition, it is noted that the SCAQMD has established an operational localized significance threshold (LST) of 2.5 µg/m³ for PM_{2.5} pursuant to its *Localized Significance Threshold Methodology*.²⁹ The localized threshold is derived from SCAQMD Regulation XIII, Rule 1303, Table A-2 and not the opposite (i.e., Rule 1303 is not derived from the *Localized Significance Threshold Methodology*). Rule 1303, Table A-2 establishes the criteria for determining

²⁹ SCAQMD, *Final Localized Significance Threshold Methodology*, (2003; Revised 2008).

a “significant change in air quality concentration.”³⁰ Rule 1303 includes the following heading for Table A-2: “Most Stringent Ambient Air Quality Standard and Allowable Change in Concentration For Each Air Contaminant/Averaging Time Combination.”³¹ Thus, Table A-2 applies to the ambient air quality standards and is not limited only to localized impacts (the term “local or “localized” does not appear in the text of Rule 1303).

With respect to regional impacts during commissioning of the project, the dispersion modeling analysis, as described on pages 4.B-36 and 4.B-37 of **Section 4.B, Air Quality**, of the Draft EIR, determined that the peak concentrations of the modeled pollutants occurred well within the modeling domain defined by the receptor grid (i.e., 13 kilometers to the north and 5 milometers in all other directions). Since commissioning emissions would originate entirely within the project site, the maximum impacts would generally occur in the near-field. As discussed previously, no non-negligible project-related sources of emissions would occur during the required commissioning phase. Pollutant concentrations at receptors beyond the modeling domain from the short-term and temporary commissioning emissions would be less than the concentrations reported in the Draft EIR due to dispersion effects. As a result, regional pollutant concentrations due to the project’s temporary commissioning emissions would be less than the Rule 1303, Table A-2 threshold and regional impacts would be less than significant.

As previously noted, commissioning of the project would result in PM2.5 emissions that exceed 55 pounds per day. However, the commenter’s assertion that the exceedance of the SCAQMD’s 55 pounds per day threshold “must be identified as a significant impact” is not consistent with the SCAQMD’s own acknowledgements in its *CEQA Air Quality Handbook*. In its *CEQA Air Quality Handbook*, the SCAQMD acknowledges that “the final determination of whether or not a project is significant is within the purview of the lead agency pursuant to Section 15064(b) of the CEQA Guidelines.”³² In accordance with case-law, CEQA also allows the Lead Agency the discretion to develop thresholds of significance on a project-by-project basis.³³ Therefore, an exceedance of the 55 pounds per day threshold does not necessarily require that the Lead Agency identify and conclude that the impact is significant. Pursuant to Sections 15064.7(b) and (c) of the *CEQA Guidelines*, the City as Lead Agency has considered and evaluated the thresholds of significance established in the Draft EIR and concluded based on substantial evidence that the project would result in emissions of PM2.5 that would be less than significant.

RESPONSE C-30

The commenter cites several environmental documents for projects at the POLB and POLA, and a LADWP Project that included HRAs for construction emissions of TACs. However, these projects are highly dissimilar to the proposed project.

The Middle Harbor Redevelopment Project at the POLB would be constructed over a 10-year timeframe and would include dredging, excavation, and fill with approximately 10.7 acres of existing land that would be cut away and converted to water area, approximately 680,000 cubic yards (cy) of dredged material, and approximately 6,730,000 cy of import fill, approximately 1,290,000 cy of excavated material, approximately 173,000 cy of export fill, and approximately 844,000 tons and 560,000 tons of rock for a retention dike and

³⁰ SCAQMD, “Rule 1302. Requirements,” <http://www.aqmd.gov/rules/reg/reg13/r1303.pdf>. Accessed March 2013.

³¹ *Ibid.*, p. 1303-10.

³² SCAQMD, *CEQA Air Quality Handbook, Chapter 6 – Determining the Air Quality Significance of a Project (1993)* 6-2.

³³ *Save Cuyama Valley, ibid.*

revetment, respectively.³⁴ The Southern California International Gateway Project at the POLA would construct and operate a new near-dock intermodal rail facility that would handle containerized cargo transported through the ports of Los Angeles and Long Beach and take approximately 36 months (3 years) to construct.³⁵ The Southern California International Gateway Project would require excavation, repositioning, and compacting of approximately 325,000 cy of earth, the hauling of 175,000 cy off-site for reuse or disposal, delivery of approximately 245,000 cy of aggregate base, pouring of approximately 10,000 cy of reinforced concrete and 310,000 tons of asphalt concrete, installation of approximately 46,000 feet (8.7 miles) of track consisting of ties, rails, tie plates, joint bars, spikes, and other small materials, and replacement of the Sepulveda Railroad Bridge as well as improvements to access roads.³⁶ The LADWP Tujunga Spreading Grounds Enhancement Project would take approximately 2.6 years to construct and require approximately 1,300,000 cy of soil export and approximately 174,080 one-way (inbound or outbound) truck trips.³⁷ In summary, the POLB, POLA, and LADWP projects referenced in the comment would require soil movement equal to hundreds of thousands to millions of cubic yards and hundreds of thousands of truck trips.

Unlike these projects, the proposed project would result in considerably less construction activity in both intensity and duration. As discussed on page 2-12 in **Section 2.0, Project Description**, of the Draft EIR, the proposed project would require 13,000 cy of cut soil the majority of which would be reused on-site (approximately 11,700 cy). Construction demolition would generate 1,500 cy of material and the site would require the import of approximately 5,200 cy of fill. Thus, construction of the proposed project would require orders of magnitude less soil movement and corresponding truck trips when compared to these referenced projects. Components of the proposed Unit GT-5 would be pre-fabricated and brought to the site in a ready-to-assemble state, which limits the amount of on-site construction activity associated with equipment construction and assembly at the proposed project site. As a result, the proposed PWP project would require substantively fewer construction equipment and haul trucks than the projects referenced in the comment.

The proposed project is neither a port project nor a project under the control of the POLB or the POLA. As shown above, the proposed project is highly dissimilar to the referenced POLB, POLA, and LADWP projects. In addition, the City has not adopted the referenced POLB and POLA protocols as air quality assessment guidelines for the proposed project. Therefore, the POLB and POLA protocols are not applicable to the proposed project.

As discussed on page 4.B-30, in **Section 4.B, Air Quality**, of the Draft EIR, according to the Office of Environmental Health Hazard Assessment (OEHHA) and SCAQMD methodology, health effects from carcinogenic TACs are described in terms of individual cancer risk, which is the likelihood that a person exposed to concentrations of TACs over a 70-year lifetime will contract cancer, based on the use of standard risk-assessment methodology. As discussed on page 4.B-46 of the Draft EIR, the greatest potential for construction-generated TAC emissions would be related to DPM emissions from heavy-duty equipment use during grading and excavation activities. However, the construction schedule estimates that the activities which require heavy-duty diesel equipment usage, such as site grading and excavation, would last no more than two years (up to 23 months). Therefore, refined HRA specific to construction is unnecessary because construction impacts are not anticipated or expected to exceed SCAQMD established health risk thresholds

³⁴ U.S. Army Corps of Engineers/POLB, *Middle Harbor Redevelopment Project Final Environmental Impact Statement (FEIS)/Final Environmental Impact Report (FEIR) and Application Summary Report (ASR), Chapter 1 Introduction and Project Description, Table 1.6-3 (2009) 1-23.*

³⁵ POLA, *Southern California International Gateway Project, Final Environmental Impact Report, (2013) 1-8.*

³⁶ *Ibid.*, pp. 1-30, 1-31

³⁷ LADWP, *Tujunga Spreading Grounds Enhancement Project, Draft Environmental Impact Report, (2012) 3-8, 4.1-18.*

of significance and construction of the project would not result in a significant 70-year lifetime health impact. The City notes that, as stated in **Response 18-26 in Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, the Office of Environmental Health Hazard Assessment (OEHHA) “does not support the use of current cancer potency factor to evaluate cancer risk for exposures of less than 9 years.”³⁸ Furthermore, as discussed in **Response 18-26** of the Final EIR, the SCAQMD recommends that quantitative HRAs be conducted for substantial sources of diesel particulate matter (which is generally emitted as PM_{2.5}), such as truck stops and warehouse distribution centers. The CARB siting guidance, *Air Quality and Land Use Handbook*,³⁹ which the SCAQMD cites in its own guidelines, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*,⁴⁰ defines a warehouse as having more than 100 truck trips or 40 refrigerated truck trips per day. Based on this, the project’s 20 haul trucks traveling on adjacent roadways passing by a receptor, in addition to the project’s temporary on-site construction equipment (e.g., up to approximately 9 construction units, such as graders and tractors, during the most active phase of construction plus several smaller pieces, such as concrete/mortar mixers and pumps) would not be considered a substantial source of diesel particulate matter. Thus, it is determined that substantial evidence exists to support the reasonable and fair argument that construction of the proposed project would not exceed the SCAQMD-recommended thresholds and exposure to construction-related TAC emissions would not exceed the established health risk thresholds of significance. The City also notes that the SCAQMD has reviewed and provided comments on the Draft EIR. However, the SCAQMD did not request that the project include a refined HRA analysis for construction in the EIR.

RESPONSE C-31

As noted in **Response 18-26 in Section 2.0, Comments and Responses on the Draft EIR**, of the Final EIR, while an LST analysis is not a health risk assessment per se, it is used to determine whether or not a project may generate significant adverse localized air quality impacts to sensitive receptors and whether or not a project may expose sensitive receptors to substantial pollutant concentrations. As shown in Table 4.B-4 on page 4.B-35, in **Section 4.B, Air Quality**, of the Draft EIR, according to the SCAQMD LST methodology, construction activities would not cause an exceedence of the thresholds of significance, including the threshold for PM_{2.5}.

The commenter provides a screening calculation method for estimating the incremental cancer risk from construction of the proposed project. However, the results from the commenter’s screening method are not supported by the project-specific information. The commenter’s assumes that construction would be ongoing for 365 days per year for 70 years, which is not correct since construction would be short-term and temporary and last for only a fraction of that time. In addition, construction activity would occur for approximately 250 to 260 days per year, accounting for weekends and holidays, and not 365 days per year. By assuming an exposure scenario of 365 days per year for 70 years, the commenter’s analysis of construction health risks would be substantially overestimated.

The commenter’s screening method uses a USEPA scaling factor that incorporates a degree of conservatism to provide reasonable assurance that maximum concentrations for the annual value will not be underestimated.⁴¹ The USEPA scaling factor would tend to overestimate the actual impacts.

³⁸ OEHHA, *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*, (2003) 8-4.

³⁹ CARB, *Air Quality and Land Use Handbook: A Community Health Perspective*, (2005).

⁴⁰ SCAQMD, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, (2005).

⁴¹ *Ibid.*, p. 15.

The commenter's screening method also estimated the impacts without using the actual emissions from construction of the project. Instead, the commenter's screening method estimates the impacts using an assumed PM2.5 emissions value that is artificially higher and bears no resemblance to the actual project's construction PM2.5 emissions reported in the Draft EIR, which are lower. By assuming an artificially higher PM2.5 emissions value, the commenter's analysis of construction health risks would be substantially overestimated.

The commenter's screening method assumes little to no dispersal effects from wind and other meteorological factors. The inclusion of meteorological data would tend to reduce the estimated pollutant concentrations and the incremental health risk from construction of the project due to the dispersal of pollutants. Thus, by not accounting for meteorological data, the commenter's analysis of construction health risks would be overestimated.

The commenter's screening method assumes construction equipment would operate at distance of 64 meters from the nearest sensitive receptor. This distance is based on the measured distance between the fenceline of the project site and the nearest residential use to the west across Fair Oaks Avenue. However, during construction of the project, equipment would not operate solely at the fenceline of the project site nearest to sensitive receptors. Construction equipment would operate at various locations on the Glenarm site as necessary to conduct site preparation and installation of the proposed Unit GT-5 and associated project components. These project components are not all located at the fenceline nearest to sensitive receptors. Thus, it is unreasonable to assume that all construction equipment would operate at the fenceline every work day during the approximately 23-month construction time period. By not accounting for the increased distance that construction equipment would operate on average during the construction time period, the commenter's analysis of construction health risks would be overestimated.

Furthermore, the analysis provided in the comment does not take into account conditions that PWP has voluntarily agreed to implement to further reduce construction emissions (see **Response 5-5** in Section 2.0, *Comments and Responses on the Draft EIR*, in the Final EIR). PWP would implement conditions that would reduce diesel particulate matter emissions, including PM2.5, from certain large construction equipment by approximately 85 percent.⁴² In addition, PWP would require contractors to use model year 2007 or newer diesel haul trucks, which would reduce diesel particulate matter emissions, including PM2.5, by approximately 80 percent compared to the current fleet-averaged diesel particulate matter emissions.⁴³

Given the above factors, the screening-level health risk value provided in the comment is considerably overestimated and not representative of the proposed project. Based on the short-term and temporary nature of construction, as well as the conditions that PWP would implement that would result in a reduction in diesel particulate matter (i.e., PM2.5) emissions from large construction equipment (85 percent reduction) and from on-road haul trucks (80 percent reduction compared to the fleet-averaged emissions), health impacts due to construction of the proposed project would be less than significant.

The potential health impacts associated with commissioning are discussed in detail in **Response 18-25** in in **Section 2.0**, *Comments and Responses on the Draft EIR*, of the Final EIR, as well as in **Response C-20** above. As discussed, impacts during commissioning and startup/shutdown would be well under the established threshold of significance.

⁴² CARB, "Verification Procedure," <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>. Accessed March 2013. CARB Level 3 verified diesel particulate filters reduce diesel particulate matter by 85 percent.

⁴³ CARB, *EMFAC2011 for T7 single construction on-road vehicles in the South Coast Air Basin*.

RESPONSE C-32

Refer to **Response C-23**, **Response C-29**, and **Response C-31** for discussion of the issues raised in this comment. As discussed in those responses, the Draft EIR concluded, based on substantial evidence, that the project would not result in a significant PM2.5 impact and would not result in a significant diesel particulate matter impact. As impacts would be less than significant, no mitigation measures are required to reduce the impact to a less-than-significant level.

RESPONSE C-33

This comment provides a brief conclusion of the comments raised in **Comment C-28** through **Comment C-33**. Detailed responses to these comments are provided in **Response C-15** through **Response C-23** and in **Response C-28** through **Response C-33**. In summary, the responses demonstrate that the air quality analysis in the Draft EIR fully addresses the project's impacts and any required mitigation pursuant to CEQA.

RESPONSE C-34

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 18-14, 18-15, and 18-41 through 18-46). See **Response C-11** regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property. With respect to the potential presence of dioxins in the soil as the result of incinerator operation, as stated in the responses to related comments already provided in the Final EIR and as restated in **Response C-12**, above, prevailing winds would carry wind-transported deposits to the east, off-site; and dioxin was not noted as a contaminant of concern in previous Phase II and Phase III investigations conducted on the Power Plant property. As discussed previously, usually the environmental impact associated with a burn pit is more severe than the impact from a closed incinerator. Generally, chemicals associated with open burn pits and incinerators other than dioxin are used for the purpose of delineating of the impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

RESPONSE C-35

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 15-1, 15-2, 18-14, 18-15, and 18-41 through 18-46). See **Response C-11** regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property. While the City itself does not possess records of the incinerator (as stated in Response 15-1 in the Final EIR), responses to comments on the topic of the incinerator provided in the commenter's January 31, 2012 Draft EIR comment letter nonetheless addressed the potential for soil contamination on the Power Plant property assuming the presence of the incinerator as defined on the Sanborn Map. Responses to the January 31, 2012 letter in the Final EIR make it clear that dioxin was not identified as a contaminant of concern in the Phase II and III investigations performed on the Project site and appended to, or incorporated by reference into, the Draft EIR. Accordingly, the past existence of the incinerator, and the potential for soil contamination associated with operation of the incinerator, were disclosed and discussed in the Final EIR. As discussed previously, usually the environmental impact associated with a burn pit is more severe than the impact from a closed incinerator. Generally, chemicals associated with open burn pits and incinerators other than dioxin are used for the purpose of delineating of the impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

With respect to the commenter's assertion that responses to comments contained in their letter of January 31, 2012 are "wholly inadequate", the assumptions, data, methodology, analysis, and impact conclusions presented in the Draft and Final EIRs (not including the contents of the comment letters) are supported by substantial evidence in those documents. To the extent that the comment letters and correspondence submitted by the public, including the commenter, are considered expert opinion, Section 15151 of the *CEQA Guidelines* states that disagreement among experts does not invalidate an EIR.

RESPONSE C-36

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 15-1, 15-2, 18-14, 18-15, and 18-41 through 18-46). See Response C-11 regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property.

The commenter asserts that the Final EIR states, in Responses 18-14 and 18-15, that sampling for dioxins was not undertaken for the project. However, soil borings were made, soil samples collected, and remedial work on-site was performed under oversight of the Pasadena Fire Department. Dioxin was not identified as a chemical of concern, meaning any detected levels did not reach regulatory levels that required cleanup. All excavated soil associated with the oil pit (burn pit) was disposed off-site and confirmation soil samples were collected and analyzed (see Reference #4). Furthermore, dominant wind direction at the site is to the east/northeast and any wind-transported deposits would have been carried east of the incinerator. As discussed previously, usually the environmental impact associated with a burn pit is more severe than the impact from a closed incinerator. Generally, chemicals associated with open burn pits and incinerators other than dioxin are used for the purpose of delineating of the impacted soils (due to deposition of emission debris) and confirmation sampling of remedial action for practical purposes, which include the availability of the results within a short time frame, and to control costs.

RESPONSE C-37

Although this comment cites the Final EIR, it otherwise restates comments already submitted to the City by this commenter in the Draft EIR comment letter dated January 31, 2012 (Comments 15-1, 15-2, 18-14, 18-15, and 18-41 through 18-46). In addition, see **Response C-11** regarding the City's acknowledgment of the presence and location of the incinerator on the Power Plant property. Thus, adequate information has been presented to decision makers and the public regarding uncontrolled incineration practice and previous operation potential to result in impacts relative to the presence of hazardous materials including dioxin in impacted soils associated with burn pit. The impacted soil associated with the burn pit were delineated, excavated, and disposed off-site during previous Phase II investigations and Phase III operations under oversight of the Pasadena Fire Department and disclosed in Section 4.E, Hazards and Hazardous Materials, in the Draft EIR, in the supporting limited Phase II Report, prepared by Hydrologue, Inc., which is provided in Appendix D of the Draft EIR, and documents prior studies that were appended to the Limited Phase II Environmental Investigation (Appendixes C through G), which were also provided in Appendix D of the Draft EIR.

It should be noted that selected chemical compounds associated with the open pit burning listed above were used for the purpose of delineating and confirmation sampling of remedial work by the consultant and regulatory agency. Usually, the selection of the analytical test is based on the emissions tonnage of the chemical compound (TPH, VOCs, SVOCs, PCBs and CAM Metals) since the higher the emission tonnage, the higher the possibility of impact to the soil, the cost, and the availability of the results of the analytical testing.

The absence of non-problematic concentrations of TPH, SVOCs, PCBs and CAM metals can be used to demonstrate the absence of dioxin (based on a comparison of the emissions tonnage).

PH

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P A S A D E N A H E R I T A G E

March 13, 2013

Pasadena Planning Commission
175 N. Garfield Avenue
Pasadena, CA 91101

RE: CUP #5804 – 72 East Glenarm Street (Glenarm Power Plant Repowering Project)

Dear Commissioners,



As part of our ongoing monitoring of the proposed Glenarm Power Plant Repowering Project for potential impacts to historic resources, Pasadena Heritage reviewed the Final Environmental Impact Report (FEIR) released in March 2013. As your Commission will review and make recommendations to City Council regarding the FEIR, we would like to provide the following comments for your consideration:

PH-1

- We were pleased to see that nearly all of Pasadena Heritage's recommendations for strengthening the Cultural Resources Mitigation Measures (MM CULT-1, 2 & 3) were incorporated in the FEIR. The only suggestion not implemented was that a demolition permit for removal of the boilers inside the Glenarm Building (a Pasadena Monument) not be issued until there is an approved plan for the space they currently occupy. We understand this is infeasible for Pasadena Water and Power because their department has determined that the boilers are structurally unstable and coated in asbestos that can't be safely and completely removed with the boilers in place (FEIR Page 2-139).

- Request: So that we can better understand the risks presented by the boilers, Pasadena Heritage would like to request a copy of the department's study of the structural and asbestos conditions. This information will be useful in evaluating our position regarding this or future reuse proposals for the Glenarm Building.

- We understand that the preferred alternative is now Alternative 3A, which proposes a temporary modular building in the event that reuse of the Glenarm Building for consolidated control room facilities proves economically infeasible. We are hopeful that this historic building can be returned to good use sooner rather than later, and were pleased to see that Alternative 3A also proposes mothballing of the structure to prevent further deterioration until such time it can be reused.

PH-2

- Suggestion: Although a mothballing program is described in the Alternative 3A Project Description (FEIR Page 2-10), there is no corresponding Mitigation Measure to this effect. A Mitigation Measure should be added indicating that in the event a temporary modular building is constructed in lieu of the Glenarm Building reuse, a mothball program consistent with the guidance of Preservation Brief 31 will be implemented prior to a specified date.

- Suggestion: The FEIR cites rising costs of hazardous materials abatement and structural work (Page 2-9) as a reason for considering a temporary modular building in lieu of the Glenarm Building reuse. We understand that the preference for PWP is to upgrade the Glenarm Building to meet the more stringent “Essential Facilities” seismic standards, but it is unclear if the proposed temporary building will meet this standard. If not, perhaps the department could instead consider rehabilitating the Glenarm Building to meet the standard seismic requirements, which would hopefully realize some cost savings through a reduced scope of work, eliminate the need to invest in the temporary building and mothballing program, and create an opportunity for the hazardous materials abatement and structural work to be completed now while costs are lower than expected to be in the future. **PH-3**

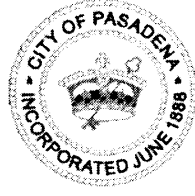
- The new Alternative 3A Site Plan (FEIR Figure 2-1) indicates the construction of a modular building approximately 20 feet from the Pacific Electric Railway Company (PERC) Substation (a Pasadena Landmark) and a new combination precast/cast or masonry 12-foot wall to be installed along South Fair Oaks Avenue with its southern terminus flush against the PERC Building. **PH-4**
 - Suggestion: A Mitigation Measure should be added specifying what precautions will be taken to prevent damage to the PERC building in the event the modular building is constructed. The Mitigation Measure should include necessary precautions to prevent damage to the façade and/or foundations of the PERC building during the construction of the abutting 12-foot wall.

Thank you for this opportunity to provide our comments and for your consideration in this matter.

Sincerely,



Jenna Kachour
Preservation Director



PASADENA WATER & POWER

APRIL 8, 2013

RESPONSES TO PASADENA HERITAGE LETTER OF MARCH 13, 2013

Pasadena Heritage
651 South Saint John's Avenue
Pasadena CA 91105-2931

RESPONSE PH-1

This comment acknowledges the City's response to a comment provided in Pasadena Heritage's Draft EIR comment letter, wherein the City stated that, under the proposed project, demolition of the boilers in the Glenarm Building's boiler room could not be delayed until a feasible plan for reuse of that space has been developed, since the boilers are structurally unsound, and cannot be abated of their asbestos coating in place. The commenter requests a copy of the City's structural [i.e. seismic strengthening] survey and its abatement plans, for purposes of better understanding the conditions and commenting on future plans for adaptive reuse of the Glenarm Building. The City has complied with this request and transmitted the documents to Pasadena Heritage on March 27, 2013.

RESPONSE PH-2

This comment acknowledges that the Glenarm Building will not be adaptively reused at this time and Alternative 3A is instead proposed for adoption, and expresses support for reuse of the Glenarm Building as soon as possible.

With respect to the mothballing program proposed as part of Alternative 3A, this does not constitute a mitigation measure because it does not reduce any potentially significant impacts of that alternative (i.e., there is no nexus to impacts of Alternative 3A). Instead, the mothballing program is intended to address building deterioration that could take place in the absence of implementation of the proposed project. In other words, it addresses an existing or baseline condition that would be perpetuated even if the project had not been proposed. For this reason, it does not warrant inclusion as a mitigation measure in Section 3.0, Corrections and Additions to the Draft EIR, and the Mitigation Monitoring and Reporting Program (MMRP) as a mitigation measure.

However, the mothballing program will be formally included in the project Conditions of Approval (see Condition No. 17), which will identify the required timing of implementation, oversight authority, and other requirements. The mothballing program will follow the guidance provided in the National Park Service's Preservation Brief 31 and will include a conditions assessment of existing conditions along with a conservation plan to keep the Glenarm Building from further deteriorating for a period of up to 10 years. As a Condition of Approval, which must be adopted at the time the project (or Alternative 3A) is adopted and the EIR certified, the program will become a requirement with which PWP is obligated to comply, similar to a

mitigation measure in an MMRP. Furthermore, the completed mothballing plan will be completed and submitted to the city before the issuance of an occupancy permit for the new modular building.

RESPONSE PH-3

This comment acknowledges that the costs of seismic strengthening and hazardous materials abatement were among the reasons PWP considered use of a modular building to house the proposed new unit's control room instead of a newly constructed facility within the Glenarm Building, but asks whether a modular building meets the State's requirements for designation of an essential facility, as the Glenarm Building was proposed to do. PWP will specify Occupancy Category IV (Essential Facility) as the seismic performance criteria in the specification for procuring the building. The majority of the building components will be pre-fabricated or pre-engineered.

RESPONSE PH-4

This comment notes that the modular building proposed wall along the Fair Oaks Avenue perimeter of the Glenarm Plant site would be in relatively close proximity to the existing, historically significant, masonry PERC building (a 21-foot buffer would remain between the modular building and PERC building) and asks that a mitigation measure be included to prevent possible damage to the PERC building from modular building and masonry wall construction. Building and wall construction are not anticipated to result in potentially significant impacts on the PERC building and no mitigation measure is required to reduce impacts to a less than significant level. Furthermore, under CEQA, a project that follows the Secretary of the Interior's Standards is considered fully mitigated. The proposed alternative will adhere to the Standards, and in particular, Standard 9, which states, "New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

Nonetheless, based on the suggestions of Pasadena Heritage in their comment letter of March 13, 2013, preventative measures for compliance with Standard 9 have been added to Condition No. 10, which is included in the conditions attached to the staff report presented to Council on April 8, 2013. Those measures include the requirement that PWP retain a qualified architectural historian to prepare a conditions assessment of the PERC Building and a temporary protection plan to protect the historic property from the adjacent construction. Typical preventative measures for protecting an historic property from adjacent construction may include but not be limited to include a dust suppression system, monitoring of vibration caused by adjacent construction which could cause cracking, placement of protective barriers over character-defining features, and fencing to create a protective border around the PERC Building.

It should be noted that, subsequent to the submittal of this comment letter to the City, the masonry wall that was proposed for 12 feet in height in the Final EIR was reduced to 10 feet at the request of the Planning Commission during the December 12, 2012 public meeting for the project.