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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

12 GLENOAKS CANYON HOMEOWNERS)
13 ASSOCIATION)

14 Petitioner,)

15 v.)

16 CITY OF GLENDALE;)

17 Respondent;)

18 _____)
19 GLENDALE DEPARTMENT OF WATER)
20 AND POWER; DOES 1-10)
21)
22)
23 Real Parties in Interest)
24 _____)

CASE NO.: 22STCP00114

PETITION FOR WRIT OF MANDATE

(Violations of California Environmental
Quality Act, State Planning and Zoning Law
and Glendale Municipal Code)

1
2 **INTRODUCTION**

3 1. Petitioner Glenoaks Canyon Homeowners Association (“Petitioner” or
4 “GOCHA”) brings this action to challenge the City of Glendale’s (“City’s”) violation of the
5 California Environmental Quality Act (CEQA), Planning and Zoning Law and Municipal Code
6 in approving the Biogas Renewable Generation Plant Project (“Biogas Project” or “Project”) at
7 the Scholl Canyon Landfill (“SCLF”).

8 2. This Project would demolish the existing facilities that had for many years
9 transported landfill gas to the Grayson Power Plant for use in energy production and build a new
10 Biogas Plant to process the landfill gas onsite at the SCLF.

11 3. The environmental impact report (“EIR”) for the Biogas Project is inadequate in a
12 number of respects. It fails to include an accurate and complete project description, failing to
13 adequately address the closure of the SCLF, including whether the Project could induce
14 expansion or further industrialization of the SCLF.

15 4. Despite repeated requests from Petitioner and others, including the City of Los
16 Angeles, the EIR fails to consider the whole of the project. Instead, it improperly segments
17 review of the Biogas Project from the linked Grayson Repowering Project.

18 5. The EIR relies on uncertain Priority Reserve credits to reduce the obligation to
19 mitigate air quality impacts for the surrounding community.

20 6. The EIR gives short shrift to the serious and foreseeable wildfire impacts at and
21 around the Project site that would be exacerbated by this Project.

22 7. Additionally, the EIR’s alternatives analysis fails to include a reasonable range of
23 alternatives or the necessary comparative analysis of the alternatives that are included.

24 8. The City’s approval of this Project violates Planning and Zoning Law because the
25 Project is inconsistent with a number of General Plan policies and objectives, particularly those
26 included in the General Plan’s Open Space Element. The Project is inconsistent due to its
27 construction on a protected ridgeline. It is also inconsistent with objectives to provide open
28 space amenities for the community, expand recreation facilities and to protect the community

1 from wildfire and other hazards.

2 9. Further, the City’s approval of a Conditional Use Permit and Special Recreation
3 Review for the Project violate the City’s Municipal Code because the findings required for these
4 approvals cannot be made because the Project is inconsistent with the General Plan and would
5 be detrimental to public health and safety.

6 **JURISDICTION**

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

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

11
12 **PARTIES**

13 12. Petitioner Glenoaks Canyon Homeowners Association (“GOCHA” or
14 “Petitioner”) is a non-profit mutual benefit corporation (503(c)(4)). GOCHA is an alliance of
15 volunteer canyon homeowners and residents. GOCHA's mission is to preserve, protect and
16 enhance the beautiful Glenoaks Canyon, while fostering a strong sense of community. The
17 Association achieves this mission by (1) monitoring proposed new development, (2) evaluating
18 the City's ongoing plans with the Scholl Canyon Landfill, (3) working closely with
19 Neighborhood Watch, (4) preparing disaster preparedness plans, and (5) organizing various
20 community events.

21 13. Respondent City of Glendale (“City”) is a political subdivision of the State of
22 California.

23 14. Real Party in Interest Glendale Department of Water and Power is identified as the
24 Project applicant on the Notice of Determination for the Biogas Project.

25 15. Real Parties in Interest named as Does I to X are given fictitious names because
26 their names and capacities are presently unknown to Petitioner.

1 **STATEMENT OF FACTS**

2 **Project Site and Surrounding Area**

3 16. The Project site is located within the boundaries of the existing 535-acre Scholl
4 Canyon Landfill (“SCLF”), in Los Angeles County, at 3001 Scholl Canyon Road, Glendale,
5 California, 91206. The Project facilities would be located on a 2.2-acre site on the southern part
6 of an approximately 95-acre area owned by Los Angeles County that is within the SCLF in an
7 area not used for waste disposal and would require 8 acres of the site to be disturbed.

8 17. Regional access to the landfill is from the Ventura Freeway (State Route 134) at
9 the Figueroa Street exit. The Project site itself is exclusively accessed by Scholl Canyon Road,
10 a narrow two-lane road.

11 18. The Project site is bordered on the north by the San Gabriel Mountains, on the
12 northwest by the Verdugo Mountains, and on the east by the San Rafael Hills. The easternmost
13 edge of the Santa Monica Mountains, in Los Angeles’s Griffith Park, lies just beyond the City’s
14 boundary to the southwest. The Verdugo Mountains and the San Rafael Hills are the most
15 significant physical landmarks in the community because these topographic features frame the
16 central portion of the City.

17 19. Additional facilities located near the proposed Project site include the Sanitation
18 Districts of Los Angeles County portable and temporary offices, and landfill condensate and
19 groundwater collection systems located adjacent to where the Project is proposed to be located.

20 20. The land uses surrounding the proposed Project site are non-industrial and include
21 low density residential and very low density/open space land uses. Immediately to the south of
22 the proposed Project site is the City of Los Angeles community of Eagle Rock, and to the east of
23 the proposed Project site is the City of Pasadena, including Arroyo Seco Park and Rose Bowl
24 Stadium.

25 21. Communities surrounding the SCLF include: Eagle Rock (9,661 homes),
26 Glenoaks Canyon (750 homes), Chevy Chase Canyon (800 homes), Rancho San Rafael (549
27 homes), Annandale and Linda Vista (1,330 homes). The neighborhoods along Linda Vista in
28 Pasadena and Glenoaks Canyon in Glendale have only narrow one way in and out streets.

1 22. These communities include more than three dozen schools, outdoor recreational
2 centers, hospitals and health facilities as well as public attractions. Approximately 60,000 people
3 live or work within two miles of the landfill and thousands more visit the area regularly.
4 Included in the surrounding recreational facilities are the Scholl Canyon Golf Course and Scholl
5 Canyon Ball Fields.

6
7 **Project Description**

8 23. The Project is construction and operation of a Biogas Renewable Generation Plant
9 intended to utilize landfill gas, also referred to as biogas, from the SCLF for generation of
10 electric energy for local consumption by the City of Glendale and potentially for sale outside of
11 the City.

12 24. Biogas is a natural byproduct of the decomposition of organic material in landfills.
13 Biogas is composed of methane (the primary component of natural gas), carbon dioxide,
14 nitrogen, oxygen, and small amounts of other compounds. If this biogas is not captured and
15 disposed of properly it will disseminate into the atmosphere and contribute to detrimental
16 greenhouse gas effects.

17 25. Biogas can also be used as a replacement for natural gas as a power plant fuel.
18 Until recently, the landfill gas from SCLF had been piped to the Grayson Power Plant, located
19 approximately five miles from the SCLF, for energy production. Any landfill gas that was not
20 conveyed to the power plant was destroyed by combustion using a flare station at the SCLF.

21 26. In 2018, more than a year after the Biogas Plant proposal was disclosed to the
22 community, the City halted use of the pipeline system to convey landfill gas to Grayson Power
23 Plant, but has not yet decommissioned this pipeline. To address the accumulation of landfill
24 gas, the City then began flaring all landfill gas from SCLF using outdated flares that do not
25 comply with South Coast Air Quality Management District (“SCAQMD”) requirements, greatly
26 increasing the air pollutant emissions in the area surrounding the Project site.

27 27. To make room for the Biogas Project, the existing landfill gas processing facility
28 which conveys landfill gas to the Grayson Power Plant will be dismantled and removed. The

1 existing concrete foundations and existing asphalt roads would also be demolished.

2 28. In addition to the demolition of existing landfill gas processing facilities, the
3 Project includes the installation of a new Biogas Plant. This facility would include internal
4 combustion engines that would burn the landfill gas in order to generate electrical power, and
5 would include a natural gas pipeline, water pipeline, and two water tanks. The hazards
6 associated with this facility require vegetation clearance from within 100 feet of the proposed
7 facility, but that clearance was not include as an enforceable mitigation measure.

8 29. The Southern California Gas natural gas pipeline is a three-inch, steel gas pipeline
9 that would be located above ground, within the boundary of the SCLF, except at road and
10 drainage culvert crossings. This natural gas pipeline is required because there is inadequate
11 methane content in the landfill gas and natural gas supplementation is needed to run the internal
12 combustion engines in the Biogas Plant.

13 30. The new 60,000-gallon water storage tank for fire protection and a new
14 approximately 10,000-gallon potable water storage tank would also be installed. The Project
15 has planned to install this water storage tank on a primary ridgeline, where the City's general
16 plan prohibits any construction. In order to convey water to the proposed Project, an
17 approximately one-mile-long, 12-inch steel or high-density polyethylene pipeline would be
18 connected to the existing 16-inch pipeline located north of the SCLF on Glenoaks Blvd. This
19 water line would be installed above-ground except for road and drainage culvert crossings, and
20 at those locations the water line would be installed below-ground under the roads and either over
21 or under the drainage culvert crossings.

22 31. The Project would be constructed and operated adjacent to the existing landfill gas
23 collection and landfill gas flaring systems. There are two operating and one backup LFG blower
24 delivering landfill gas to the landfill gas flaring system which consists of 12 existing eight-foot
25 diameter, 16-foot high ground flares. The existing flares are outdated and out of compliance
26 with the flaring requirements established by the SCAQMD.

27 32. Project construction would occur in three phases over an approximately 15- to 18-
28 month period.

1 33. The life of the proposed Project is anticipated to be 20 years, or as long as the
2 landfill gas can be used to generate electricity; after which time the EIR claims the equipment
3 and equipment foundations would be removed.

4 **Scholl Canyon Landfill**

5 34. The SCLF opened in 1961 and is owned by the City of Glendale.

6 35. The SCLF is an operational Class III nonhazardous landfill that accepts municipal
7 solid waste, but it is not a generator of, or repository for, hazardous wastes.

8 36. Portions of SCLF are owned, respectively, by the City of Glendale, Los Angeles
9 County, and by Southern California Edison Company. The SCLF is operated by the Los
10 Angeles County Sanitation District No. 2, serving as the administrative entity for the Los
11 Angeles County Sanitation Districts pursuant to a Joint Powers Agreement.

12 37. Los Angeles County, the Sanitation Districts of Los Angeles County and the City
13 of Glendale entered into a Joint Powers Agreement for construction and operation of the SCLF
14 in 1959, with periodic amendments and supplements, the most recent of which is dated 1997.
15 This Joint Powers Agreements requires the SCLF to become a recreational area after closure.

16 38. Landfilling operations were initially conducted in Scholl Canyon and subsequently
17 moved to an adjacent canyon to the north. Near the end of the life of the northern canyon in
18 1975, landfilling operations resumed in the main Scholl Canyon. Since 1975, landfilling
19 operations have only been conducted in the main Scholl Canyon.

20 39. During the mid-1980s, the amount of waste received at the SCLF increased
21 significantly. In response, the City passed ordinances in 1987 to limit the uses of SCLF and the
22 amount of waste SCLF could receive. Ordinance No. 4780 limited use of the site to a wasteshed
23 comprised of the following cities and communities: Glendale, La Canada-Flintridge, Pasadena,
24 San Marino, Sierra Madre, South Pasadena, and the unincorporated Los Angeles County
25 communities of Altadena, La Crescenta, Montrose, and East Pasadena. Ordinance No. 4781
26 limited the waste received for disposal to 33,600 tons per week (5,600 tons per day), Monday
27 through Saturday, although the current permit limits disposal to only 20,400 tons per week.

28 40. The SCLF is nearing its total permitted capacity, with estimates that it will reach

1 that capacity in 2025 or 2026.

2 41. In 2014, the City prepared an EIR to analyze a project to expand the allowable
3 total capacity for SCLF, thereby extending its life. The City has since stated an intention to not
4 move forward with the SCLF expansion project, but they are not prohibited from doing so in the
5 future based on the existing environmental review that already has been prepared.

6 42. In 2013, the City's of Glendale Public Works Department released a request for
7 proposals for the provision of a Municipal Solid Waste Anaerobic Digestion Project at SCLF.
8 High grade methane from anaerobic digestion could augment landfill gas energy production. In
9 July 2016, the City authorized an exclusive negotiating agreement to determine the feasibility of
10 the energy conversion project. The City did not move forward with the project at that time, but
11 they are not prohibited from doing so in the future, given the state's pressure to redirect organic
12 matter from landfills.

13 14 **Related Projects, Project Review and Approval Process**

15 43. The Grayson Repowering Project is a power plant repowering project proposed by
16 Real Party in Interest Glendale Department of Water and Power to remove and replace aging
17 infrastructure with state-of-the art equipment at the Grayson Power Plant. This Project is related
18 to and physically connected to the Biogas Project because the landfill gas at SCLF was piped to
19 and used at the Grayson Power Plant until April 2018. The pipeline connecting SCLF and
20 Grayson still exists.

21 44. The notice of preparation for the Grayson Repowering Project was circulated on
22 December 15, 2016, at a time when landfill gas was still being used at the Grayson Power Plant.

23 45. The draft EIR for the Grayson Repowering Project was first made available for
24 public review in fall of 2017. The City received numerous comments, including comments from
25 Petitioner.

26 46. A final EIR for the Grayson Repowering Project was prepared and released in
27 2018. The City Council considered the EIR on April 10, 2018, at which point they instructed
28 the Glendale Department of Water and Power to consider greener alternatives as part of that

1 project.

2 47. In August 2021, the City commenced a 98 day comment period for a partial
3 recirculated draft EIR for the Grayson Repowering Project. A revised final EIR has not yet been
4 released. Reconsideration of this project is anticipated to occur in the coming months.

5 48. The Biogas Project was first analyzed in a mitigated negative declaration
6 (“MND”). This MND was circulated for public comments in 2017.

7 49. The final MND was considered and rejected by the City’s Planning Commission
8 on March 9, 2018. The Planning Commission recommended that an EIR be prepared for the
9 Biogas Project, with a particular focus on the alternatives analysis for the treatment of landfill
10 gas.

11 50. In August of 2018, the City issued a request for proposals for preparation of an
12 EIR for the Biogas Project.

13 51. A Notice of Preparation for the Biogas Project EIR was issued in March 2019.

14 52. The draft EIR for the Biogas Project was circulated July 1, 2020, through
15 September 30, 2020 and a final EIR was published on the City’s website on August 2, 2021.

16 53. Petitioner submitted detailed comments on the draft and final EIR. Their
17 comments are consistent with the many comments provided by Glendale, Eagle Rock and
18 Pasadena community members, Los Angeles Council District 14 and expert agencies, including
19 the South Coast Air Quality Management District (SCAQMD), Los Angeles County Public
20 Works Department, the City of Los Angeles Department of Sanitation and Environment and the
21 California Department of Fish and Wildlife. These comments detail an inadequate project
22 description, improper segmentation of the Biogas Project from the Grayson Repowering Project,
23 insufficient analysis of air quality and wildfire impacts and an inadequate alternatives analysis.
24 CEQA requires that the lead agency for a project evaluate all DEIR comments received on
25 environmental issues and prepare a written response.

26 54. On October 6, 2021, the City’s Planning Commission unanimously denied
27 approval of a Conditional Use Permit (“CUP”) and Special Recreation Review (“SRR”) for the
28 Biogas Project, citing inconsistencies of the proposed Project with the City’s General Plan and

1 the Project’s impacts to public health, safety and welfare. The Planning Commission did not
2 certify the final EIR or adopt the Mitigation Monitoring and Reporting Program (“MMRP”) for
3 the Project.

4 55. Real Party filed an appeal of the Planning Commission’s denials of the CUP and
5 SRR, and requested the City Council certify the final EIR, adopt the MMRP and overturn the
6 Planning Commission’s denials of the CUP and SRR.

7 56. On November 30, 2021, the City Council held a hearing on Real Party’s appeal
8 and overturned the Planning Commission’s denial of the Project. The City Council certified the
9 final EIR, adopted the MMRP and approved the CUP and SRR for the Project.

10 57. The City of Glendale filed a Notice of Determination for the Project on December
11 13, 2021.

12 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
13 **AND INADEQUATE REMEDIES AT LAW**
14

15 58. Petitioner objected to the Project in the administrative process, and fully
16 exhausted its administrative remedies. Petitioner, and members of Petitioner, submitted letters
17 during the comment period raising the issues set forth herein and provided testimony at the
18 public hearings held regarding the Project.

19 59. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
20 unless this Court grants the requested writs of mandate and injunctive relief. In the absence of
21 such remedies, Respondent’s approval of the project would form the basis for a development
22 project that would proceed in violation of state law.

23 60. Petitioner has complied with Public Resources Code section 21167.7 by filing a
24 copy of this petition with the California Attorney General. A copy of that notice is attached as
25 Exhibit A.

26 61. Petitioner has complied with Public Resources Code section 21167.5 by
27 providing the City of Glendale with notice of its intention to commence the action. A copy of
28 that notice is attached as Exhibit B.

1 address whether the Project could induce expansion of the SCLF or installation of an anaerobic
2 digester to allow continued use of the Biogas Project. An expansion of the SCLF was
3 previously analyzed by the City. Although the City has claimed it does not plan to move
4 forward with the expansion project at this time, there is nothing preventing the City from
5 restarting the SCLF expansion project process, particularly given that a substantial amount of
6 work has already been completed for this project, including preparation of an EIR. Similarly,
7 the City previously proposed installation of an anaerobic digester at the SCLF. While the City
8 is not currently moving forward on such a project, there is nothing preventing them for doing so.

9 70. The draft EIR's project description also fails to disclose the continued use of flares
10 under the Project, preventing an accurate assessment of Project impacts. The draft EIR did not
11 disclose that it is highly likely the flares for landfill gas would need to operate simultaneously
12 with the Biogas Plant because the landfill gas flow from the SCLF currently exceeds the
13 capacity of the Biogas Plant. The City failed to recirculate the EIR or include necessary analysis
14 when it admitted the continued use of flares in the final EIR.

15 71. The EIR's project description is further inadequate because it fails to provide
16 accurate and reliable information concerning the predictable net power to be produced by the
17 Biogas Plant and the amount of natural gas that would need to be added over time and after
18 landfill closure to maintain operation of the Biogas Plant.

19

20 **The City Improperly Segmented Environmental Review**

21 72. CEQA requires that environmental review documents analyze "the whole of an
22 action" (CEQA Guidelines § 15378) and not evade comprehensive CEQA analysis by splitting
23 projects into separate pieces for purposes of environmental review.

24 73. Despite repeated comments from Petitioner and other agencies, including the City
25 of Los Angeles, the EIR fails to consider the whole of the project. Instead, it improperly
26 segmented review of the Biogas Project from the linked Grayson Repowering Project.

27 74. Here, the Biogas Project and the Grayson Repowering Project have the identical
28 objective of providing local power generation, and the Biogas Project would generate that power

1 through the use of gas produced at the Scholl Canyon Landfill, gas which was used for power
2 generation at the Grayson Power Plant until very recently. In fact, the EIR for the Grayson
3 Repowering Project acknowledges the interconnected nature of these projects. The Biogas Plant
4 is an alternative method for processing landfill gas, instead of processing it at the updated
5 Grayson Power Plant. Both the Biogas Project, addressing landfill gas, and the repowering of
6 Grayson Power Plant impact space at Grayson, Glendale’s electricity needs and Glendale’s
7 renewable portfolio. These projects are part of the whole of an action by the City and as such
8 should have been analyzed in joint EIR to address how the projects can fit together, how
9 Glendale’s power needs can be met, the overall costs and how to meet Glendale’s renewable
10 portfolio targets.

11 75. By failing to do so, the City has relied on an improperly “narrow view of the
12 relevant project.” (*California Unions for Reliable Energy v. Mojave Desert Air Quality*
13 *Management Dist.* (2009) 178 Cal.App.4th 1225, 1241-1242.) “[T]he interrelated character of
14 the proposals was known in advance. [Thus] the selection of a narrow project as the launching
15 pad for a vastly wider proposal frustrated CEQA's public information aims.” (*County of Inyo v.*
16 *City of Los Angeles* (1977) 71 Cal.App.3d 185, 199–200.)

18 **Impacts Were Not Properly Analyzed in the EIR**

19 76. CEQA requires the City to conduct an adequate environmental review prior to
20 making any formal decision regarding projects subject to the Act. (CEQA Guidelines § 15004.)
21 CEQA imposes upon the City a clear, present and mandatory duty to certify an EIR only if the
22 EIR fully discloses to the public the significant environmental effects that may occur. The
23 Project EIR lacked the necessary analysis.

24 ***Air Quality Impacts***

25 77. The EIR’s analysis of air quality impacts is inadequate in a number of respects.

26 78. The EIR relies on an improper baseline for its air quality analysis. Without an
27 accurate baseline, an EIR cannot accurately disclose a project’s likely environmental impacts,
28 or determine whether those impacts can be fully mitigated. (*Communities for a Better*

1 *Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322.)
2 Under CEQA, a project’s environmental impacts are determined by comparing the
3 environmental baseline, the without-project conditions, to with-project conditions. (CEQA
4 Guidelines §15125, subd. (a).) An artificially high baseline fails to address all project impacts
5 by relegating what are actually “new” impacts to existing conditions. This prevents an EIR
6 from formulating mitigation measures capturing the project’s full impacts. Thus, an accurate
7 baseline is fundamental to an accurate CEQA analysis. (*Citizens for East Shore Parks v.*
8 *California State Lands Com.* (2011) 202 Cal.App.4th 549, 557.)

9 79. The EIR improperly relies upon the very recent condition of flaring all landfill
10 gas at SCLF using outdated flares as the baseline emissions. SCAQMD has required the
11 upgrade of these flares and permits have been sought for the upgraded and less-polluting flares.
12 Use of the required upgraded flares should have instead been identified as the baseline for
13 environmental review to provide a true comparison of the conditions with and without the
14 Biogas Project.

15 80. The draft EIR also failed to include the new regenerative gas flare as well as the
16 waste flares emissions in the calculation of the Project’s emissions. These emissions were
17 disclosed in the final EIR in response to comments from South Coast Air Quality Management
18 District (“SCAQMD”). When the flares emissions were added to the Project emissions in the
19 final EIR, the final EIR acknowledged that operational NOx emissions exceed the localized
20 significance thresholds for NOx. The final EIR also shows PM10 and PM 2.5 emissions would
21 exceed localized thresholds. The City failed to identify this as a significant impact requiring
22 mitigation.

23 81. The EIR also lacks the required cumulative assessment of air quality impacts from
24 both the Biogas Project and the Grayson Repowering Project.

25 82. The EIR fails to provide adequate analysis regarding the use of natural gas
26 augmentation in the Biogas Plant and the amount of natural gas that would be required. The
27 emissions caused by the added natural gas are not included in the Project emissions; thus, the
28

1 EIR fails to provide required information and analysis regarding the impacts associated with the
2 Project.

3 83. The draft EIR also fails to analyze the potential impacts associated with operating
4 both the flare equipment and the Biogas Plant at the same time. The draft EIR fails to disclose
5 the air emissions that would be produced when the flare is operated at the same time as the
6 Biogas Plant. The City failed to recirculate the EIR when acknowledging emissions from the
7 Project's flare equipment in the final EIR, despite the fact this would significantly increase the
8 release of harmful air pollutants.

9 84. The EIR also attempts to rely on uncertain Priority Reserve credits to further
10 reduce the obligation to mitigate air quality impacts for the surrounding community. CEQA
11 Guidelines section 15126.4, subdivision (a)(2) requires that all mitigation measures be "fully
12 enforceable." Here, the EIR relies on the use of SCAQMD Priority Reserve credits to mitigate
13 the significant NOx and VOC emissions from the Biogas Project. However, the City cannot
14 approve Priority Reserve credits for the Project; only the SCAQMD can do so. The City
15 assumes the SCAQMD will approve these credits needed to claim the Project's air quality
16 impacts have been mitigated to a less than significant level, but it cannot guarantee all credits
17 will be approved.

18 85. That the City will seek these credits is not a fully enforceable mitigation measure.
19 As such, CEQA requires the City to conclude the Biogas Project will have remaining
20 significant and unavoidable air quality impacts and to make findings pursuant to Public
21 Resources Code § 21081.

22 86. Further, reliance on these Priority Reserve credits fails to address the localized
23 health impacts of the significant exceedances of criteria pollutants at the Biogas Plant.

24 ***Growth Inducing Impacts***

25 87. CEQA Guidelines section 15126.2, subdivision (e) requires an EIR to address any
26 growth inducing impacts associated with a project.

1 88. Here, the EIR fails to address growth inducing impacts associated with the Biogas
2 Project. Implementation of this Project, which relies upon landfill gas produced by the SCLF,
3 would indirectly encourage expansion of the SCLF and/or the installation of anaerobic digestors
4 at the SCLF. The City will be investing millions of dollars in infrastructure to generate power
5 from the landfill gas and will want to continue that source of fuel for its investment. The EIR
6 fails to include a detailed analysis of the amount of landfill gas that would be produced by the
7 SCLF based on its current capacity limits.

8 ***Greenhouse Gas Impacts***

9 89. The EIR fails to provide an adequate analysis of the Project’s greenhouse gas
10 (GHG) emissions. The EIR fails to support its claim that Project emission would be nearly
11 identical to emissions from the existing flares. The Project emissions included in the EIR do
12 not include emissions associated with natural gas augmentation, which would increase the
13 Project’s GHG emissions.

14 90. The final EIR also fails to provide the required good faith response to comments
15 from SCAQMD that the Project’s daily operational CO emissions exceed SCAQMD
16 significance thresholds.

17 91. Real Party has indicated an intention to make adjustments to the gas collection
18 system at SCLF in an attempt to increase methane content in the landfill gas going to the
19 Biogas Plant engines. The EIR fails to assess these changes and whether they could result in an
20 increase in methane to the atmosphere, increasing GHG emissions from the Project.

21 ***Wildfire and Other Hazards***

22 92. The Project site is located in a Very High Fire Hazard Severity Zone
23 (“VHFHSZ”), which Cal Fire designates as the most at risk for fire within the State. Thus,
24 wildfire presents a huge risk to the neighborhoods of Glenoaks and Chevy Chase Canyons,
25 Linda Vista and Eagle Rock surrounding the Project site. These neighborhoods are all limited
26 by narrow, single access roads, and any increase in wildfire risk puts them in grave danger.

27 93. Despite this, the EIR’s wildfire analysis minimizes this danger by not adequately
28 analyzing and disclosing the Project’s wildfire impacts, nor its potential mitigation measures.

1 The EIR does not adequately address the Project's potential exacerbation of wildfire impacts,
2 which is required analysis as the Project is located in a VHFHSZ. The EIR also fails to analyze
3 the Project's impacts to fire evacuation routes for the surrounding communities.

4 94. The EIR also fails to adequately address the wildfire and other impacts associated
5 with a potential explosion originating from the proposed natural gas and pressurized landfill gas
6 pipelines.

7 95. The EIR further fails to analyze the effects of an earthquake on the fault line under
8 the canyon or its enhanced effects on fire danger or hazardous material dispersion. The EIR fails
9 to adequately address various hazardous materials stored on site that could leak into the landfill
10 as a result of an earthquake and/or fire. This includes the hazards associated with aqueous
11 ammonia tanks that are not adequately mitigated in case of an earthquake.

12 ***Land Use and Aesthetic Impacts***

13 96. The Project's 60,000-gallon water tank and the 40-foot tall exhaust stacks will be
14 visible from surrounding communities and from trails if the area does revert to a recreation area
15 as set forth in the Joint Powers Agreement. There is no discussion of how the Project will affect
16 aesthetics as the landfill closes.

17 97. The Project's water tank would be located on a primary ridgeline. The EIR fails to
18 acknowledge this is a significant aesthetic impact and also a land use impact because such
19 construction on primary ridgelines is prohibited by the City's Municipal Code and General Plan.

20 ***Biological Impacts***

21 98. The EIR fails to address that the hills surrounding the Project site serve as a
22 wildlife corridor for a number of species which could be disrupted by the Project, especially by
23 the noise the equipment would create.

24 ***Noise Impacts***

25 99. The EIR fails to include adequate information to analyze the impacts of the
26 Project's continuous operational noise on the surrounding community and the detrimental
27 effects on humans or wildlife. The data was improperly limited, with only a few measurements
28 taken, on a single day five years ago.

1 ***Transportation Impacts***

2 100. The EIR underestimates the Project’s impact on transportation by not including
3 increased traffic on Glenoaks Boulevard during construction, by not addressing Colorado
4 Boulevard at all, and by accepting as adequate, a failing measure of traffic on the intersection of
5 Figueroa Boulevard and SR134.

6 ***Recreational Impacts***

7 101. The EIR includes virtually no discussion of future recreation areas on the site of
8 the SCLF after it has closed. The EIR lacks an assessment of the Project’s impacts on access to
9 these recreation areas, which could be significant because the main access road crosses the
10 Project’s buffer zone. The EIR also fails to address air quality, noise and hazard impacts from
11 the Project on those using the recreation areas. Additionally, no plans have been submitted
12 addressing the visibility of the Project from future recreational areas within the closed SCLF.

13
14 **The EIR Relies on an Improperly Limited Geographic Scope**

15 102. CEQA requires that a defensible geographic scope be used to assess a Project’s
16 potentially significant impacts. (CEQA Guidelines § 15130(b)(3).) Here, the EIR improperly
17 limits the impacts of the Project to a geographical area no larger than the 2.2-acre plot on which
18 the Project would sit, the area it would physically disturb and to a community that includes only
19 a few houses within a mile of the site. In reality, however, the Biogas Project would serve a
20 535-acre regional municipal waste facility surrounded by densely populated, well-established
21 communities that have been there long before the landfill. The EIR fails to justify its limited
22 geographic scope of impact analysis. In particular, the EIR ignores impacts on Eagle Rock and
23 Pasadena neighborhoods adjacent to the Project site and its access road.

24
25 **The EIR Fails to Adequately Analyze Project Alternatives**

26 103. The City has a duty under CEQA to evaluate a reasonable range of
27 alternatives to the environmentally damaging proposed Project. (*Laurel Heights I, supra*,
28 47 Cal.3d at 400.) As the California Supreme Court has stated: “Under CEQA, the public

1 agency bears the burden of affirmatively demonstrating that . . . the agency’s approval of
2 the proposed project followed meaningful consideration of alternatives and mitigation
3 measures.” (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th
4 105, 134.) While an EIR is “the heart of CEQA”, the “core of an EIR is the mitigation and
5 alternatives sections.” (*Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d
6 553, 564.) Preparation of an adequate EIR with analysis of a reasonable range of
7 alternatives is crucial to CEQA’s substantive mandate to “prevent significant avoidable
8 damage to the environment” when alternatives or mitigation measures are feasible. (CEQA
9 Guidelines § 15002(a)(3).)

10 104. Here, an EIR was required specifically to assess alternatives to the proposed
11 Project. Unfortunately, the EIR fails to assess a reasonable range of alternatives. For
12 example, the EIR fails to assess the alternative of continuing to send landfill gas to the
13 Grayson Power Plant as it had for many years.

14 105. The EIR also fails to provide sufficient information regarding Project
15 alternatives to allow for the necessary comparison. Omission of comparative, quantitative
16 analysis of alternative does not “produce information sufficient to permit a reasonable
17 choice of alternatives so far as environmental aspects are concerned.” (*Kings County Farm
18 Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-736.)

19 106. The EIR’s failure to provide adequate and accurate information also prevented
20 decision makers from determining the best course for achieving the objective of safely using
21 landfill gas generated by the SCLF for beneficial purposes.

22 23 **The EIR Was Required to Be Recirculated**

24 107. “A lead agency is required to recirculate an EIR when significant new
25 information is added to the EIR after public notice is given of the availability of the draft EIR
26 for public review under Section 15087 but before certification.” (CEQA Guidelines § 15088.5.)
27 New information includes when information regarding a significant environmental impact not
28 disclosed in the DEIR would result unless mitigation measures are adopted that reduce the

1 impact to a level of insignificance. (*Ibid.*)

2 108. Here, the final EIR disclosed the need for a new mitigation measure to address
3 significant adverse impacts of the industrial facility on recreational uses. The air quality
4 analysis that was revised in the final EIR pursuant to flaws in the analysis identified by
5 Petitioner's expert and others shows that there would be exceedances of thresholds of
6 significance for ambient air quality. The EIR should have been recirculated to address this
7 newly disclosed significant impact and assess mitigation measure to address identified
8 significant air quality impacts.

9 109. The EIR also fails to identify the significance of the loss of recreational area that
10 would result from a necessary buffer zone from the Project site not identified until the final EIR,
11 claiming only that it would be small compared to the remainder of the recreational area. The
12 EIR should have been recirculated to disclose this new information and to impose mitigation to
13 address the newly disclosed significant adverse recreational impact.

14 110. The final EIR further include significant new information regarding the Project's
15 use of flares and need for natural gas augmentation. This new information implicates changes in
16 air quality and GHG impacts associated with the Project. This information should have been
17 addressed in a recirculated draft EIR.

18 111. A new less impactful alternative was identified prior to the release of the final
19 EIR-use of new flares with significantly less emissions. Permits were sought for these new
20 flares prior to the release of the final EIR and a revised assessment of Project alternatives should
21 have been prepared to identify these upgraded flares as the No Project Alternative.

22
23 **SECOND CAUSE OF ACTION**

24 **(VIOLATION OF STATE PLANNING AND ZONING LAW)**

25 112. Petitioner incorporates all previous paragraphs as if fully set forth.

26 113. The Project must be consistent with the City's General Plan. (Govt. Code §
27 65300.5; *Families Unafraid to Uphold Rural Etc. County v. Board of Supervisors* (1998) 62
28 Cal.App.4th 1332, 1336.) To be consistent with a general plan, a project "must be compatible

1 with the objectives, policies, general land uses and programs specified in the general plan."
2 (*Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 99, citations
3 omitted.) A city's consistency determination is reviewed for an abuse of discretion, determining
4 whether the city "reasonably could have made a determination of consistency." (*Ibid.*)

5 114. Under the City's General Plan, the Project site has a land use designation of
6 Recreation/Open Space, requiring strict compliance with the General Plan Open Space Element.

7 115. Compliance with the City's Open Space Element is of particular importance.
8 (*Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806, citations
9 omitted; see also Gov. Code §§ 65566, 65567.) The City is not allowed to subordinate the Open
10 Space Element to other elements of the General Plan or other land use plans, which would
11 frustrate the legislature's open space preservation intent in adopting the Open Space Lands Act.
12 (*Sierra Club v. Board of Supervisors* (1981) 126 Cal.App.3d 698, 704; Gov. Code §§ 65560-
13 65570.)

14 116. The City's approval of the Project violates State Planning and Zoning Law
15 because the Project is inconsistent with a number of General Plan policies and objectives,
16 including but not limited to the following:

17 117. The grading for and construction of a water tank on a primary ridgeline for the
18 Project is inconsistent with the Open Space and Conservation Element objective to protect
19 primary ridgelines. (Open Space Element pp. 4-4, 4-38-4-40, 5-2; Land Use Element p. 24.)

20 118. The Project is inconsistent with the Open Space and Conservation Element's
21 objectives to provide for open space, natural resources, and amenities for the residents of the
22 City.

23 119. The Project is inconsistent with the Land Use Element Residential Goal to
24 "safeguard residential neighborhoods from intrusion of incompatible and disruptive uses." (LU
25 Element p. 8.) Construction and operation of the Biogas Project would be incompatible with
26 and disruptive to the surrounding residential neighborhoods. The Project's air quality impacts
27 and wildfire hazards are also incompatible with the surrounding residential neighborhood.

28 120. The Project is inconsistent with the General Plan's Safety Element, which states

1 that critical facilities should not be constructed in seismic zones IB, IC or IIB. Portions of the
2 Project site are located within these seismic zones and construction of the Biogas Plant on those
3 zones would be inconsistent with the General Plan.

4 121. The Project is also inconsistent with Recreation Element Objective 1, Policy 3:
5 “The City shall enhance and expand existing recreational facilities in response to community
6 needs.” Scholl Canyon is identified as existing recreation facilities that will be expanded once
7 the landfill reaches capacity. Construction of the Biogas Plant on this site is inconsistent with
8 this objective because it will limit recreational expansion at Scholl Canyon. It is also
9 inconsistent with the Land Use Element Residential Goal to promote development of parks and
10 recreational areas. (Land Use Element p. 8.)

11 122. The wildfire hazards associated with the Project put the Project in conflict with
12 Land Use Element Goal: “Provide for measures to prevent the loss of life, injury and economic
13 dislocation resulting from fire, flood, and geologic hazards.” (Land Use Element p. 7.)

14
15 **THIRD CAUSE OF ACTION**

16 **(VIOLATION OF GLENDALE MUNICIPAL CODE)**

17
18 123. Petitioner incorporates all previous paragraphs as if fully set forth.

19 124. The City’s approval of the Project violates the Glendale Municipal Code because
20 the City lacks substantial evidence to support the findings required to approve a conditional use
21 permit (CUP) or a Special Recreation (SR) Review for the Project.

22 125. In order to approve a CUP for the Biogas Project, pursuant to Glendale Municipal
23 Code section 30.42.030, the City must have substantial evidence that supports all of the
24 following findings:

25 A. That the proposed use will be consistent with the various elements and objectives of
26 the general plan.

27 B. That the use and its associated structures and facilities will not be detrimental to the
28

1 public health or safety, the general welfare, or the environment.

2 C. That the use and facilities will not adversely affect or conflict with adjacent uses or
3 impede the normal development of surrounding property.

4 D. That adequate public and private facilities such as utilities, landscaping, parking
5 spaces and traffic circulation measures are or will be provided for the proposed use.

6 126. As set forth above, the Project would be inconsistent with a number of objectives
7 and policies contained in the General Plan, thus required finding A cannot be made.

8 127. The Project's emission of air pollutants could be detrimental to public health and
9 safety. The internal combustion engines relied upon for the Project are highly polluting and the
10 Project's operation would produce higher levels of all criteria pollutants than the current flares
11 produce. Increases in NO_x, CO and VOC emissions exceed the SCAQMD significance
12 threshold without the application of priority reserve credits, which do not reduce this Project's
13 pollutant emissions. The required new flares will reduce the NO_x emissions, making the
14 increase for the Project even higher.

15 128. The high levels of air pollutants require a setback zone, but this fails to protect
16 sanitation employees at the landfill and Biogas Plant.

17 129. In addition, the Project as proposed needs to use natural gas augmentation for the
18 pre-combustor starting at the beginning of the Project operation, and potentially later as well to
19 improve the power output as landfill gas ("LFG") levels decrease. This will add to the Project's
20 greenhouse gas emissions as well as further increase the criteria pollutants beyond what has
21 been disclosed.

22 130. The Project's wildfire hazards and increased noise levels would also be
23 detrimental to public health and welfare.

24 131. For all of these reasons, required finding B cannot be supported.

25 132. The Project would expand an industrial use into an area that is currently open
26 space, delaying the required conversion of this land to recreational uses as required by the Joint
27 Powers Agreement and the City's General Plan, preventing required finding C.

28 133. The City's findings in support of the CUP lack substantial evidence and fail to

1 "bridge the analytic gap between the raw evidence and ultimate decision." (*Topanga Assn. for a*
2 *Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514-515.)

3 134. The City also lacks substantial evidence to support the findings required to
4 approve the SR Review. The purpose of SR Review is "provided due to the unique and special
5 characteristics of the variety of recreational uses possible in order to foster compatibility
6 between uses and to protect the public health, safety and general welfare of the community."
7 (Glendale Municipal Code § 30.15.010(D).)

8 135. To approve SR Review, the City must find that the Project is in "conformance
9 with the comprehensive general plan, public access and circulation" and that it would not have
10 an adverse effect on "existing or planned uses and development of the surrounding private or
11 public property, and [that] the recreational objectives and services being offered to the public."
12 (Glendale Municipal Code § 30.15.040(F).) As discussed above, this finding cannot be made.

13 136. The Project also does not provide recreational uses and fails to adequately protect
14 public health, safety and welfare of the community, further preventing approval of SR Review
15 under the Glendale Municipal Code.

16
17 **PRAYER FOR RELIEF**
18

19 WHEREFORE, Petitioner prays for relief as follows:

- 20 1. For an alternative and peremptory writ of mandate, commanding the City:
- 21 A. To set aside and vacate its certification of the Final EIR for the Biogas
22 Project, including its Mitigation Monitoring and Reporting Program, and
23 the findings adopted in support thereof;
- 24 B. To set aside and vacate any approvals for the Project, including but not
25 limited to:
- 26 • Conditional Use Permit No. PCUP 2012782
 - 27 • Special Recreation Review No. PSRZDR 2012781
 - 28 • Any grading, demolition, building or other permits issued in furtherance

1 of the Project.

2
3 2. For an order enjoining Respondent and Real Parties in Interest from taking any
4 action to construct any portion of the Project or to develop or alter the Project site in any way
5 that could result in a significant adverse impact on the environment unless and until a lawful
6 approval is obtained from Respondent after the preparation and consideration of an adequate
7 EIR and adoption of all feasible alternatives and mitigation measures;

8 3. For costs of the suit;

9 4. For reasonable attorneys' fees; and

10 5. For such other and further relief as the Court deems just and proper.

11
12
13
14
15 DATE: January 11, 2022

Respectfully Submitted,

16 CHATTEN-BROWN, CARSTENS & MINTTEER LLP

17
18
19 By: _____

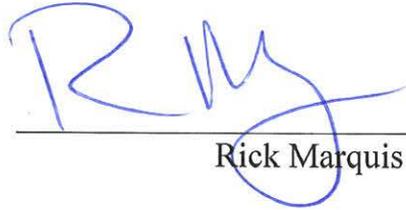

20 Amy Minter
21 Sunjana Supekar
22 Attorneys for Petitioner
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VERIFICATION

I, the undersigned, declare that I am the President of Glenoaks Canyon Homeowners Association, the Petitioner in this action, and I am authorized to make this verification. I have read the foregoing Petition for Writ of Mandate and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10TH day of January, 2022, in GLENDALE, California.



Rick Marquis

EXHIBIT A



Chatten-Brown, Carstens & Minter LLP

2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

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Phone: (310) 798-2400
Fax: (310)798-2402

San Diego Office
Phone: (619) 940-4522

Amy C. Minter
Email Address:
acm@cbcearthlaw.com
Direct Dial:
310-798-2409

January 10, 2022

By U.S. Mail
California Attorney General
300 South Spring Street, Ste. 1700
Los Angeles, CA 90013

Re: Challenge under the California Environmental Quality Act to
the approval of the Biogas Plant at Scholl Canyon Landfill

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge the City of Glendale's failure to comply with the California Environmental Quality Act (CEQA), the Planning and Zoning Law and Municipal Code in approving the Biogas Plant at the Scholl Canyon Landfill.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'jllt', written over a light blue horizontal line.

Amy C. Minter

Enclosure

PROOF OF SERVICE

I am employed by Chatten-Brown, Carstens & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254. On January 11, 2022, I served the within documents:

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

VIA UNITED STATES MAIL.

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

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 11, 2022 at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST
Office of the CA Attorney General
300 South Spring Street, Ste. 1700
Los Angeles, CA 90013

EXHIBIT B



Chatten-Brown, Carstens & Minter LLP

2200 Pacific Coast Highway, Suite 318
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Fax: (310)798-2402

San Diego Office
Phone: (619) 940-4522

Amy C. Minter
Email Address:
acm@cbcearthlaw.com
Direct Dial:
310-798-2409

January 10, 2022

By U.S. Mail

Aram Adjemian
Glendale City Clerk
613 E. Broadway, Unit 110
Glendale, CA 91206

Re: Challenge under the California Environmental Quality Act (CEQA) to
the Biogas Plant at Scholl Canyon Landfill

Dear Mr. Adjemian,

Please take notice that Glenoaks Canyon Homeowners Association plans to file a Petition for Writ of Mandate challenging the City of Glendale's failure to comply with the California Environmental Quality Act (CEQA), the Planning and Zoning Law and Municipal Code in approving the Biogas Plant at the Scholl Canyon Landfill.

Sincerely,

Amy Minter

PROOF OF SERVICE

I am employed by Chatten-Brown, Carstens & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254. On January 10, 2022 I served the within documents:

LETTER TO GLENDALE CITY CLERK

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

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 10, 2022, at Hermosa Beach, California 90254.



Cynthia Kellman

SERVICE LIST

Aram Adjemian
Glendale City Clerk
613 E. Broadway, Unit 110
Glendale, CA 91206

EXHIBIT C

1 CHATTEN-BROWN, CARSTENS & MINTEER LLP
2 Amy Minter, SBN 223832
3 Michelle N. Black, SBN 261962
4 Sunjana Supekar, SBN 328663
5 2200 Pacific Coast Highway, Suite 318
6 Hermosa Beach, CA 90254
7 310.798.2400; FAX 310.798.2402
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9 sss@cbcearthlaw.com

7 Attorneys for Petitioner
8 Glenoaks Canyon Homeowners Association

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

12 GLENOAKS CANYON HOMEOWNERS)
13 ASSOCIATION)
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Petitioner,
v.

CITY OF GLENDALE;
Respondent;

GLENDALE DEPARTMENT OF WATER
AND POWER; DOES 1-10
Real Parties in Interest

CASE NO.:

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

(Violations of California Environmental
Quality Act, State Planning and Zoning Law
and Glendale Municipal Code)

1 PLEASE TAKE NOTICE:

2 Pursuant to Public Resources Code section 21167.6, Petitioner Glenoaks Canyon
3 Homeowners Association hereby elects to prepare the administrative record in this matter.

4
5 DATE: January 11, 2022

6 Respectfully Submitted,
7 CHATTEN-BROWN, CARSTENS & MINTEER LLP

8 By: 
9 Amy Minter
10 Sunjana Supekar
11 Attorneys for Petitioner
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