

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

amcguire@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURO R. MCGUIRE
ISABEL TAHIR

Of Counsel
MARC D. JOSEPH

April 15, 2025

Via Email and Overnight Mail

Chair William Carriere and Commissioners
Glenn County Planning Commission
Board of Supervisors Chambers
525 W. Sycamore Chambers
Willows, CA 95988
Email: planning@countyofglenn.net

Via Email Only

Mardy Thomas, Director
Planning & Community Development
Email: planning@countyofglenn.net

Andy Popper, Principal Planner
Email: planning@countyofglenn.net

Re: Agenda Item No. 5a: Carriere/Syntech CF1, LLC Advanced Thermal Conversion Project (CUP No. 2024-004, SCH No. 2024120076)

Dear Chair Carriere, Commissioners, Mr. Thomas, and Mr. Popper:

On behalf of **Citizens for Responsible Industry** (“Citizens” or “Commenters”), we submit these comments on Agenda Item No. 5a, the Carriere/Syntech CF1, LLC, Advanced Thermal Conversion Project (CUP No. 2024-004, SCH No. 2024120076) (“Project”) proposed by Wayne McFarland (“Applicant”). The Planning Commission (“Commission”) will consider approval of (1) the Project’s Mitigated Negative Declaration (“MND”) with the corresponding Mitigation Measures and Conditions of Approval, and (2) the Conditional Use Permit (“CUP”).

The Project seeks a CUP to construct and operate an Advanced Thermal Conversion facility 24 hours a day.¹ The facility will convert up to 135,000 tons a year of waste walnut shells (“WWS”) from an existing onsite walnut shelling facility into approximately 1,041,000 MMBtu/year of Renewable Natural Gas (“RNG”),

¹ Mitigated Negative Declaration for the Carriere/Syntech CF1, LLC Advanced Thermal Conversion Project (“MND”), p. 11, available at: <https://ceqanet.opr.ca.gov/2024120076/2/Attachment/14fGS1>.

which will then be compressed into a mobile storage trailer and then transported to an existing walnut huller/dryer facility to be injected into a PG&E pipeline.² The Project will draw power from the local utility grid during normal operation.³ The Project is located at 1640 State Route 45, south of the community of Glenn, in the unincorporated area of Glenn County, California.⁴ The Project site consists of Assessor Parcel Numbers: 016-030-011 (96.37 ± acres) and 016-090-016 (145.75 ± acres).⁵

Citizens' review of the MND demonstrates that the MND fails to comply with the California Environmental Quality Act ("CEQA").⁶ The MND fails as an informational document, fails to disclose or mitigate potentially significant impacts, and lacks substantial evidence to support its conclusions that the Project's significant impacts would be mitigated to less than significant levels. The MND also fails to adequately characterize the Project site's environmental setting, and fails to disclose the Project's inconsistencies with the Glenn County General Plan ("General Plan"). Furthermore, there is substantial evidence supporting a fair argument that the Project's potentially significant environmental impacts are far more extensive than disclosed in the MND.

Citizens reviewed the MND, its technical appendices, and reference document with the assistance of air quality expert Komal Shukla, Ph.D. of Group Delta.⁷ Dr. Shukla's comments and curriculum vitae are attached hereto and are fully incorporated by reference as if fully set forth herein and must be considered part of the record for this Project. Dr. Shukla's comments provide substantial evidence supporting a fair argument that the Project's air quality, public health and hazards impacts are significant and unmitigated. The County must prepare an environmental impact report ("EIR") under these circumstances.⁸

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 1.

⁶ Pub. Res. Code (or "PRC") §§ 21000 et seq.; 14 Cal. Code Regs. ("CCR" or "CEQA Guidelines") §§ 15000 et seq.

⁷ See **Exhibit A**, Komal Shukla, Ph.D., P.E., Comment on the Mitigated Negative Declaration for the Carriere/Syntech CF1, LLC Advanced Thermal Conversion Project (April 14, 2025) ("Shukla Comments").

⁸ Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

Moreover, the County failed to provide Citizens with timely access to the documents referred to and relied upon in the MND. CEQA section 21092(b)(1) and CEQA Guidelines section 15072(g)(4) require that “all documents referenced” and “all documents incorporated by reference” in a negative declaration shall be “readily accessible to the public during the lead agency’s normal working hours” during the entire public comment period.⁹ Citizens submitted a request for access to the documents referenced in the MND on March 26, 2025. The County failed to produce responsive records. In particular, the County failed to provide access to air pollution emissions data supporting the conclusions in the MND, in violation of CEQA. The County also failed to respond to Citizen’s April 4, 2025 request to extend the public comment period or continue the April 16, 2025 Planning Commission hearing on the Project to a later date following disclosure of outstanding records and an extended comment period. Accordingly, the County has not complied with CEQA and the record before the Planning Commission is incomplete.

Prior to approving the Project, CEQA requires the Planning Commission to consider the proposed MND together with comments received during the public review process, and prohibits the Planning Commission from adopting the MND unless “the whole record before it (including the initial study and any comments received)” demonstrates no significant effects.¹⁰ The County Code also requires the Planning Commission to make findings supported by substantial evidence to approve the Project’s proposed CUP,¹¹ and to ensure that the Project complies with County performance standards.¹² The Planning Commission lacks substantial evidence to adopt the MND or approve the Project’s local land use permits because there is substantial evidence supporting a fair argument that the Project has significant, unmitigated air quality, public health, hazards and land use impacts. These impacts result in unmitigated detrimental effects to the health, safety and general welfare of persons and property in the County, result in General Plan inconsistencies, and demonstrate that the Project fails to comply with mandatory performance standards related to, *inter alia*, air quality, noise, fire and explosion hazards.¹³

Citizens respectfully requests that the Planning Commission continue its hearing on the Project to a later date, and remand the Project to staff to prepare a legally adequate EIR which complies with CEQA by disclosing and mitigating all of

⁹ Pub. Resources Code § 21092(b)(1); 14 CCR § 15072(g)(4).

¹⁰ 14 CCR § 15074(b).

¹¹ See Glenn County Code § 15.22.020; Staff Report, pp. 5-6.

¹² See Glenn County Code Chapter 15.56; Staff Report, pp. 6-8.

¹³ See Glenn County Code §§ 15.22.010, 15.22.020, 15.56.040, 15.56.070, 15.56.100.

the Project's potentially significant impacts. Citizens reserves the right to submit supplemental comments at any later hearings and proceedings related to the Project.¹⁴

I. STATEMENT OF INTEREST

Citizens is a coalition of local residents and labor organizations with members who may be adversely affected by the potential public and worker health and safety hazards, and the environmental impacts of the Project. The coalition includes County residents and other members and organizations, including California Unions for Reliable Energy ("CURE") and its local affiliates, and the affiliates' members who live, recreate, work, and raise families in and around Glenn County and in communities near the Project site. Citizens, its participating organizations, and their members stand to be directly affected by the Project's impacts.

Since its founding in 1997, CURE has been committed to building a strong economy and healthier environment and it works to construct, operate, and maintain conventional and renewable energy power plants and other industrial facilities throughout California. CURE supports the development of clean, renewable energy technology, including biomass facilities, where properly analyzed and carefully planned to minimize impacts on public health and the environment.

Citizens encourages sustainable development of California's energy and natural resources. Environmental degradation destroys cultural and wildlife areas, consumes limited water resources, causes air and water pollution, and imposes other stresses on the environmental carrying capacity of the State. This, in turn, jeopardizes future jobs by making it more difficult and more expensive for local industry to expand, and by making it less desirable for businesses to locate and people to live and recreate in and around the County. Continued degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduces future employment opportunities.

Additionally, the individual members of Citizens, and the members of its affiliated labor organizations, would be directly affected by the Project's impacts, and may also work on constructing the Project itself. They would therefore be first in line to be exposed to any health and safety hazards that may be present on the

¹⁴ Gov. Code § 65009(b); Pub. Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Project site. They each have a personal stake in protecting the Project area from unnecessary, adverse environmental and public health and safety impacts.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.¹⁵ “CEQA’s fundamental goal [is] fostering informed decision-making.”¹⁶

The EIR is the very heart of CEQA because it acts as an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.”¹⁷ The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project’s significant environmental effects through implementing feasible mitigation measures.¹⁸ The EIR also serves “to demonstrate to an apprehensive citizenry that the Agency has analyzed and considered the ecological implications of its action.”¹⁹ Thus, an EIR “protects not only the environment but also informed self-government.”²⁰

In limited circumstances, an agency may avoid preparing an EIR. However, because “[t]he adoption of a negative declaration...has a terminal effect on the environmental review process” by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases that satisfy the fair argument standard.²¹

The “fair argument” standard is an exceptionally “low threshold” favoring environmental review in an EIR rather than a negative declaration.²² Under the fair argument standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.²³ The phrase “significant

¹⁵ CEQA Guidelines § 15002.

¹⁶ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 406; Public Resources Code § 21100.

¹⁷ *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.

¹⁸ Pub. Res. Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).

¹⁹ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86.

²⁰ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

²¹ *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Res. Code §§ 21100, 21064.

²² *Consolidated Irrigation District v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

²³ Pub. Res. Code §§ 21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel*

effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”²⁴ “Substantial evidence” required to support a fair argument is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”²⁵ As a matter of law, substantial evidence includes both expert and lay opinion.²⁶

Accordingly, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

- (1) Revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review ***would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would***, and (2) there is ***no substantial evidence*** in light of the whole record before the public agency that the project, as revised, ***may*** have a significant effect on the environment.²⁷

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The MND fails to adequately disclose, investigate, and analyze the Project’s potentially significant impacts during construction and operation, and fails to provide substantial evidence to support its conclusions that impacts will be mitigated to a less than significant level.²⁸ Because substantial evidence shows that the Project may result in potentially significant impacts, a fair argument can be made that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE MND FAILS TO DISCLOSE SIGNIFICANT LAND USE INCONSISTENCIES

The Project site consists of two parcels which are located in the Farmland Security Zone (“FS-80”) and in the Intensive Agriculture (“IA”) land use

Heights Improvement Assn. v. Regents of the Univ. of Cal. (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

²⁴ Pub. Res. Code, § 21068.

²⁵ CEQA Guidelines § 15384(a).

²⁶ Pub. Res. Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).

²⁷ Pub. Res. Code § 21064.5 (emphasis added).

²⁸ Pub. Res. Code § 21064.5.

designation.²⁹ The MND concludes that the Project is consistent with both of these designations and thus will have a less than significant impact on land use.³⁰ Contrary to the MND's conclusion, the proposed Project is not consistent with the General Plan's goals and permitted land uses under the IA designation based on the plain language of the General Plan. This inconsistency constitutes a significant land use impact, which the MND fails to disclose or mitigate.

To comply with CEQA, the MND must discuss "any inconsistencies between the proposed project and applicable general plans."³¹ A project is consistent with a general plan if it is compatible with the plan's objectives, policies, general land uses, and programs and will not obstruct their attainment.³² Here, the MND incorrectly concludes that the Project would not result in significant land use impacts because the "project is consistent with the General Plan land use goals and policies."³³ This completely ignores the plain language of the General Plan.

The General Plan states that the IA land use designation "is used to identify areas suitable for commercial agriculture which provide a major segment of the county's economic base; to protect the agricultural community from encroachment of unrelated agricultural uses which, by their nature, would be injurious to the physical and economic well-being of the agricultural community; to accommodate lands under Williamson Act contracts; to encourage the preservation of agricultural land, both in production and potentially productive, which contain State-designated Important Farmlands or Locally Significant Farmlands."³⁴ The General Plan also underscores that "[a]griculture is the single most important component of the County's economic base, and forms the cornerstone of the County's heritage and identity."³⁵ Accordingly, one of the General Plan's primary goals is to "protect and enhance agriculture as the core of the local economy."³⁶ This includes preventing the approval of "renewable energy projects" that could displace viable agricultural operations, or render prime farmlands unusable for agricultural activities.³⁷ The

²⁹ MND, p. 51.

³⁰ MND, p. 51.

³¹ CEQA Guidelines § 15125(d).

³² *Orange Citizens for Parks & Recreation v. Superior Court*, (2016) 2 Cal.5th 141, 153; *San Francisco Tomorrow v. City & County of San Francisco* (2014) 229 Cal.App.4th 498, 513; *Clover Valley Found v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.

³³ MND, p. 51.

³⁴ Glenn County General Plan Update ("General Plan") (July 18, 2023), p. LU-3, available at: https://glenncounty.generalplan.org/s/GlennCounty_General-Plan-Adopted-7-18-23.pdf.

³⁵ General Plan, p. LU-0.

³⁶ General Plan, p. ED-4.

³⁷ General Plan, p. AG-8 ("renewable energy project should not be approved or developed in such a way as to displace viable agricultural operations, or render prime farmlands unusable for agricultural activities"), ED-6 ("renewable energy project should not be approved or developed in

General Plan's Agricultural Element plainly states that "renewable energy project[s] should not be approved or developed in such a way as to displace viable agricultural operations, or render prime farmlands unusable for agricultural activities."³⁸ The General Plan's Economic Development element similarly states that "renewable energy project[s] should not be approved or developed in such a way as to displace viable agricultural operations, or render prime farmlands unusable for agricultural activities."³⁹ In this case, the Project proposes to construct an ATC facility that would permanently convert approximately 4.3 acres of Prime Farmland into industrial use, directly contradicting the General Plan's stated goal of preserving agricultural land.⁴⁰

While the General Plan does express support for agricultural-related industrial support operations, such as alternative energy systems,⁴¹ the support is limited to energy systems that will produce energy for on-site uses.⁴² In contrast, the RNG created by the proposed facility would be injected into a PG&E pipeline for sale to offsite third party purchasers.⁴³ Therefore, the Project not only conflicts with the General Plan's goal of preserving agricultural land, but also does not qualify as an authorized alternative energy system under the IA land use designation.

For these reasons, the Project, as proposed, is inconsistent with the County's General Plan and requires a general plan amendment. The MND is deficient for failing to discuss or mitigate this land use inconsistency, as required by the General Plan and CEQA. Consequently, the Project application must be revised to include all necessary approvals, and an EIR must be prepared and circulated to address the Project's land use inconsistency.

IV. THE MND'S DESCRIPTION OF THE ENVIRONMENTAL SETTING IS INADEQUATE

such a way as to displace viable agricultural operations, or render prime farmlands unusable for agricultural activities").

³⁸ General Plan, p. AG-8.

³⁹ General Plan, p. ED-6.

⁴⁰ MND, pp. 3, 17 ("approximately 10 acres of the 96-acre parcel as Urban and Built-Up Land, with the remaining 86 acres as Prime Farmland"); California Department of Conservation, California Important Farmland Finder, available at: <https://maps.conservation.ca.gov/DLRP/CIFF/> (last visited 3/27/25) (the second Project parcel is designated as mostly farmland of statewide importance and some prime farmland).

⁴¹ General Plan, pp. AG-7 (Policy AG 3-2), AG-8 (Policy AG 3-5), ED-6 (Policy ED 3-5).

⁴² General Plan, pp. AG-7 ("alternative energy systems that provide energy for on-site uses").

⁴³ MND, pdf p. 114.

The MND fails to adequately describe the environmental setting against which the Project's impacts are to be measured. This contravenes the fundamental purpose of the environmental review process, which is to determine whether there is a potentially substantial, adverse change compared to the existing setting.⁴⁴ CEQA requires that a lead agency include a description of the physical environmental conditions, or "baseline," in the vicinity of the project as they exist at the time environmental review commences.⁴⁵ As the courts have repeatedly held, the impacts of a project must be measured against the "real conditions on the ground."⁴⁶ The description of the environmental setting constitutes the "baseline" physical conditions against which the lead agency assesses the significance of a project's impacts.⁴⁷ An environmental setting is required "to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts."⁴⁸

A. The MND Fails to Inform Decisionmakers and the Public About Existing Environmental Pollution in the Project's Vicinity

The MND fails to adequately disclose the existing air pollution at the Project site and analyze how the proposed Project will exacerbate these conditions. This renders the Project's air quality impacts analysis inaccurate and incomplete under CEQA.

To properly assess the environmental impacts of a project under CEQA, it is essential to consider the setting in which it takes place.⁴⁹ A project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.⁵⁰ Therefore, the MND's evaluation of the Project's air quality impacts should account for the existing environmental burdens faced by the

⁴⁴ 14 C.C.R. § 15063(d).

⁴⁵ 14 C.C.R. § 15063(d)(2); see *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal. 4th 310, 321.

⁴⁶ *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal. 4th 310, 321.; *Save Our Peninsula Com. V. Monterey County Bd. Of Supervisors* (2001) 87 Cal.App.4th 99, 121-22; *City of Carmel-by-the-Sea v. Bd. Of Supervisors of Monterey County* (986) 183 Cal.App.3d 229, 246.

⁴⁷ 14 C.C.R. § 15063(d)(2); see 14 C.C.R. § 15125 *Communities for a Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal. 4th at 321.

⁴⁸ 14 C.C.R. § 15125(a).

⁴⁹ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.

⁵⁰ *Id.*; see CEQA Guidelines §§ 15125(a), 15126.2(a) (EIR shall analyze any significant environmental effects project might cause or risk exacerbating by bringing development and people into affected area).

affected community. This includes assessing whether the Project's effects would cause substantial adverse impacts on human beings, either directly or indirectly.⁵¹

The MND fails to satisfy this requirement. This oversight is especially problematic given the documented health risks associated with the existing facility. For example, Dr. Shukla's comments identify that the existing Carriere Family Farms facility—located on the Project site—has a carcinogenic health risk score of 4.10 according to the 2024 AB 2588 Hot Spots Report.⁵² This score categorizes the facility as an intermediate priority and risk.⁵³ This was not disclosed in the MND's air quality analysis.

Additionally, Dr. Shukla provides data showing that the proposed Project is likely to exceed the regulatory thresholds for several air pollutants, including CO₂, CO, PM₁₀, PM_{2.5}, NO_x and VOCs.⁵⁴ Dr. Shukla explains that the addition of these emission to a site that already presents carcinogenic risks will exacerbate the already elevated levels of air pollutants, further contribute to the formation of ground-level ozone, and lead to additional environmental degradation—particularly from increased methane emissions.⁵⁵ The MND fails to analyze or propose mitigation for these potentially significant impacts.

Because the MND does not disclose essential information about the existing environmental, health, and safety conditions at the Project site, it fails to provide decisionmakers and the public with an accurate characterization of the Project's environmental setting. This renders the MND's subsequent analysis of the Project's individual and cumulative air quality and public health impacts unsupported. A full EIR must be prepared that properly discloses the Project's potentially significant impacts on air quality and public health.

B. The MND Fails to Establish Baseline Air Quality Levels

The MND fails to establish the existing air quality conditions at the Project site, rendering its subsequent impact analysis inaccurate. Dr. Shukla explains that

⁵¹ PRC § 21083(b)(3); *see also* CEQA Guidelines § 15126.2 (project may cause a significant effect by bringing people to hazards).

⁵² Shukla Comments, p. 18; County of Glenn Air Pollution Control District, 2024 Annual Report AB 2588 Air Toxics "Hot Spots" Program, pp. 1-2, available at: https://www.countyofglenn.net/sites/default/files/2024%20Hot%20Spots%20Report_0.pdf.

⁵³ Shukla Comments, p. 18.

⁵⁴ Shukla Comments, p. 16.

⁵⁵ Shukla Comments, p. 19.

“[w]ithout a clear baseline, it is impossible to accurately assess the Project’s potential to cause environmental harm.”⁵⁶

Currently, the Project site is occupied by a walnut processing facility and surrounding walnut orchards.⁵⁷ The existing use already contributes to local air emissions. Because of this, Dr. Shukla explains that the addition of the proposed ATC facility could result in increased air pollution, exposure to hazardous materials, and pose new environmental and public health risks to nearby residents and sensitive receptors.⁵⁸

Without an accurate baseline, any analysis of the Project’s air quality impacts is inaccurate and potentially misleading. To comply with CEQA, a DEIR must be prepared that establishes an accurate baseline and reanalyzes the Project’s potential impacts.

V. AN EIR IS REQUIRED BECAUSE THERE IS SUBSTANTIAL EVIDENCE SUPPORTING A FAIR ARGUMENT THAT THE PROJECT MAY HAVE SIGNIFICANT UNMITIGATED IMPACTS

An MND is improper, and an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.⁵⁹ “[S]ignificant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”⁶⁰ An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.”⁶¹ Substantial evidence, for purposes of the fair argument standard, includes “fact, a reasonable assumption predicated upon fact, or **expert opinion** supported by fact.”⁶²

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.⁶³ Challenges to an agency’s failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an MND or to disclose information about a project’s

⁵⁶ Shukla Comments, p. 6.

⁵⁷ Glenn County Staff Report, p. 6.

⁵⁸ Shukla Comments, p. 6.

⁵⁹ Pub. Res. Code § 21151; CEQA Guidelines § 15064(f)(1); *Citizens for Responsible Equitable Env’tl Dev. v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319.

⁶⁰ Pub. Res. Code § 21068; CEQA Guidelines § 15382.

⁶¹ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.

⁶² Pub. Res. Code § 21080(e)(1) (emphasis added).

⁶³ *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.

environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.⁶⁴ Reviewing courts will not “uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.”⁶⁵

A. Substantial Evidence Supports a Fair Argument That the Project May Result in Significant Air Quality Impacts

The MND concludes that the Project will not result in significant air quality impacts.⁶⁶ However, these conclusions are unsupported by any emissions calculations or emissions data. Dr. Shukla's expert comments provide substantial evidence supporting a fair argument that the proposed Project may result in significant air quality impacts related to both operational and construction emissions. In addition, the MND fails to include a health risk analysis, as required by CEQA. As a result, the MND lacks substantial evidence to support its findings of no significant impact and does not satisfy CEQA's requirements for disclosure, analysis, and mitigation of potentially significant environmental impacts.

1. The County Impermissibly Defers Analysis of the Project's Air Quality Impacts

The MND lacks any emissions calculations to support its conclusions that the Project's construction and operational air quality impacts would be less than significant. Instead, the MND states that the Project will require an Authority to Construct (“ATC”) permit from the Glenn County Air Pollution Control District (“GCAPCD”), as well as modifications to the facility owner's existing Permit to Operate (“PTO”) in order to commence operations.⁶⁷ The MND includes Condition of Approval APCD, which appears to indicate that no such calculations have been performed and will instead be deferred to the ATC application phase with the GCAPCD. The Condition states that “[a]ll new sources of air pollution and the air pollution control equipment including emissions estimates shall be included in the ATC application.”⁶⁸

⁶⁴ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

⁶⁵ *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1355 [internal citations omitted].

⁶⁶ MND, p. 20.

⁶⁷ See MND, pp. 3, 23 (Condition of Approval (APCD)); Applicant Project Description, p. 12.

⁶⁸ See MND, pp. 3, 23 (Condition of Approval (APCD)).

The County cannot rely on subsequent emissions analysis performed for a post-approval permit to address the Project's air quality impacts for purposes of CEQA compliance. CEQA requires disclosure of the severity of a project's impacts and the probability of their occurrence *before* a project can be approved.⁶⁹ A study conducted after approval of a project will inevitably have a diminished influence on decisionmaking.⁷⁰ Even if a subsequent study is subject to administrative approval, it is the sort of *post hoc* rationalization of agency actions that has been repeatedly rejected by the courts.⁷¹ The County must quantify the Project's construction and operational emissions as part of the CEQA review process. Failure to do so renders the MND inadequate as informational document and demonstrates that the County's significance conclusions regarding the Project's air quality impacts are not supported by any substantial evidence. The County must prepare an EIR to disclose and analyze the Project's air quality impacts.

2. Substantial Evidence Supports a Fair Argument that the Project's Construction Air Quality Impacts Are Potentially Significant and Unmitigated

Dr. Shukla's comments demonstrate that the MND lacks substantial evidence to conclude that the Project will not result in significant construction-related air quality impacts, and provide substantial evidence supporting a fair argument that construction emissions may be significant and unmitigated.⁷²

First, the MND fails to quantify expected construction-related emissions and omits critical information necessary to perform such an analysis.⁷³ Specifically, the MND does not identify the types of construction equipment that will be used, how and when that equipment will operate, or provide details regarding construction phasing, scheduling, on-road and off-road vehicle activity levels, or soil disturbance parameters.⁷⁴ As Dr. Shukla explains, without this basic data, it is not possible to accurately model construction emissions using CalEEMod.⁷⁵ Therefore, the MND's

⁶⁹ 14 CCR §§ 15143, 15162.2(a); *Cal. Build. Indust. Ass'n v. BAAQMD* (2015) 62 Cal.4th 369, 388-90 (“*CBIA v. BAAQMD*”) (disturbance of toxic soil contamination at project site is potentially significant impact requiring CEQA review and mitigation); *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal. App. 4th 48, 82; *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (“*Berkeley Jets*”) (2001) 91 Cal.App.4th 1344, 1370-71; CEQA Guidelines, Appendix G.

⁷⁰ *Sundstrom v. County of Mendocino*, supra, 202 Cal.App.3d 296, 307.

⁷¹ *Id.*; *No Oil, Inc. v. City of Los Angeles*, supra, 13 Cal.3d 68, 81; *Environmental Defense Fund, Inc. v. Coastside County Water Dist.* (1972) 27 Cal.App.3d 695, 706.

⁷² MND, p. 20.

⁷³ Shukla Comments, pp. 7-11.

⁷⁴ Shukla Comments, p. 7.

⁷⁵ Shukla Comments, p. 7.

conclusion that construction impacts will be less than significant is not supported by substantial evidence.

Second, Dr. Shukla presents substantial evidence supporting a fair argument that the Project may result in significant construction-related air quality impacts.⁷⁶ For example, construction equipment, including backup generators, can emit diesel particulate matter (“DPM”).⁷⁷ DPM is a well-known human carcinogen and due to its small aerodynamic diameter, it can penetrate deep into the alveolar region of the lungs, where it can induce inflammation, oxidative stress, and DNA damage, leading to severe respiratory, cardiovascular, and carcinogenic health effects.⁷⁸ The MND, however, fails to disclose or analyze these risks.

Additionally, the MND does not address the potential for fugitive dust emissions, which, Dr. Shukla identifies as another potentially significant impact.⁷⁹ Dr. Shukla explains that construction activities generate dust through ground disturbance, vehicle movement, material handling, and other sources.⁸⁰ Because of this, these activities can contribute substantially to localized PM emissions without effective dust suppression measures.⁸¹ Dr. Shukla further explains that the wind conditions in Glenn County make the Project particularly susceptible to this problem.⁸² Average winds range between 5.0 and 7.8 miles per hour (“mph”), with sustained winds recorded at up to 32.2 mph.⁸³ Under these conditions, airborne dust can easily become entrained in the atmosphere and travel off-site, exacerbating air quality degradation and increasing the risk to nearby sensitive receptors.⁸⁴

Therefore, because substantial evidence supports a fair argument that the Project may result in significant construction-related air quality impacts, the County must prepare an EIR that analyzes these impacts and proposes mitigation for any significant impacts found.

⁷⁶ Shukla Comments, pp. 7-11.

⁷⁷ Shukla Comments, p. 7.

⁷⁸ Shukla Comments, pp. 7-8.

⁷⁹ Shukla Comments p. 8.

⁸⁰ Shukla Comments, p. 8.

⁸¹ Shukla Comments, p. 8.

⁸² Shukla Comments, p. 8.

⁸³ Shukla Comments, p. 8.

⁸⁴ Shukla Comments, p. 8.

3. Substantial Evidence Supports a Fair Argument that the Project's Operational Air Quality Impacts Are Potentially Significant and Unmitigated

The MND concludes—without evidentiary support—that the Project will not result in significant operational air quality impacts.⁸⁵ However, Dr. Shukla's comments provide substantial evidence supporting a fair argument that the Project may result in significant impacts from operation-related emissions that the MND failed to disclose, analyze, and mitigate.⁸⁶

First, the MND lacks substantial evidence to support its significance determination. Dr. Shukla explains that ATC facilities involve several key operations, including biomass conversion, syngas production, gas cleanup, flaring, and backup power generation.⁸⁷ These operations are known to emit a range of pollutants, such as criteria pollutants, hazardous air pollutants (“HAPs”), and greenhouse gases (“GHGs”).⁸⁸ Despite this, the MND fails to include a sufficient description of these operations and fails to estimate emissions from each process.⁸⁹ Without detailed emissions data and process specific analysis, Dr. Shukla explains that it is not possible to conclude that Project emissions would be less than significant.⁹⁰ As a result, the MND fails to provide the information necessary for the County to evaluate the Project's potential environmental and public health impacts.⁹¹ Additionally, the MND does not follow industry-standard methodologies, such as AERMOD or CalEEMod air dispersion modeling, which Dr. Shukla explains are essential for understanding how emissions will effect surrounding sensitive receptors.⁹² Therefore, the MND's conclusion of no significant impact is unsupported.

Second, Dr. Shukla conducted her own calculations to estimate the expected emissions from the Project's biochar and RNG production processes and found that they are likely to exceed established air quality thresholds.⁹³ Specifically, Dr. Shukla found that the Project's emissions of PM₁₀, PM_{2.5}, NO_x, VOCs, and CO₂ exceed the thresholds established by the Sacramento Metropolitan Air Quality

⁸⁵ MND, p. 20.

⁸⁶ Shukla Comments, pp. 11-17, 21-22.

⁸⁷ Shukla Comments, p. 11.

⁸⁸ Shukla Comments, p. 11.

⁸⁹ Shukla Comments, p. 11.

⁹⁰ Shukla Comments, p. 12.

⁹¹ Shukla Comments, p. 12.

⁹² Shukla Comments, p. 11.

⁹³ Shukla Comments, pp. 12-17.

Management District (“SMAQMD”).⁹⁴ These constitute significant and unmitigated impacts under CEQA, which the MND failed to address.

To address these deficiencies, the County must prepare an EIR that includes a comprehensive quantitative analysis of the Project’s operational emissions and proposes mitigation to reduce these impacts to less than significant levels. For example, Dr. Shukla recommends preparation of a Continuous Emissions Monitoring Plan and an Odor and Air Toxics Control Plan to ensure that emissions are properly tracked and managed throughout the Project’s operation.⁹⁵ Because the MND fails to comply with CEQA, the County cannot approve the Project until a legally adequate EIR is prepared.

4. The Project Does Not Comply with Air District Regulations

The Project fails to comply with the GCAPCD Regulations because the MND fails to require best available control technology (“BACT”) to mitigate operational emissions, as required by Section 51 of the GCAPCD Regulations.⁹⁶ To receive any ATC or PTO, the applicant must demonstrate to the Air Pollution Control Officer (“APCO”) that all proposed new or modified sources having a potential to emit in excess of 25 tons per year are compliant with applicable emission limitations and standards.⁹⁷ The APCO must deny an application if the APCO finds that the subject of the application would not comply with the standards set forth in the regulations of the GCAPCD Regulations.⁹⁸

Section 51 of the GCAPCD Regulations states that “[a]n applicant shall apply BACT to any new emissions unit or modification of an existing emissions unit which results in an emissions increase and the potential to emit for the emissions unit is equal to or exceeds the following amounts:

⁹⁴ Shukla Comments, pp. 16-17. GCAPCD does not have CEQA significance thresholds. Therefore, Dr. Shukla utilized the regionally appropriate SMAQMD thresholds.

⁹⁵ Shukla Comments, p. 22.

⁹⁶ *Id.* at 15.

⁹⁷ Regulations of the Air Pollution Control District of Glenn County (“GCAPCD Regulations”) § 51, p. 16 ,available at:

<https://www.countyofglenn.net/sites/default/files/Agriculture/AP%20Regs%20Book%201%202010update.pdf>

⁹⁸ *Id.*

| <u>Pollutant</u> | <u>Pounds per Day</u> |
|--------------------------------------|-----------------------|
| Asbestos..... | 0.030 |
| Beryllium..... | 0.002 |
| Carbon monoxide..... | 500.000 |
| Fluorides..... | 15.000 |
| Hydrogen sulfide | 50.000 |
| Lead | 3.200 |
| Mercury | 0.500 |
| Nitrogen oxides | 25.000 |
| Particulate matter (PM-10) | 80.000 |
| Reactive organic compounds | 25.000 |
| Reduced sulfur compounds..... | 50.000 |
| Sulfur oxides..... | 80.000 |
| Sulfuric acid mist | 35.000 |
| Total reduced sulfur compounds | 50.000 |
| Vinyl chloride | 5.000 |

99

BACT is defined by Section 51 as the more stringent of:

- a. The most effective emission control device, emission limit, or technique which has been required or used for the type of equipment comprising such emissions unit unless the applicant demonstrates to the satisfaction of the APCO that such limitations are not achievable; or
- b. Any other emission control device or technique, alternative basic equipment, different fuel or process, determined to be technologically feasible and cost-effective by the APCO. The cost-effective analysis shall be performed in accordance with the methodology and criteria specified by the APCO.¹⁰⁰

The Project's proposed ATC facility will be a new emission unit, which Dr. Shukla estimates will emit 628.5 lbs/day of NO_x, 1059 lbs/day of PM₁₀, and 2,206.5 lbs/day of Carbon Monoxide from its Biochar and RNG production processes.¹⁰¹ Because these emissions exceed the amounts set in the GCAPCD Regulations, BACT must be applied. The MND fails to disclose these exceedances or incorporate any control measures in direct violation of the GCAPCD Regulations. Dr. Shukla's comments provide substantial evidence supporting a fair argument that the Project's operational emissions are significant and unmitigated. The City must prepare an EIR to disclose and mitigate these impacts, and any subsequent application for an ATC or PTO, must include BACT.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 12.

¹⁰¹ Shukla Comments, p. 16.

5. The MND Fails to Adequately Analyze the Project's Potentially Significant Impacts Related to Odors

The MND concludes that the Project will not result in significant impacts related to emission of harmful odors.¹⁰² However, Dr. Shukla's comments provide substantial evidence that the Project may result in potentially significant impacts from the emission of harmful odors during the processing and conversion of biomass into RNG ("ATC Process").¹⁰³ The MND fails to analyze or propose mitigation to address these potentially significant impacts in violation of CEQA.

Dr. Shukla found that the ATC production process will emit VOCs, ammonia, hydrogen sulfide, and methane.¹⁰⁴ Dr. Shukla explains that the odors from these compounds are known to cause respiratory irritation and headaches from just short term exposure.¹⁰⁵ The decomposition of organic materials during the processing stages may result in the emission of malodorous compounds, including ammonia, which is well-documented to have a sharp, pungent odor that can cause respiratory irritation and a burning sensation in the nose and throat, even at relatively low concentrations.¹⁰⁶ VOCs, ammonia, hydrogen sulfide, and methane are also known to contribute to air quality degradation along with adverse health effects.¹⁰⁷ The MND's failure to disclose this risk is also significant, because construction workers are highly likely to be exposed to these compounds, due to their proximity to the facility and its operating processes.¹⁰⁸ The MND therefore fails to inform workers and the public about the true risks of the facility's operation.

There is substantial evidence supporting a fair argument that the Project may result in significant impacts related to emission of harmful odors. The MND's failure to disclose or analyze these potential impacts renders its impact analysis unsupported. To comply with CEQA, an EIR must be prepared that analyzes these potentially significant impacts and proposes mitigation.

¹⁰² MND, p. 23.

¹⁰³ Shukla Comments, p. 19.

¹⁰⁴ Shukla Comments, p. 19.

¹⁰⁵ Shukla Comments, p. 19.

¹⁰⁶ Shukla Comments, p. 19.

¹⁰⁷ Shukla Comments, p. 19.

¹⁰⁸ Shukla Comments, p. 19.

6. The MND Lacks a Health Risk Analysis

The MND concludes that the Project would not expose sensitive receptors to substantial pollutant concentrations.¹⁰⁹ However, this conclusion is not supported by substantial evidence for several reasons.

First, the MND inaccurately states that “there are no schools, churches, hospitals, recreation areas, or other public facilities within the immediate vicinity of the project site”.¹¹⁰ This is factually incorrect. There are multiple sensitive receptors located nearby, including several residences within one mile of the existing Carriere Family Farms facility. In fact, six of these residences are located directly behind the site, with the nearest residence situated just 450 feet away. Additionally, an assisted living facility is within 1.4 miles, and a church, fire department, and farm are located just .4 miles from the Project site.¹¹¹ These receptors would be affected by any health risks posed by the Project and should have been considered in the MND’s analysis.

Second, the MND erroneously assumes that the Project’s location within an agricultural area—adjacent to an existing agricultural processing facility—and compliance with local, state, and federal regulations – are sufficient to ensure that emissions will remain less than significant.¹¹² However, these generalized statements do not constitute substantial evidence. As Dr. Shukla’s comments demonstrate, the Project site already presents an intermediate carcinogenic risk.¹¹³ According to Glenn County’s 2024 Air Toxic Hot Spots Report, a Health Risk Assessment is required when the carcinogenic risk is high, meaning it meets or exceeds 10 in one million.¹¹⁴ The proposed Project is expected to include emission of Toxic Air Contaminants (“TACs”), including diesel particulate matter (“DPM”), a known carcinogen, during Project construction and operation.¹¹⁵ Because of this, Dr. Shukla emphasizes the importance of conducting a quantitative analysis of the Project’s expected emissions to assess whether they exceed the GCAPCD cancer risk threshold.¹¹⁶ The MND’s failure to include this analysis renders its air quality impact conclusions inadequate and unsupported.

¹⁰⁹ MND, pp. 22-23.

¹¹⁰ MND, pp. 22-23.

¹¹¹ Shukla Comments, p. 9.

¹¹² MND, p. 23.

¹¹³ Shukla Comments, p. 18.

¹¹⁴ Shukla Comments, p. 18; GCAPCD, 2024 Annual Report AB 2588 Air Toxics “Hot Spots” Program; https://www.countyofglenn.net/sites/default/files/2024%20Hot%20Spots%20Report_0.pdf.

¹¹⁵ Shukla Comments, pp. 7, 20.

¹¹⁶ Shukla Comments, p. 18-19.

Furthermore, CEQA requires a detailed analysis of the human health impacts from exposure to air pollutants that would be generated by a development project.¹¹⁷ CEQA’s statutory scheme and legislative intent include an express mandate that agencies consider and analyze human health impacts, acknowledges that human beings are an integral part of the “environment”, and mandates that public agencies determine whether a the “*environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.*”¹¹⁸ CEQA Appendix G specifically requires the lead agency to evaluate whether the Project will “expose sensitive receptors to substantial pollutant concentrations.”¹¹⁹

The California Supreme Court has upheld CEQA’s requirement to disclose the extent to which a project’s air emissions may result in adverse health impacts. In *Sierra Club v. County of Fresno*, the County’s failure to include a health risk analysis in an EIR enabled the Court to find the CEQA document “insufficient because it failed to explain why it was not feasible to provide an analysis that connected the air quality effects to human health consequences.”¹²⁰ Similarly, in this case, the MND provides only a qualitative discussion of the Project’s health impacts and fails to provide the requisite discussion of the potential public health impacts that are likely to result from emissions of TACs during construction and operation of the Project. Moreover, the MND does not identify the concentration at which such pollutants would trigger adverse health effects. “Without such information, the general public and its responsible officials cannot make an informed decision on whether to approve the project.”¹²¹ The County must prepare an EIR which includes a quantified health risk analysis to connect the Project’s air quality impacts with human health consequences.

Finally, the MND’s failure to analyze operation and construction-related health risks is inconsistent with regulatory agency guidance. The Office of Environmental Health Hazard Assessment’s (“OEHHA”) *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* recommends that all short-term projects lasting at least 2 months assess cancer risks and exposure from projects lasting more than 6 months should be evaluated

¹¹⁷ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.

¹¹⁸ Pub. Res. Code § 21083(b)(3), (d) (emphasis added).

¹¹⁹ CEQA Appendix G, Section III.D.

¹²⁰ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 519; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 134 Cal.App.4th 1184, 1220 (“After reading the EIRs, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIRs).

¹²¹ GCAPCD 2024 Air Toxic Hot Spots Report, p. 2, available at: https://www.countyofglenn.net/sites/default/files/2024%20Hot%20Spots%20Report_1.pdf.

for the duration of the project.¹²² Here, the MND does not specify the length of the Project's construction phase, and it provides no indication of a decommissioning date. This suggests that the Project is intended to operate indefinitely, which exceeds the 6-month requirements set forth by OEHHA. Because of this, a quantified HRA under OEHHA guidance should have been prepared to evaluate cancer risk for the full life of the Project.

The MND's failure to include an HRA to quantify the adverse health risk impacts from exposure to TACs during construction and operation renders the MND's air quality analysis inadequate. The conclusion that the Project will not result in significant health impacts is not supported by substantial evidence. Therefore, an EIR must be prepared that includes a quantified HRA and evaluates the Project's potentially significant public health risks. The EIR must also include mitigation measures to reduce those risks to less than significant levels.

B. Substantial Evidence Supports a Fair Argument that the Project Will Have Potentially Significant, Unmitigated Impacts Related to Hazards and Hazardous Materials

The MND concludes that the Project's impacts related to hazards and hazardous materials will be less than significant.¹²³ However, Dr. Shukla's comments demonstrate that the MND fails to disclose, analyze, and propose mitigation for several potentially significant sources of hazards that could arise during both construction and operation of the Project.¹²⁴

First, the MND entirely omits discussion of multiple risk scenarios associated with key components of the ATC process.¹²⁵ These include the storage, compression, and transport of RNG; handling and storage of biochar; transport and storage of biomass feedstock; and risks related to thermochemical conversion and reactor emergencies; and syngas upgrading and methanation hazards.¹²⁶ Each of these scenarios could result in a potential emergency involving fires, explosions, and/or hazardous gas releases.¹²⁷ Dr. Shukla highlights that the ATC process inherently involves the generation and use of highly combustible and toxic substances, such as

¹²² OEHHA, *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments*, pp. 8-18, available at: <https://oehha.ca.gov/sites/default/files/media/downloads/crn/2015guidancemanual.pdf>.

¹²³ MND, p. 43.

¹²⁴ Shukla Comments, pp. 22-29.

¹²⁵ Shukla Comments, pp. 23-24.

¹²⁶ Shukla Comments, pp. 23-24.

¹²⁷ Shukla Comments, p. 22.

syngas, methane, hydrogen, carbon monoxide, and reactive catalysts—all of which pose significant risks to human health and the environment.¹²⁸

Second, the MND fails to address risks to workers, who could be exposed to these hazardous substances during routine operations, maintenance, or during an emergency.¹²⁹ Dr. Shukla explains that exposure to syngas—specifically carbon monoxide—can result in a range of health symptoms, including headaches, dizziness, shortness of breath.¹³⁰ In extreme case, exposure can be fatal due to oxygen displacement or toxicity.¹³¹ Long term exposure can lead to chronic respiratory issues, neurological damage, or other serious health concerns.¹³²

Third, the MND fails to propose any mitigation measures to address these potentially significant risks. To reduce impacts from these risks, Dr. Shukla recommends several measures, including preparation of a site safety and evacuation plan,¹³³ safety measures for workers,¹³⁴ emergency response plan,¹³⁵ Leak Detection and Repair plan,¹³⁶ and a Pipeline Integrity Plan.¹³⁷ These measures will provide essential exposure controls, continuous monitoring systems, and worker training and emergency planning to help ensure the safety of workers, nearby communities, and the environment.

For these reasons, the MND lacks substantial evidence to support its significance determination. Because there is substantial evidence supporting a fair argument that the Project may result in significant impacts related to hazards, the County must prepare a DEIR.

C. The MND Fails to Adequately Analyze the Project’s Potentially Significant Impacts Related to GHG Emissions

The MND fails to provide substantial evidence to support its conclusion that the Project will not result in significant impacts related to GHG emissions.¹³⁸ The MND reasons that impacts from GHG emissions will be less than significant

¹²⁸ Shukla Comments, pp. 25.

¹²⁹ Shukla Comments, p. 27.

¹³⁰ Shukla Comments, p. 27.

¹³¹ Shukla Comments, p. 27.

¹³² Shukla Comments, p. 27.

¹³³ Shukla Comments, p. 28.

¹³⁴ Shukla Comments, p. 27.

¹³⁵ Shukla Comments, p. 26.

¹³⁶ Shukla Comments, p. 25.

¹³⁷ Shukla Comments, p. 25.

¹³⁸ MND, p. 40.

because (1) project construction must comply with Title 24, (2) the Project site is located in a part of the County that is used primarily for orchards and agricultural processing, and (3) there is no significant increase in VMT anticipated as a result of the Project.¹³⁹ However, none of these reasons directly relate to reducing GHG emissions nor do they provide substantial evidence to support the MND's conclusion that GHG emissions will be less than significant.

First, compliance with Title 24 does not equate to, nor guarantee, a reduction in GHG emissions. Title 24 sets energy efficiency standards for new construction, which can result in a reduction in GHG emissions. However, Projects generate GHG not just from energy use. GHG's can be emitted as a result of several activities, including, but not limited to construction activities, fugitive emissions, or waste generation. Additionally, the MND fails to explain how compliance with Title 24 would directly reduce GHG emissions, nor reliance on Title 24 alone demonstrate that impacts would be less than significant.¹⁴⁰

Second, the fact that the Project site is located in an area used for orchards and agricultural processing does not mitigate or address the GHG emissions generated by the Project itself. In fact, agriculture and agricultural processing operations can be significant sources of GHGs due to use of gas-powered farm equipment, use of nitrogen-based fertilizers, and use of natural gas or propane burning equipment like walnut dehydrators. Because of this, it is especially important to conduct a comprehensive analysis of both (1) the existing GHG emissions at the Project site and (2) the expected GHG emissions the Project will add.

Third, although VMT is an important consideration when assessing transportation-related GHG emissions, the MND does not adequately demonstrate how reducing VMT alone will ensure that GHG emissions from the Project will be less than significant. Transportation emissions is only one potential source of GHGs. As discussed above, emissions from construction equipment, waste generation, and energy use must also be considered.

Lastly, the MND fails to provide any quantitative analysis to support its conclusion. CEQA requires an MND to "make a good-faith effort, based on the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project."¹⁴¹ The Supreme Court clarified

¹³⁹ MND, p. 42.

¹⁴⁰ *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 209; *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264-65.

¹⁴¹ CEQA Guidelines § 15064.4.

that CEQA does not require quantification of emissions in every instance and that lead agencies may rely on qualitative factors or performance standards if quantification is not possible or appropriate for the particular project.¹⁴² However, in this case, the MND does not quantify the Project's expected GHG emissions and does not provide any evidence demonstrating that calculating emissions is impossible or inappropriate for the particular project, nor does the MND perform a qualitative analysis of the Project's compliance with applicable climate action or GHG reduction plans. As such, the MND does not evaluate the Project's GHG emissions against any applicable significance thresholds. This omission renders the MND deficient under CEQA and makes it impossible to determine whether the Project's GHG emissions will be significant.

To comply with CEQA, an EIR must be prepared that conducts a comprehensive quantitative analysis of the Project's GHG emissions and proposes mitigation for any significant impacts found.

D. The MND Fails to Adequately Analyze and Mitigate Significant Impacts on Agricultural Resources

The proposed Project is located in the Farmland Security Zone ("FS-80) and consist of two parcels: APN 016-030-011 and 016-090-016.¹⁴³ According to the California Department of Conservation's ("CDOC") Farmland Mapping and Monitoring Program ("FMMP"), the first Project parcel (APN 016-030-011) is mapped as 10-acres of Urban and Built-Up Land, with the remaining 86 acres as Prime Farmland.¹⁴⁴ The second Project parcel (APN 016-090-016) is designated as mostly Farmland of Statewide Importance ("Important Farmland"), with some portions designated as Prime Farmland.¹⁴⁵

The proposed Project will convert over 4.3 acres of this Important Farmland to a non-agricultural use, which constitutes a significant impact under CEQA.¹⁴⁶ Despite this, the MND fails to adequately analyze the impacts of this permanent conversion and does not propose sufficient mitigation.

¹⁴² *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) Cal.App.5th 160, 201.

¹⁴³ MND, p. 1.

¹⁴⁴ MND, p. 17.

¹⁴⁵ California Department of Conservation, California Important Farmland Finder, available at: <https://maps.conservation.ca.gov/DLRP/CIFF/> (last visited 3/27/25).

¹⁴⁶ MND, p. 17; MND pdf p. 117.

CEQA requires the lead agency to identify whether the Project will cause significant environmental effects.¹⁴⁷ If so, then the agency must propose and describe mitigation measures to minimize the significant environmental effects identified.¹⁴⁸ CEQA Appendix G requires the County to analyze several impacts to agricultural resources from implementation of the Project, including whether the Project would:

- Convert Prime Farmland, Unique Farmland, or Important Farmland as shown on the maps prepared pursuant to the FMMP of the California Resources Agency, to non-agricultural use
- Conflict with existing zoning for agricultural use, or a Williamson Act contract
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.¹⁴⁹

In this case, the MND concludes that the Project will not conflict with existing zoning, asserting that the proposed Project is a permitted use with a conditional use permit within the FS-80 zone.¹⁵⁰ It further asserts that the Project will not conflict with a Williamson Act contract.¹⁵¹ Specifically, the MND claims that the Project qualifies as an allowable use on contracted lands because it is ancillary to the existing agricultural processing facility, will not significantly compromise the long-term agricultural productivity of the parcel or of adjacent contracted lands, and that no agricultural land will be converted to non-agricultural use since the Project site is already graded and not currently in active orchard.¹⁵² However, these conclusions are inaccurate and unsupported for several key reasons.

1. The MND Mischaracterizes the Land Conversion Type

The MND incorrectly states that the construction of the ATC facility will not result in the conversion of agricultural land to non-agricultural use.¹⁵³ This assertion is based solely on the fact that the Project site is currently graded and not in active agricultural production.¹⁵⁴ However, under CEQA and state farmland protection policies, the impact on agricultural land is determined not by whether it

¹⁴⁷ PRC § 21002.

¹⁴⁸ *Id.*; 14 CCR § 15126.4.

¹⁴⁹ CEQA Appendix G, Section II, Agricultural and Forestry Resources; DEIR, p. 3.3-8.

¹⁵⁰ Glenn County Staff Report, pp. 5-6; Development Code § 15.86.020.

¹⁵¹ MND, p. 18; California Government Code § 51238.1.

¹⁵² MND, p. 18; California Government Code § 51238.1.

¹⁵³ MND, p. 18.

¹⁵⁴ MND, p. 18; California Government Code § 51238.1.

is presently farmed, but by its land use designation and underlying agricultural value.¹⁵⁵

In this case, the Project site is zoned for agricultural use and is designated as Prime Farmland and Farmland of Statewide Importance.¹⁵⁶ Additionally, even though the Project will use waste walnut shells (an agricultural byproduct) to create RNG, the Project is an industrial use that will preclude future agricultural activity. This is further evidenced by the fact that the RNG generated by the facility is not intended for use on-site, but rather for off-site distribution via injection into a PG&E pipeline and sale to third-party purchasers.¹⁵⁷ Therefore, the Project would permanently remove agricultural land from production and convert it to industrial use, which the MND failed to disclose and analyze.

2. The MND Fails to Analyze the Impacts from Both Project Parcels

The MND does not adequately analyze or disclose the extent of Important Farmland that would be permanently converted on both Project parcels. Specifically, the MND's agricultural resources impact analysis only accounts for the agricultural land that will be converted on the first Project parcel and not the second parcel. The MND states that the Project will construct an RNG decanting and injection station on the second project parcel.¹⁵⁸ The exact acreage this will occupy is not specified in the MND. This means that more than 4.3 acres of important farmland will be converted to non-agricultural uses, which needs to be disclosed and mitigated.

Because of this omission, the MND's proposed mitigation measure—Mitigation Measure AR-1—is also inadequate.¹⁵⁹ Glenn County Code Section 15.86.030(E)(2)(a) states that “[w]hen a proposed power generation use includes [land designated as Prime Farmland, Farmland of Statewide Importance and Unique Farmland] as designated under the FMMP in Agriculture zoning districts or Williamson Act contracted land...mitigation shall be required to secure replacement

¹⁵⁵ CEQA Appendix G, Section II, Agricultural and Forestry Resources; DEIR, p. 3.3-8 (“In determining whether impacts to agricultural resources are significant environmental effects...[w]ould the project: (a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?”).

¹⁵⁶ MND, p. 17; California Department of Conservation, California Important Farmland Finder, available at: <https://maps.conservation.ca.gov/DLRP/CIFF/> (last visited 3/27/25).

¹⁵⁷ MND, pdf p. 114.

¹⁵⁸ MND, pdf p. 114.

¹⁵⁹ MND, p. 17.

land of equal or greater farming potential at a ratio of 1:1. Said mitigation may be accomplished on the same lot.” In this case, the Mitigation Measure AR-1 proposes conserving 4.3 acres of Prime Farmland on the project site, but this only accounts for the land that will be converted on the first Project parcel.¹⁶⁰ Thus, this does not satisfy the 1:1 mitigation ratio mandated by Glenn County’s development code.

3. Conservation Easements Alone Do Not Reduce Impacts to Less Than Significant Levels

Even if Mitigation Measure AR-1 were amended to meet the 1:1 mitigation ratio, conservation easements alone do not reduce impacts from the conversion of agricultural land to less than significant levels under CEQA. The MND incorrectly concludes that agricultural impacts would be less than significant with mitigation.¹⁶¹

In *King & Gardiner Farms, LLC v. County of Kern* determined that agricultural conservation easements (“ACEs”) are not effective at reducing the project’s conversion of agricultural land to a less than significant level for purposes of CEQA.¹⁶² This holding was later affirmed in *V Lions Farming, LLC v. County of Kern*, which held that ACEs constitute effective mitigation under CEQA by preserving substitute resources even though ACEs may not ensure that the project causes no net loss of farmland.¹⁶³

Accordingly, Mitigation Measure AR-1, alone, does not mitigate the impacts of the Project to a less than significant level. Therefore, as proposed, the Project will result in significant impacts to agricultural resources that need to be disclosed and mitigated in an EIR.

In sum, the MND fails to adequately analyze, disclose, and mitigate the Project’s impacts on Important Farmland. It misrepresents the nature of the Project’s land use, underreports the total amount of agricultural land conversion, and proposes legally insufficient mitigation. Contrary to the MND’s conclusions, the Project will result in the permanent loss of valuable agricultural land, and the impacts remain significant even with mitigation. In order to fix these errors, an EIR needs to be prepared and circulated for public review.

¹⁶⁰ MND, p. 17.

¹⁶¹ MND, p. 17.

¹⁶² *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814.

¹⁶³ *V Lions Farming, LLC v. County of Kern* (2024) 318 Cal.Rptr.3d 879, 884.

E. The MND Lacks Substantial Evidence to Conclude That the Project Will Not Result in Significant Public Utility Impacts

The MND concludes that the Project will not result in significant impacts related to the expansion of public utility facilities.¹⁶⁴ To support this conclusion, the MND states that “[t]here is no municipal wastewater treatment facility proposed with this project. The project will not require or result in new or expanded municipal facilities that could cause significant environmental effects. The proposal will continue to rely on individual sewage disposal systems for wastewater treatment, if required.”¹⁶⁵ However, the comments from Glenn County and the Project’s Conditions of approval all mention required expansion/new construction of on-site wastewater treatment systems in order to accommodate the increase in employees.¹⁶⁶ This was not disclosed in the utility section of the MND, nor were its potential environmental impacts discussed.

CEQA requires an EIR to identify and describe the significant direct and indirect environmental impacts that will result from the project in both the short term and the long term.¹⁶⁷ This impact analysis must cover all phases of a project, including planning, acquisition, development, and operation.¹⁶⁸

Here, the expansion of or construction of new on-site wastewater treatment systems can lead to several environmental impacts such as air quality, ghg, and noise impacts. Accordingly, the MND violates CEQA by failing to analyze the potential air, noise, transportation, and other construction-related impacts that would result from the construction of the Project’s expanded/new on-site wastewater treatment system. By not including this in the Project’s impact analysis, the MND underestimates and fails to accurately disclose the Project’s true impacts.

Therefore, the County must prepare an EIR that analyzes the potential environmental impacts of this required on-site wastewater treatment system expansion.

¹⁶⁴ MND, p. 66.

¹⁶⁵ MND, p. 66.

¹⁶⁶ Mitigation Monitoring and Conditions of Approval, p. 3, 38; Glenn County Agency Comments, p. 2; Glenn County Environmental Health Department Letter (December 17, 2024), p. 1.

¹⁶⁷ CEQA Guidelines § 15126.2(a).

¹⁶⁸ CEQA Guidelines § 15126.

F. The MND Lacks Substantial Evidence to Conclude That the Project's Noise Impacts Will Be Less Than Significant

The MND concludes that the Project's noise impacts will be less than significant based on the assumption that noise impacts associated with on-site activities and traffic are not anticipated to exceed noise standards.¹⁶⁹ However, the MND does not provide substantial evidence to support this conclusion.

Under CEQA, the lead agency is required to consider both the "absolute noise level" associated with a project and the increase in the noise level resulting from the project when evaluating noise impacts.¹⁷⁰ This dual consideration is essential to fully understand the potential consequences of the Project's noise on the surrounding environment.

The MND does not adequately address either of these requirements. First, the MND fails to provide sound mapping or estimates of the existing noise conditions at the Project site. According to the Glenn County Noise Ordinance, a significant impact will occur if "the ambient noise level is already above the standards contained in [the noise element], or the project will result in an increase in ambient noise levels by more than 3 dB, whichever is greater."¹⁷¹ The site is currently developed with a walnut processing facility and surrounding orchards.¹⁷² The proposed Project will add 24 hour operation of an ATC facility to this existing use.¹⁷³ Because of this, the existing noise baseline must be considered to properly assess the potential incremental impacts of the Project. Without understanding the current noise environment, it is impossible to determine how the Project will affect noise levels relative to the existing conditions.

Second, the MND does not provide estimates of the Project's expected noise levels. Without these estimates, it is impossible to determine whether the noise generated by construction activities or ongoing operations will exceed the applicable noise thresholds set forth in the Glenn County Development code¹⁷⁴ and Noise Ordinance.¹⁷⁵

¹⁶⁹ MND, p. 54.

¹⁷⁰ *Kind & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 887, 893; *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 CA4th 714, 733.

¹⁷¹ General Plan, p. N-2.

¹⁷² Staff Report, p. 5.

¹⁷³ MND, p. 11.

¹⁷⁴ Development Code §15.56.100.

¹⁷⁵ General Plan, pp. N-0–N-8.

To address these deficiencies and comply with CEQA, an EIR must be prepared that provides a comprehensive and quantitative analysis of both the absolute noise levels and the potential increase in noise over ambient conditions.

G. The MND Lacks Substantial Evidence to Conclude That the Project's Impacts Related to Biological Resources Will Be Less Than Significant

The MND concludes, without substantial evidence, that there will be no significant impacts to biological resources.¹⁷⁶ CEQA requires an agency to set forth the bases for its findings on a project's environmental impacts; a bare conclusion without an explanation of its factual and analytical basis is not a sufficient analysis of an environmental impact.¹⁷⁷

Here, the MND concludes that the Project's impacts on biological resources will be less than significant because "[a]ccording to the Glenn County Environmental Impact Report, no sensitive species have been known to be located within the project site."¹⁷⁸ However, the County failed to provide access to the Glenn County Environmental Impact Report. The MND also fails to provide any other evidence to support its conclusion, such as: a survey of the site for biological resources, or reviews of literature, databases, and local experts for documented occurrences of special-status species. Without this information, there is no evidence to support the MND's assertion that no sensitive species are on the Project site.¹⁷⁹

Therefore, to fix this deficiency, the County must prepare and circulate an EIR that provides a comprehensive analysis of potential impacts to biological resources and supports any conclusions with substantial evidence.

H. The MND Lacks Substantial Evidence to Conclude That the Project's Energy Impacts Will Not Be Wasteful, Inefficient, or Unnecessary

The MND concludes that the Project will not result in a significant impact due to wasteful, inefficient or unnecessary energy consumption.¹⁸⁰ However, this conclusion is not supported by substantial evidence and the MND fails to discuss

¹⁷⁶ MND, p. 24.

¹⁷⁷ *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 404; *Sierra Watch v. County of Placer* (2021) 69 CA5th 86, 101; *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 CA4th 362, 393.

¹⁷⁸ MND, p. 26.

¹⁷⁹ MND, p. 26.

¹⁸⁰ MND, p. 32.

energy conservation measures that might be available or appropriate for the Project, in violation of CEQA.

CEQA requires an environmental document to discuss mitigation measures for significant environmental impacts, including “measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.”¹⁸¹ The CEQA Guidelines require discussion of energy conservation measures when relevant, and provide the following examples in Appendix F:

- Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated into the project and why other measures were dismissed.
- The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation and reduce solid waste.
- The potential for reducing peak energy demand.
- Alternate fuels (particularly renewable ones) or energy systems.
- Energy conservation which could result from recycling efforts.¹⁸²

Courts have rejected CEQA documents that fail to include adequate investigation into energy conservation measures that might be available or appropriate for a project.¹⁸³ In *California Clean Energy Commission v. City of Woodland* (“CCEC”), the Court of Appeal reviewed an EIR for a shopping center on undeveloped agricultural land.¹⁸⁴ The EIR in *CCEC* concluded that, due to the proposed project’s compliance with Title 24 guidelines and regulations, the project would be expected to have a less-than-significant impact regarding the wasteful, inefficient, or unnecessary consumption of energy.¹⁸⁵ But the lead agency’s EIR did not include a discussion regarding the different renewable energy options that might be available or appropriate for the project.¹⁸⁶ The Court held “the City’s EIRs failed to comply with the requirements of Appendix F to the Guidelines by not discussing or analyzing renewable energy options.”¹⁸⁷ The lead agency argued that

¹⁸¹ PRC § 21100(b)(3); *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930.

¹⁸² CEQA Guidelines § 15126.4(a)(1)(C) (stating “Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.”).

¹⁸³ *Ukiah Citizens*, 248 CA4th 256; *Spring Valley Lake Ass’n v. City of Victorville* (2016) 248 Cal. App. 4th 91.

¹⁸⁴ *CCEC*, 225 Cal.App.4th 173.

¹⁸⁵ *Id.* at 184.

¹⁸⁶ *Id.* at 213.

¹⁸⁷ *Id.* at 213.

compliance with the Building Code sufficed to address energy impact concerns for the project.¹⁸⁸ But the Court explained:

Although the Building Code addresses energy savings for components of a new commercial construction, it does not address many of the considerations required under Appendix F of the CEQA Guidelines...These considerations include whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope. Here, a requirement that Gateway II comply with the Building Code does not, by itself, constitute an adequate assessment of mitigation measures that can be taken to address the energy impacts during construction and operation of the project.¹⁸⁹

The Supreme Court of California agreed with the *CCEC* court's decision in *League to Save Lake Tahoe Mtn. Area Preservation Found. v County of Placer* ("*League to Save Lake Tahoe*"), holding that even projects that find a less-than-significant energy impact must "discuss whether any renewable energy features could be incorporated into the project."¹⁹⁰ In *Save Lake Tahoe*, the Court considered an EIR for a land use specific plan and rezoning to permit residential and commercial development and preserve forest land near Truckee and Lake Tahoe.¹⁹¹ The EIR did not consider whether it was feasible to power the project on 100 percent renewable electrical energy or some lesser percentage, nor evaluate strategies for reducing reliance on fossil fuels, increasing reliance on renewable resources, reducing peak loads, and reducing the impacts of relying on remote generation facilities.¹⁹² The lead agency reasoned that this analysis was not required because energy impacts would be less than significant.¹⁹³ Citing CEQA Guidelines Section 15126.2, subdivision (b) and the decision in *CCEC*, the Court held that when an EIR analyzes the project's energy use to determine if it creates significant effects, it should discuss whether any renewable energy features could be incorporated into the project.¹⁹⁴ The Court found that the EIR violated CEQA for not discussing whether the project could increase its reliance on renewable energy sources to meet its energy demand.¹⁹⁵

¹⁸⁸ *Id.* at 210, 211.

¹⁸⁹ *Id.* at 211.

¹⁹⁰ *League to Save Lake Tahoe* (2022) 75 CA5th 63, 167–68.

¹⁹¹ *Id.* at 70.

¹⁹² *Id.* at 165-166.

¹⁹³ *Id.* at 166.

¹⁹⁴ *Id.* at 167-168.

¹⁹⁵ *Id.* at 168.

Here, the MND concludes that energy impacts will be less than significant without quantifying them, based on the assumption that the Project will comply with “California Green Building Standards as well as California Energy Code.”¹⁹⁶ However, this conclusion is not supported by substantial evidence for several reasons. First, as the cases above demonstrate, compliance with Title 24 regulations, alone, does not support a conclusion that energy impacts are less than significant. In order to comply with CEQA, available conservation measures that go beyond what is required by Title 24 must be discussed.

Second, compliance with CalGreen Code is also insufficient to support the claim that the Project’s energy impacts will not be wasteful, inefficient, or unnecessary. CalGreen is a code with mandatory and voluntary requirements for new residential and nonresidential buildings throughout California.¹⁹⁷ The mandatory requirements address issues like energy efficiency, water efficiency and conservation and sustainable construction practices.¹⁹⁸ None of these measures specifically address how much energy is used during the operational phase of the facility, especially for energy-intensive processes like those used in the advanced thermal conversion process. For example, the proposed ATC facility will use a gasification process to convert biomass into RNG.¹⁹⁹ These processes are energy-intensive because they require high temperatures (>700 degrees Celsius) to break down the material.²⁰⁰ Additionally, the proposed Project will rely on electricity from the grid to operate.²⁰¹ CalGreen does not require specific measures to ensure that the operation itself will minimize reliance on non-renewable energy or focus on renewable energy sources.

Lastly, the MND fails to satisfy CEQA’s requirement that a Project’s energy impacts analysis must include a discussion regarding the different renewable energy options that might be available or appropriate for the Project.²⁰² For example: using energy-efficient construction equipment, installing solar panels, re-

¹⁹⁶ MND, p. 33.

¹⁹⁷ 2022 California Green Buildings Standard Code (CalGreen), available at: <https://codes.iccsafe.org/content/CAGBC2022P1/preface>.

¹⁹⁸ CalGreen Chapter 5.

¹⁹⁹ Shukla Comments, p. 19.

²⁰⁰ U.S. Department of Energy, *Hydrogen Production: Biomass Gasification*, available at: <https://www.energy.gov/eere/fuelcells/hydrogen-production-biomass-gasification#:~:text=Gasification%20is%20a%20process%20that,%2C%20hydrogen%2C%20and%20carbon%20dioxide>.

²⁰¹ MND, p. 11.

²⁰² CEQA Guidelines § 15126.4(a)(1)(C) (stating “Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.”); *California Clean Energy Commission v. City of Woodland* (2014) 225 Cal.App.4th 173; *League to Save Lake Tahoe* (2022) 75 Cal.App.5th 63.

using a portion of the RNG produced to power facility operations. The MND also fails to evaluate the feasibility of meeting CalGreen's voluntary standards described in Appendix A5, Nonresidential Voluntary Measures. These standards include energy consumption measures applicable to this Project. Appendix A5 describes two tiers of voluntary measures – Tier 1 and Tier 2. Tier 2 standards would result in greater reductions in energy consumption. CalGreen Section A5.203.1.2 sets energy budgets that are less than permitted by the mandatory Title 24 energy standards.²⁰³ CalGreen Section A5.304.1 requires the use of drought-tolerant landscaping and weather-based irrigation controls around the facility.²⁰⁴ CalGreen Division A5.4 requires the use of recycled and regionally sourced materials during construction.²⁰⁵ The MND's statement that the Project will comply with CalGreen does not address consistency with these CalGreen voluntary standards.

Therefore, the MND's analysis of the Project's energy impacts is incomplete and inadequate. It fails to adequately analyze available conservation measures or provide evidence that such measures are inapplicable to the Project or infeasible to implement. It also fails to meaningfully address Appendix F's considerations of whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope. This analysis must be provided in a revised and recirculated EIR.

VI. THE COUNTY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT'S CONDITIONAL USE PERMIT

As proposed, the County cannot approve the Conditional Use Permit Application because it fails to meet the necessary requirements as outlined in the Glenn County Development Code. Specifically, Development Code Section 15.22.020 states that a Conditional Use permit may only be approved if the following findings can be made:

- A. That the proposed use at the particular location is necessary or desirable in providing a service or facility which will contribute to the general well-being of the public;
- B. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;

²⁰³ CalGreen §§ A5.203.1.2.1, A5.203.1.2.2.

²⁰⁴ CalGreen §§ A5.304.6, A5.304.7.

²⁰⁵ CalGreen §§ A5.4-5.1, A5.406.1.

- C. That the site for the proposed use is adequate in size and shape to accommodate said use and to accommodate all of the yards, setbacks, walls or fences, and other features required herein or by the planning commission
- D. Except in the case of the expansion of a nonconforming use, that the granting of the permit shall not adversely affect the general plan or any area plan of the county.²⁰⁶

As discussed above, the Project's proposed use will conflict with the General Plan's IA land use designation and Development Code Section 15.86.030, which requires a 1:1 conservation ratio to mitigate for the conversion of Important Farmland. Moreover, there is substantial evidence supporting a fair argument that the Project may result in potentially significant public health and safety issues as explained in our discussion of air quality and hazards. Consequently, the necessary findings for a conditional use permit for the Project cannot be made. An EIR must be prepared to fully analyze and mitigate the significant impacts identified in our comments.

VII. CONCLUSION

For the reasons discussed above, the MND for the Project is inadequate under CEQA. It must be revised to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that an EIR be prepared and circulated for public review. Until an EIR has been prepared and circulated, as described herein, the County may not lawfully approve the Project.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Alaura McGuire

Attachments
ARM:acp

²⁰⁶ Development Code §15.22.020.