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10 **BEFORE THE HEARING BOARD OF THE**  
11 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

12 **In the Matter of**

13 COLTON POWER, LP – DREWS

14 Order Granting a Regular Variance

15 Section 42350 of the California  
16 Health and Safety Code

CASE NO. 6167-3

Facility ID No. 182563

Hearing Date: March 26, 2024

Time: 9:30 a.m.

Place: Hearing Board  
South Coast Air Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

17 **[PROPOSED] FINDINGS AND DECISION OF THE HEARING BOARD**

18 This Petition for a Regular Variance was heard on the Hearing Board’s Consent Calendar  
19 on March 26, 2024, pursuant to notice and in accordance with the provisions of the California  
20 Health and Safety Code section 40826 and South Coast Air Quality Management District  
21 (“South Coast AQMD”) Rule 510. The following members of the Hearing Board were present:  
22 Cynthia Verdugo-Peralta, Chair; Robert Pearman, Vice Chair; Mohan Balagopalan; Jerry P.  
23 Abraham, MD, MPH, CMQ; Micah Ali; and Mohan Balagopalan. Colton Power, LP  
24 (“Petitioner”), represented by Jon Boyer, did not appear. South Coast AQMD (“Respondent”),  
25 represented by Stacey Pruitt, Senior Deputy District Counsel, did not appear.

26 The matter was submitted for consideration on the Consent Calendar. The public was  
27 given an opportunity to testify. The Declaration of Joseph Shephard was received as evidence,  
28 and the [Proposed] Findings and Decision of the Hearing Board was received. The Parties have

1 stipulated by Joint Stipulation to Place Matter on Consent Calendar and to the issuance of this  
2 Order. The Hearing Board finds and decides as follows:

3  
4 **Nature of Business and Location of Facility**

5 Colton Power, LP – Drews (Facility ID 182563) (“Facility”) is an electrical power  
6 generation facility comprised of four 10.5 megawatt (“MW”) simple cycle, natural gas-fired  
7 turbines. The Facility provides electricity to the City of Colton during periods of peak electricity  
8 demand. The Facility is located at 559 Pepper Ave. in Colton, California.

9  
10 **Equipment that is the Subject of the Variance Petition**

11 The equipment that is the subject of this petition is comprised of one simple cycle 10.5  
12 MW natural gas-fired turbine, Turbine No. 4, Application/Permit No. 182563, RECLAIM  
13 Device No. D22, hereinafter Unit D22. The turbine generates electricity in times of peak  
14 demand and ensures electrical grid reliability to the City of Colton.

15  
16 **SUMMARY**

17 Petitioner is in violation of South Coast AQMD Rule 1134 (e)(2)(C)(iii), which requires  
18 the Facility to perform an annual ammonia (NH<sub>3</sub>) source test, commonly referred to as a “slip  
19 test,” every calendar year and Rules 203(b), 2004(f)(1) and 3002(c)(1), which require  
20 compliance with permit conditions. The Facility’s Permit to Operate contains a similarly worded  
21 condition (Condition D28.1). Petitioner was unable to conduct the ammonia slip test for the  
22 Facility’s Unit D22 by the end of December 2023 due to the discovery of internal severe damage  
23 of the unit, resulting in the determination that the unit could not be safely operated prior to  
24 repair. Because Petitioner could not operate the unit, the ammonia slip test could not be  
25 conducted by the end of December 2023. Petitioner was previously granted a short variance to  
26 allow the Petitioner to complete repairs and reschedule the ammonia slip test by March 30, 2024.  
27 (See Short Variance Minute Order, December 28, 2023, Case No 6167-3).

28 Unit D22 is scheduled for a Selective Catalytic Reduction (“SCR”) catalyst replacement,

1 and Petitioner applied to the South Coast AQMD for a RECLAIM/Title V Minor Permit  
2 Revision to install new SCR catalyst for D22 on November 21, 2023. Petitioner considered  
3 installation of a new SCR catalyst among the necessary repairs needed to schedule the ammonia  
4 slip test for Unit D22. At the time Petitioner sought and obtained the short variance, Petitioner  
5 anticipated the permit to construct for the new SCR catalyst would be issued in sufficient time  
6 for the installation of the new SCR catalyst for Unit D22 before expiration of the short variance  
7 deadline. However, it is apparent that the permit to construct the new SCR catalyst will not be  
8 issued in time for Petitioner to complete SCR catalyst installation and perform the ammonia slip  
9 test by March 30, 2024. Because the Petitioner cannot install the new SCR catalyst within the  
10 short variance timeframe, Petitioner filed a petition for regular variance on February 12, 2024 for  
11 additional time to conduct the ammonia slip test for Unit D22.

### 12 13 FINDINGS OF FACT AND CONCLUSIONS

14 The following are the facts and conclusions supporting the findings set forth in Health  
15 and Safety Code Section 42352 necessary to grant the variance requested. The Executive Officer  
16 did not oppose the granting of the variance.

17  
18 **(a)(1) The petitioner for a variance is or will be in violation of a rule, regulation, or order of**  
19 **the South Coast AQMD.**

20 Petitioner is in violation of South Coast AQMD Rule 1134(e)(2)(C)(iii) and Rules  
21 203(b), 2004(f)(1) and 3002(c)(1), which require compliance with permit conditions, because  
22 Unit D22 could not be repaired in time to perform the required ammonia slip test by the  
23 December 31, 2023 deadline, as set forth in Section D, Condition No. 28.1 of Petitioner's Title  
24 V/RECLAIM Facility Permit to Operate 182563. Further, due to the unanticipated time required  
25 to obtain a permit to construct allowing installation of a new SCR catalyst for Unit D22,  
26 Petitioner has had to reschedule the required ammonia slip test until after the March 30, 2024  
27 short variance deadline.

1 **(b)(1) Non-compliance with South Coast AQMD Rule(s) is due to conditions beyond the**  
2 **reasonable control of the Petitioner.**

3 In early September 2023, Facility management was reorganized, and new plant  
4 management personnel were assigned operations and maintenance responsibilities for the  
5 Facility. As part of this transition, the Facility’s management team has been implementing  
6 system evaluations and performing maintenance where needed. On September 6, 2023,  
7 Advanced Turbine Support (“Contractor”) was contacted to conduct a visual internal (borescope)  
8 inspection of each of the Facility’s gas turbines to assess their condition, and the Contractor  
9 conducted the inspections on November 4, 2023. The Contractor’s inspection of Unit D22  
10 revealed severe illuminated damage, and it was determined that Unit D22 was unsafe to operate.  
11 Unit D22 was locked out of service to physically restrict the equipment from operating until  
12 repairs could be made. Unit D22 has not operated since August 16, 2023.

13 South Coast AQMD Rule 1134(e)(2)(C)(iii) requires an annual ammonia slip compliance  
14 test. Because of the unsafe condition of Unit D22, it was not be possible to run the unit during  
15 the scheduled ammonia slip test by the end of December 2023.

16 On December 28, 2023, South Coast AQMD granted a short variance from Rules  
17 203(b), 2004(f)(1) and 3002(c)(1) {from Section D, Condition No. 28.1 of Title V/RECLAIM  
18 Facility Permit to Operate 182563} and Rule 1134(e)(2)(C)(iii) for Turbine Unit D22. The short  
19 variance requires completion of the ammonia slip test by March 30, 2024.

20 On January 9, 2024, Unit D22 was taken off-site for repairs. Petitioner expects the  
21 turbine to be repaired and reinstalled by mid-March 2024; however, the unit will still require  
22 installation of a new SCR catalyst. At the time of the short variance hearing, the Petitioner  
23 expected to have Unit D22-related installation, maintenance and repairs, including replacement  
24 of the decade’s old SCR catalyst, completed by the end of March 2024.

25 Ammonia slip testing must be conducted while the unit is operating under normal  
26 conditions at normal load in accordance with AQMD test methods. Even where Unit D22 is  
27 repaired and installed prior to the end of the existing short variance, Unit D22 will not operate  
28 except to supply the City of Colton power during the most extreme electrical emergency or to

1 assess the turbine repairs and tune the unit. Because of this, the Petitioner is highly unlikely to  
2 operate Unit D22 under normal conditions at normal load until installation of the new SCR  
3 catalyst is complete. Therefore, until installation of the new SCR, the ammonia slip test cannot  
4 reasonably be scheduled.

5 The inability to schedule the ammonia slip test for Unit D22 by the short variance  
6 deadline is due to the recently appreciated timeframe to process the minor permit revision to  
7 install a new SCR catalyst for Unit D22. The application for permit revision requires the  
8 Environmental Protection Agency (“EPA”) to have a 45-day review period after South Coast  
9 AQMD review, and the EPA review did not begin until on or about February 22, 2024 according  
10 to South Coast AQMD’s online Facility Information Detail tool providing the EPA review  
11 period start date. (See South Coast AQMD Rule 3005(b)(2).) The additional timeframe for EPA  
12 processing of the application was not foreseen at the time Petitioner applied for a short variance.  
13 Considering this, Petitioner has had to reschedule installation of the SCR catalyst and ammonia  
14 slip testing until after the March 30<sup>th</sup> deadline. Currently, Petitioner anticipates that the new  
15 SCR catalyst will be installed in time for source testing to take place the first half of May 2024.

16 The ability to install the new SCR catalyst in time for expiration of the short variance is  
17 beyond the reasonable control of Petitioner, as shown by Petitioner’s efforts to seek a permit  
18 revision for the new SCR catalyst on November 21, 2023. Petitioner is conservatively requesting  
19 a variance until July 30, 2024, to allow petitioner sufficient time to conduct any necessary  
20 repairs, complete installation of the new SCR catalyst, to account for other potential unforeseen  
21 delays, and perform the required ammonia slip test.

22  
23 **(b)(2) Requiring compliance would result in either (A) an arbitrary or unreasonable taking**  
24 **of property, or (B) the practical closing and elimination of a lawful business.**

25 Unit D22 is not currently operating, but will be available to the City of Colton under the  
26 most extreme electrical emergency conditions once reinstalled. Petitioner considers a call to  
27 operate Unit D22 prior to installation of the new SCR catalyst unlikely.

28 If Unit D22 is kept offline, making it unavailable to be called upon during an extreme

1 electrical emergency, the Facility will incur penalties pursuant to the California Independent  
2 System Operator’s (“CAISO”) Resource Adequacy Availability Incentive Mechanism  
3 (“RAAIM”). RAAIM is a penalty imposed by CAISO where Resource Adequacy Resources,  
4 such as the Facility, do not meet defined availability or performance thresholds. Petitioner  
5 estimates that these penalties would be approximately \$35,000 per month if Unit D22 is kept  
6 offline. Furthermore, Petitioner has not been able to procure replacement Resource Adequacy  
7 capacity that may help it avoid RAAIM penalties for the full period prior to anticipated SCR  
8 catalyst replacement, and even if available, Petitioner expects such replacement capacity to be  
9 much more expensive than incurring RAAIM penalties.

10           Requiring compliance is therefore not reasonable in this circumstance considering that  
11 the Facility will be able to conduct the ammonia slip test once the new SCR catalyst is installed,  
12 which will occur as soon as possible after issuance of the permit to construct for the new SCR  
13 catalyst. Compliance testing for Unit D22 is being rescheduled for early May 2024, by which  
14 time Petitioner is hopeful that a permit to construct will have been issued and installation of the  
15 SCR catalyst will be complete. Petitioners expect the testing to be completed within 14  
16 operating days after Unit D22 is returned to service completion of the new SCR catalyst  
17 installation.

18  
19 **(a)(3) The closing or taking would be without a corresponding benefit in reducing air**  
20 **contaminants.**

21           As Unit D22 is not likely to be operated until the new SCR catalyst is installed, there  
22 would be no corresponding benefit in reducing air contaminants resulting from a closing or  
23 taking. There will be a brief period between when the repaired Unit D22 will be installed and  
24 when the unit will be blank flanged to accommodate installation of the new SCR catalyst.  
25 During this brief period, D22 will only be operated if necessary to respond to an electrical  
26 emergency, and the City of Colton must call upon Unit D22 to operate prior to installation of the  
27 new SCR catalyst. In such a case, the turbine’s operation is preferable to triggering an electrical  
28 outage, during which smaller-scale, diesel-fueled, back-up generation may be operated.

1 Deployment of such smaller scale back-up generation is likely to result in more emissions of air  
2 contaminants than industrial-scale, natural gas-fueled electric generation. In the unlikely event  
3 that Unit D22 is operated in the short period of time between installation of the repaired unit and  
4 installation of the new SCR catalyst, the Continuous Emissions Monitoring System (“CEMS”)  
5 will monitor the exhaust from Unit D22 and record all required parameters.  
6

7 **(a)(4) The petitioner has given consideration to curtailing operations of the source in lieu of**  
8 **obtaining a variance.**

9         Petitioner did not anticipate that the timeframe for receiving a permit to construct for  
10 installation of a new SCR catalyst for Unit D22 would extend beyond the short variance period.  
11 This is the cause of Petitioners request for a regular variance. Until the new SCR catalyst has  
12 been installed, Petitioner is not marketing the unit for normal operation under expected electric  
13 demand conditions, and therefore is taking measures to avoid unnecessary operation of D22.  
14

15 **(a)(5) During the period the variance is in effect, the petitioner will reduce excess emissions**  
16 **to the maximum extent feasible.**

17         Unit D22 is not likely to be operated until the new SCR catalyst is installed, with the  
18 exception that Petitioner may need to assess repairs or tune the unit as part of installation of the  
19 repaired unit. SCR catalyst installation will be followed promptly by ammonia slip testing.  
20 Thus, no excess emissions are expected to result from the granting of the short variance  
21 requested.  
22

23 **(a)(6) During the period the variance is in effect, Petitioner will monitor or otherwise**  
24 **quantify emission levels from the source, if requested to do so by the South Coast AQMD,**  
25 **and report these emission levels to the South Coast AQMD pursuant to a schedule**  
26 **established by the South Coast AQMD.**

27         Petitioner will operate and maintain the CEMS associated with Unit D22 for the duration  
28 of the variance. Records associated with this CEMS can be provided to the South Coast AQMD

1 upon request. The Facility also maintains a fuel flow meter to Unit D22, and will record the data  
2 to establish non-operation for the duration of the variance or until the unit has been fully repaired  
3 and the new SCR catalyst installed. Petitioner will perform the required ammonia slip  
4 compliance test within 14 operating days of installation of the new SCR catalyst and returning  
5 Unit D22 to service.

6 ///

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11 ///

12 **ORDER**

13 THEREFORE, good cause appearing, the Hearing Board orders as follows:

14 A. Petitioner is granted a regular variance from South Coast AQMD Rules 203(b),  
15 2004(f)(1) and 3002(c)(1) {from Section D, Condition No. 28.1 of Title V/RECLAIM  
16 Facility Permit to Operate No. 182563} and Rule 1134(e)(2)(C)(iii) for Turbine Unit  
17 D22, commencing January 1, 2024 and continuing through July 30, 2024, the final  
18 compliance date.

19 B. The variance granted herein is subject to the following conditions:

- 20 1. Petitioner shall complete the repair, including installation of a new Selective  
21 Catalytic Reduction (“SCR”) catalyst, of Turbine No. 4 (Device No. D22)  
22 expeditiously and provide a notification when the repair is complete to the South  
23 Coast AQMD via email to AQ Engineer Philip Nguyen ([pnguyen2@aqmd.gov](mailto:pnguyen2@aqmd.gov)),  
24 AQ Inspector II Avelino Revilla ([arevilla@aqmd.gov](mailto:arevilla@aqmd.gov)), and Supervising AQ  
25 Inspector Thomas Lee ([tlee2@aqmd.gov](mailto:tlee2@aqmd.gov)).
- 26 2. Petitioner shall conduct the ammonia slip test in accordance with permit condition  
27 D28.1 within 14 operating days after Turbine No. 3 (Device No. D22) is returned  
28 to service and installation of the new SCR catalyst is completed, and before July



1 30, 2024.

- 2 3. Petitioner shall notify the South Coast AQMD by calling 1-800-CUT-SMOG and  
3 by sending an email to AQ Inspector II Avelino Revilla ([arevilla@aqmd.gov](mailto:arevilla@aqmd.gov)),  
4 Supervising AQ Inspector Thomas Lee ([tlee2@aqmd.gov](mailto:tlee2@aqmd.gov)), and AQ Engineer  
5 Philip Nguyen ([pnguyen2@aqmd.gov](mailto:pnguyen2@aqmd.gov)) at least 24 hours prior to starting the  
6 ammonia slip test.
- 7 4. Petitioner shall submit a complete source test report showing preliminary  
8 compliance with ammonia slip conditions to the South Coast AQMD Source  
9 Testing ([sourcetesting@aqmd.gov](mailto:sourcetesting@aqmd.gov)) and to AQ Inspector II Avelino Revilla  
10 ([arevilla@aqmd.gov](mailto:arevilla@aqmd.gov)) and Supervising AQ Inspector Thomas Lee  
11 ([tlee2@aqmd.gov](mailto:tlee2@aqmd.gov)) within 45 calendar days after the test date.
- 12 5. Petitioner shall operate the Continuous Emissions Monitoring System (CEMS) to  
13 continuously monitor the exhaust from the Turbine No. 4 (Device No. D22) and  
14 record all required parameters (i.e. NOx concentration, oxygen content, and fuel  
15 flow) pursuant to Rule 2012, Appendix A, Chapter 2 for the duration of the  
16 variance period including showing valid zeros for all parameters when the turbine  
17 is not operating. In lieu of the abovementioned requirements, the Petitioner may  
18 choose to comply with the requirements in Rule 2012(c)(2)(D) and 2012  
19 (c)(2)(E), as amended on November 3, 2023, and Rule 218.2(e)(3) and  
20 218.2(e)(4), as amended September 2, 2022.
- 21 6. Petitioner shall notify the Clerk of the Board at [clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov) when  
22 final compliance is achieved.

23  
24 FOR THE BOARD: \_\_\_\_\_

25  
26  
27  
28 DATED: \_\_\_\_\_