

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE ADMINISTRATOR**

IN THE MATTER OF:

Colton Power, LP Dregs (ID No. 182561) and  
Century Power Plants (ID No. 182563)  
Title V Operating Permit

Issued by South Coast Air Quality Management  
District

PETITION FOR OBJECTION

**PETITION TO OBJECT TO TITLE V PERMITS ISSUED BY THE SOUTH COAST  
AIR QUALITY MANAGEMENT DISTRICT FOR THE DREGS AND CENTURY  
POWER PLANTS**

Pursuant to section 42 U.S.C. § 7661d(b)(2), Sierra Club and the Center for Community Action and Environmental Justice (“CCA EJ”) hereby petition the Administrator of the U.S. Environmental Protection Agency (“Administrator” or “EPA”) to object to the Draft Facility Permit to Operate Colton Power, LP for Facility ID Number 182561 (“Dregs Generating Station”) and for Facility ID Number 182563 (“Century Generating Station”) issued by the South Coast Air Quality Management District (“SCAQMD”) authorizing continued operation of the Century and Dregs power plants, located in Colton, California.

**I. PETITIONERS**

Petitioner Sierra Club is a national nonprofit organization with over 837,000 members nationwide and over 147,000 in California dedicated to exploring, enjoying, and protecting the wild places of earth; to practicing and promoting the responsible use of earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural

and human environment; and to using all lawful means to carry out these objectives. The Sierra Club has members, staff, and volunteers who live, work, and/or recreate in areas affected by air pollution from the Century and Drews power plants.

Petitioner CCAEJ is a base-building non-profit organization bringing communities together to find opportunities for cooperation, agreement and problem solving in improving their social and natural environment. Emphasizing environmental justice to achieve social change, CCAEJ works within the Inland Empire, including Colton, to develop and sustain democratically based participatory decision-making that promotes involvement of neglected voices within our community.

## **II. PROCEDURAL BACKGROUND**

This petition addresses the SCAQMD's renewal of Title V Permits to Operate Colton Power LP for Facilities ID Nos. 182561 (the Drews power plant) and 182563 (the Century power plant). The plants are very similar in size and technology.

Colton Power LP filed its applications to renew these permits with the SCAQMD on April 19, 2019. The SCAQMD proposed to approve the application and issued a draft Title V renewal permit for each plant on September 10, 2019.<sup>1,2</sup> The public notices for these draft permits were published on September 17, 2019. These Statements of Basis for both plants noted that the plants would be subject to Rule 1135.<sup>3</sup> The Sierra Club, Communities for a Better Environment, and Center for Community Action and Environmental Justice filed joint public

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<sup>1</sup> Exh. A, Draft Title V Permit and Statement of Basis with Cover Letter for Century Power Plant, Facility ID 182561 (Sept. 10, 2019) [hereinafter "Century Draft Permit & Statement of Basis"].

<sup>2</sup> Exh. B, Draft Title V Permit and Statement of Basis with Cover Letter for Drews Power Plant, Facility ID 182563 (Sept. 11, 2019) [hereinafter "Drews Draft Permit & Statement of Basis"].

<sup>3</sup> Exh. A, Century Draft Permit & Statement of Basis at pdf 78-80; Exh. B, Drews Draft Permit & Statement of Basis at pdf 76-78.

comments on the draft permits for both the Century<sup>4</sup> and Drews<sup>5</sup> power plants on October 16, 2019, in part challenging the permits for failing to incorporate permit terms to ensure compliance with Rule 1135.

On January 23, 2020, the SCAQMD issued a revised draft Title V renewal permit for each plant.<sup>6,7</sup> The public notices for these draft permits were published on January 31, 2020. The revisions noted that the prior draft permits improperly applied Rule 1135 to the gas plants, when Rule 1134—not Rule 1135—applied to the plants.<sup>8</sup> The Statement of Basis for each plant noted that Rule 1134(d)(3) would apply to the stationary gas turbines starting on January 1, 2024.<sup>9</sup> the Sierra Club submitted a Hearing Request Form for both permits, noting in its objections that the permits failed to incorporate permit terms to ensure compliance with Rule 1134.<sup>10</sup> Allen Hernandez, the Executive Director of the Center for Community Action and Environmental Justice (CCA EJ), requested a public hearing for both proposed permits and provided comments regarding the impact of the gas plants on the nearby communities by email on April 8, 2020.<sup>11</sup> In addition, he included written comment letters from many Colton community members regarding

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<sup>4</sup> Exh. C, Sierra Club, Communities for a Better Environment, and Center for Community Action and Environmental Justice Comments on Proposed Title V Renewal Permit for Colton Power, LP, Facility ID# 182561, Century Power Generating Facility (Oct. 16, 2019) [hereinafter “Joint Comments on Century Proposed Permit”].

<sup>5</sup> Exh. D, Sierra Club, Communities for a Better Environment, and Center for Community Action and Environmental Justice Comments on Proposed Title V Renewal Permit for Colton Power, LP, Facility ID# 182563, Drews Power Generating Facility (Oct. 16, 2019) [hereinafter “Joint Comments on Drews Proposed Permit”].

<sup>6</sup> Exh. E, Revised Draft Title V Permit and Statement of Basis with Cover Letter for Century Power Plant, Facility ID 182561 (Jan. 31, 2020) [hereinafter “Revised Century Draft Permit & Statement of Basis”].

<sup>7</sup> Exh. F, Revised Draft Title V Permit and Statement of Basis with Cover Letter for Drews Power Plant, Facility ID 182563 (Jan. 31, 2020) [hereinafter “Revised Drews Draft Permit & Statement of Basis”].

<sup>8</sup> *See* Exh. E, Revised Century Draft Permit & Statement of Basis Section at pdf 77 (“In the Statement of Basis noticed to the public on 9/17/2019, the staff incorrectly applied Rule 1135 instead of Rule 1134 to turbines in its rule analysis. To analyze the applicable rule of the equipment at Colton Power, LP, this Statement of Basis is being re-noticed.”); Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 74 (same quote).

<sup>9</sup> *See* Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 81; Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 78.

<sup>10</sup> Exh. G, Sierra Club Title V Hearing Request for the Century and Drews Power Plants with reference to earlier comments (Feb. 14, 2020) [hereinafter “Sierra Club Hearing Request”].

<sup>11</sup> Exh. H, Allen Hernandez Hearing Request and Comments (Apr. 8, 2020).

the draft permits for both plants, detailing impacts that emissions from the gas plants have on their community. SCAQMD sent these community comments to EPA on April 11, 2020.<sup>12</sup>

On August 7, 2020, the SCAQMD responded to Sierra Club’s October 2019 public comments and February 2020 public hearing request but declined to make any changes to the draft permits for the Drews and Century power plants.<sup>13</sup> In its response, SCAQMD noted that Sierra Club’s hearing request and comments referenced earlier comments regarding Rule 1135, noting that it was responding to the arguments of Rule 1134, given that Rule 1134 and Rule 1135 are essentially parallel rules.<sup>14</sup> The same day, SCAQMD responded to the comments from CCAEJ and community members but declined to make any changes to the draft permit for either plant.<sup>15</sup>

EPA’s 45-day review period for the draft permits began on August 11, 2020 when EPA received the SCAQMD responses to Sierra Club, CCAEJ, and the Colton community members who submitted handwritten comments. The EPA 45-day review period ended on September 25, 2020. The petition period ends on November 24, 2020. This Petition was timely filed on November 24, 2020.

### **III. LEGAL REQUIREMENTS**

A fundamental purpose of a Title V permit is to set forth in one place not only all of the requirements applicable to a pollution source, but also provisions needed to assure compliance

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<sup>12</sup> Exh. I, Letters from Community Members Regarding Century and Drews Power Plants Proposed Title V Permits (Apr. 11, 2020).

<sup>13</sup> Exh. J, SCAQMD Response to Sierra Club Comments and Hearing Request (Aug. 7, 2020) [hereinafter “SCAQMD Response to Sierra Club”].

<sup>14</sup> *Id.* at pdf 6 (“Therefore, the South Coast AQMD is providing responses to those [October 2019 Sierra Club Comments], as applicable, and has referenced Rule 1134 in lieu of Rule 1135...South Coast AQMD is able to still provide relevant, substantive responses as the requirements of Rule 1135 in your comment letters are sufficiently similar to the parallel requirements of Rule 1134.”).

<sup>15</sup> Exh. K, SCAQMD Response to CCAEJ Hearing Request and Community Comments (Aug. 7, 2020) [hereinafter “SCAQMD Response to CCAEJ”].

with each of those requirements. As EPA explained in the preamble to its Title V regulations, “regulations are often written to cover broad source categories,” leaving it “unclear which, and how, general regulations apply to a source.” 57 Fed. Reg. 32,250, 32,251 (July 21, 1992). Title V permits bridge this gap by “clarify[ing] and mak[ing] more readily enforceable a source's pollution control requirements,” including making clear how general regulatory provisions apply to specific sources. S. Rep. 101-228 (Dec. 20, 1989), *as reprinted in* 1990 USCAAN 3385, 3730. To improve compliance with and to facilitate enforcement of Clean Air Act requirements, Title V requires each major source to obtain an operating permit that (1) lists all applicable federally-enforceable requirements, (2) contains enough information for readers to determine how applicable requirements apply to units at the permitted source, and (3) establishes monitoring requirements that assure compliance with all applicable requirements. 42 U.S.C. § 7661c(a),(c); 40 C.F.R. § 70.6(a),(c); *Commonwealth of Virginia v. Browner*, 80 F.3d 869, 873 (4th Cir. 1996) (“The permit is crucial to implementation of the Act: it contains, in a single, comprehensive set of documents, all CAA requirements relevant to the particular source.”); *Sierra Club v. EPA*, 536 F.3d 673, 674-75 (D.C. Cir. 2008) (“But Title V did more than require the compilation in a single document of existing applicable emission limits . . . . It also mandated that each permit . . . shall set forth monitoring requirements to assure compliance with the permit terms and conditions”).

Because courts rely on Title V permits to determine which requirements may be enforced and which requirements may not be enforced against each major source, state-permitting agencies and EPA must exercise care to ensure that each Title V permit includes a clear, complete, and accurate account of the requirements that apply to the permitted source.

#### **IV. GROUNDS FOR OBJECTION**

##### **A. SCAQMD Must Impose the Requirements of Rule 1134 in the Title V Permit Renewals for Each Plant.**

The Proposed Permits for the Drews and Century power plants fail to ensure compliance with SCAQMD Rule 1134 (amended April 5, 2018) because the permit term extends beyond the date that compliance is required but states no specific compliance requirements in the permit. The SCAQMD Statement of Basis for the Proposed Permits states that Rule 1134 will apply to the simple cycle natural gas turbines at each plant beginning January 1, 2024,<sup>16</sup> but the draft permits themselves do not include the appropriate 2.5 ppmv NOx emissions limit for simple cycle natural gas turbines required by the most recently amended version of the Rule. Instead, the permit includes the current NOx emissions limits for each simple cycle natural gas turbine in place under Rule 2005 of 5 ppmv and the incorrect NOx emissions limit of 9 ppmv under Rule 1134.<sup>17</sup> The Statements of Basis for each plant note that Rule 1134 will apply to each plant beginning January 1, 2024, but declines to incorporate the current 2.5 ppmv NOx emissions for simple cycle turbines limit beginning in 2024 into the terms of the permit. Failure to include the Rule 1134 requirements effective January 1, 2024 is a failure to include all readily enforceable source pollution control requirements in the permit, and the EPA Administrator must direct SCAQMD to correct this error in both permits.

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<sup>16</sup> Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 81 (“[Rule 1134] [p]aragraph (d)(3) requires gas turbines to meet the NOx and ammonia emissions limits as shown below, by January 1, 2024...the turbines currently do not meet the future NOx limit of 2.5 ppmv. Since the turbines were installed prior to April 5, 2019, the facility has the option of retrofitting the turbines with an upgraded control system to meet the NOx limit or meet the low-use criteria specified in (h)(4)(A).”); Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 78 (same quote).

<sup>17</sup> Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 8, 10, 12, 14. Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 8, 10, 12, 14.

**1. SCAQMD Title V Rules Require that the Title V Renewal Permits Include Conditions to Assure Compliance with All Regulatory Requirements at the Time of Permit Issuance, and Both Plants Must Comply with Rule 1134 During the 5-Year Term of the Title V Renewal Permit.**

Rule 3004(b) of SCAQMD's Title V rules in Chapter XXX requires that the permit content for RECLAIM facilities such as Century Power Generating Facility include, among other things, all requirements of Rule 3004(a). Rule 3004(a)(1) requires that each Title V permit "shall include...[e]mission limitations and those operational requirements that assure compliance with all regulatory requirements at the time of permit issuance."

The revisions to Rule 1134 were adopted August 4, 1989 and amended April 5, 2019. Section K of the Proposed Permit for the Century plant notes that Rule 1134 is pending approval as part of the state implementation plan ("SIP").<sup>18</sup> The permit notes that "[u]pon the effective date of that approval, the approved rule(s) will become federally enforceable, and any earlier versions of those rules will no longer be federally enforceable."<sup>19</sup> Despite the current pending status of the SIP, EPA guidance provides that a permitting authority can properly rely on pending rules when "the pending rule will probably be approved, or when the source believes it can show that the pending rule is more stringent than the rule it would replace."<sup>20</sup> In this case, Rule 1134 NOx

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<sup>18</sup> Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 61. Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 61.

<sup>19</sup> *Id.*

<sup>20</sup> Memorandum from Lydia N. Wegman, Off. of Air Quality Planning and Standards, White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program at 2-3 (Mar. 5, 1996), *available at* <https://www.epa.gov/sites/production/files/2015-08/documents/wtppr-2.pdf> ("Historically, long periods of time have been required to review and approve (or disapprove) SIP revisions... There are many rules now pending EPA review and approval for inclusion in the SIP. The gap between approved SIP and the State rules is of concern because States and local agencies enforce their current rules (which are usually more stringent than the approved SIP rules) and often, as a practical matter, no longer enforce the superseded and outdated rules in the SIP... This section of the guidance largely addresses the problem by authorizing permitting authorities and their sources to base permit

emissions rate are more stringent than the NO<sub>x</sub> emissions rate that would otherwise be in place, and the pending rule will probably be approved. In these circumstances, the SCAQMD can and should properly rely on Rule 1134 to be implemented.

Rule 1134 aims to reduce emission of nitrogen oxides from stationary gas turbines,<sup>21</sup> and includes emission limits for gas turbines in Section (d)(3), stating:

*“Notwithstanding the exemptions contained in Rule 2001 – Applicability, Table I Rules Not Applicable to RECLAIM Facilities for Requirements Pertaining to NO<sub>x</sub> Emissions, on and after January 1, 2024, or when required by a permit to operate, whichever occurs first, the owner or operator of any stationary gas turbine, excluding compressor gas turbines, shall not operate such unit under load conditions, excluding start-up, shutdown, and tuning periods, which result in the discharge of NO<sub>x</sub> and ammonia emissions, directly or indirectly, into the atmosphere at concentrations in excess of the following emissions limits listed in Table I.”*

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applications on State and local rules that have been submitted for SIP approval, rather than on the potentially obsolete approved SIP provisions that they would replace. Such reliance on pending State and local rules is proper when the permitting authority has concluded that the pending rule will probably be approved, or when the source believes it can show that the pending rule is more stringent than the rule it would replace.”).

<sup>21</sup> South Coast Air Quality Management District Rule 1134(a).



**Table I: Emissions Limits for Stationary Gas Turbines**  
(Corrected to 15% oxygen on a dry basis)

Fuel Type	NO <sub>x</sub> (ppmv)	Ammonia (ppmv)
Liquid Fuel – Turbines Located on Outer Continental Shelf	30	5
Natural Gas – Combined Cycle Turbine	2	5
Natural Gas – Simple Cycle Turbine	2.5	5
Produced Gas	9	5
Produced Gas – Turbines Located on Outer Continental Shelf	15	5
Other	12.5	5

The Drews and Century plants include nearly identical sets of four simply cycle turbines. The applications and draft permits are very similar, and comments and responses from parties and SCAQMD apply to all turbines at each location. References in the record and in these comments apply interchangeably to all eight turbines at the two plants.

Rule 1134 is clear that compliance with the new emission limitations in Rule 1134 must occur no later than January 1, 2024. The Title V renewal permits at issue will be effective for five years,<sup>22</sup> meaning that the permits—after approval—will extend beyond that date. The Statement of Basis notes that the NO<sub>x</sub> limit of 2.5 ppmv for the gas plant turbines will become effective January 1, 2024 to both the Century and Drews plants,<sup>23</sup> but there is no mention of the 2.5 ppmv NO<sub>x</sub> emissions limit in either proposed permit.<sup>24</sup> The Statements of Basis note that the

<sup>22</sup> Pursuant to South Coast Air Quality Management District Rule 3004(f)(1), Title V permits are effective for 5 years.

<sup>23</sup> Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 81 (“[Rule 1134] [p]aragraph (d)(3) requires gas turbines to meet the NO<sub>x</sub> and ammonia emissions limits as shown below, by January 1, 2024...the turbines currently do not meet the future NO<sub>x</sub> limit of 2.5 ppmv. Since the turbines were installed prior to April 5, 2019, the facility has the option of retrofitting the turbines with an upgraded control system to meet the NO<sub>x</sub> limit or meet the low-use criteria specified in (h)(4)(A).”); Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 78 (same quote).

<sup>24</sup> See Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 8, 10, 12, 14. See also Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 8, 10, 12, 14.

permits can be later revised to incorporate the Rule 1134 requirements and that “the facility has not yet decided which compliance option it will choose and subsequent change(s) will require permit revision.”<sup>25</sup>

SCAQMD—like all state permitting authorities—cannot issue a Title V renewal permit now that does not include all regulatory requirements in reliance on some future permit revision. Thus, SCAQMD must ensure that the Title V renewal permit issued for both plants reflect the requirements of Rule 1134 now in its renewal of the facility’s Title V permit. Sierra Club, CCAEJ, and CBE raised this argument in its October 2019 comments with respect to Rule 1135,<sup>26</sup> and Sierra Club reiterated these concerns with respect to Rule 1134 in the hearing request form.<sup>27</sup>

In its response to Comments submitted by the CCAEJ, SCAQMD agrees that the federal Clean Air Act requires each Title V permit to include “all of the emissions limits, applicable requirements, and operating conditions on the equipment.”<sup>28</sup> Yet, in its August 2020 response to Sierra Club comments, SCAQMD declined to incorporate any new terms to the final permit drafts, stating that no changes related to the revised Rule 1134 are required because SCAQMD could later revise the Title V permit at any later date to incorporate such terms.<sup>29</sup> SCAQMD reasons that it usually sends compliance advisories to facility owners to remind them of the

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<sup>25</sup> Exh. E, Revised Century Draft Permit & Statement of Basis at pdf 81-82 (“Since the turbines were installed prior to April 5, 2019, the facility has the option of retrofitting the turbines with an upgraded control system to meet the NOx limit or meet the low-use criteria specified in (h)(4)(A). The facility has not yet decided which compliance option it will choose and subsequent change(s) will require permit revision.”). Exh. F, Revised Drews Draft Permit & Statement of Basis at pdf 78-79 (same quote).

<sup>26</sup> Exh. C, Joint Comments on Century Proposed Permit at 2-5.

<sup>27</sup> Exh. G, Sierra Club Hearing Request at pdf 2, 4.

<sup>28</sup> Exh. K, SCAQMD Response to CCAEJ at 1.

<sup>29</sup> Exh. J, SCAQMD Response to Sierra Club at 3 (“Once the facility chooses their compliance path under the rule for the turbines and submits the requisite permit applications, the facility’s Title V permit will be modified at that time to incorporate the changes...Issuance of the Title V permit for a 5-years term in no way limits the South Coast AQMD’s authority to revise the Title V permit during this period.”).

approaching deadline to opt for a low use exemption to Rule 1134 and that it routinely performs a separate application to ensure that other requirements can be incorporated such as New Source Review requirements, emissions offsets, and modeling requirements, among others.<sup>30</sup>

In this case, the permitting agency clearly expects these plants to be subject to Rule 1134 as of January 1, 2024 in the Statements of Basis for each permit and in the agency response to Sierra Club. And yet, SCAQMD provides no justification for why those terms are not included in the permit itself. The response simply refers to the agency's ability to address these issues later through a separate permit revision. As stated above, the Title V permit is meant to "clarify and make more readily enforceable a source's pollution control requirements." S. Rep. 101-228 (Dec. 20, 1989), *as reprinted in* 1990 USCAAN 3385, 3730. Instead, the agency *increases* confusion among stakeholders as to why a rule that the agency expects to apply is not incorporated into the permit itself.

For this reason, Sierra Club and CCAEJ respectfully request that the EPA Administrator object to the proposed permits for the Drews and Century power plants and direct the SCAQMD to incorporate into the final permits a term specifying that Rule 1134 will apply to the plants beginning January 1, 2024.

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<sup>30</sup> *Id.* at 2-3 ("...South Coast AQMD routinely sends out compliance advisories to the affected facilities to remind them of the July 1, 2022 deadline to submit permit applications. Accordingly, Colton Power is required to submit applications for its gas turbines by July 1, 2022 to bring these turbines into compliance with this rule requirement. Failure to submit applications by the deadlines specified in the rule would constitute a violation of the rule and could result in a compliance action, including issuance of a Notice to Comply or a Notice of Violation.").

**2. Revisions to the Title V Permits for the Drews and Century gas plants are needed to ensure that the plants will comply with Rule 1134 requirements starting January 1, 2024.**

SCAQMD must include provisions to ensure that one of the two compliance options (either meet a 2.5 ppmv NO<sub>x</sub> limit and ammonia limits or meet the low use criteria for exemption from the emission limits) are met by January 1, 2024 for each gas turbine at the facility. Indeed, if either facility intends to meet the low use criteria of Rule 1134(h)(4)(A) for exemption from the 2.5 ppmv NO<sub>x</sub> emission limit for any gas turbine, the requirement to have a rolling three year average capacity factor of less than 10% must be in effect by January 1, 2020 to ensure that this criteria for exemption of the emission limits of Rule 1134(d)(3) is met by the January 1, 2024 compliance deadline, with the first reporting date of the three year average capacity factor being January 1, 2024.

If the company has not selected which compliance approach it will take for each plant, SCAQMD should incorporate the requirements of Rule 1134 into the Title V renewal permit now. The District can simply put in place two sets of requirements for each gas turbine, one that reflects compliance with the emission limits and the other that allows for an exemption with the emission limits if the low-use criteria are met. Specifically, SCAQMD must impose permit conditions stating that:

- 1) Each gas turbine at the facility must comply with the emission limits in Table I of Rule 1134 by January 1, 2024, or
- 2) The facility can instead comply with the low-use exemption for any gas turbine by ensuring that the gas turbine:

- a. Maintains an annual capacity factor of the gas turbine of less than twenty-five percent each calendar year;
- b. Has a three-year average capacity factor of less than 10% by January 1, 2024 and maintains that capacity factor limitation over a three consecutive calendar year basis; and
- c. Retains the NO<sub>x</sub> and ammonia limits, averaging times, and start-up, shutdown, and tuning requirements specified in the SCAQMD permit to operate for that gas turbine as of April 5, 2019.

For the emission limit compliance alternative, SCAQMD must also include adequate monitoring, recordkeeping, and reporting provisions in the Title V permit to assure continuous compliance with the emission limits of Rule 1134(d).

In accordance with the requirements of Rule 1134(h)(4)(B), SCAQMD must also require in the Title V permit that, if Colton Power, LP elects to comply with the low-use exemption, it must notify SCAQMD of such plan by July 1, 2022. Moreover, SCAQMD must specify in the Title V permit the requirements for Colton Power, LP, to submit information to demonstrate whether each turbine has met the criteria for continued eligibility for the low-use exemption by March 1 of each year pursuant to Rule 1134(h)(4)(C). Further, SCAQMD can specify in the Title V permit that, if Colton Power, LP, elects to comply with the low-use exemption for any combustion turbine and the turbine exceeds the annual or three year average annual capacity factor limit, the company must meet the requirements of Rule 1134(h)(4)(D), including that it must submit plans to repower, retrofit, or retire that electrical generating unit within 6 months of a reported exceedance of the capacity factor limitations of the low-use exemption. In addition, it must not operate the electrical generating unit that exceeds the emission limits in Table I of Rule

1134 after two years from the date of the reported exceedance of the capacity factor limitations to qualify for a low-use exemption.

The above revisions would increase the clarity of which rules apply to the plants and would provide additional regulatory certainty to the plant owner as well as certainty to community stakeholders that SCAQDM fully intends to implement Rule 1134 with respect to these plants. The ability to make the same revisions at some unidentified later date is simply insufficient to ensure that Rule 1134 will be enforced at these plants. For these reasons, Sierra Club and CCAEJ ask that the EPA Administrator object to these permits and direct SCAQMD to incorporate the revisions suggested here.

## **V. CONCLUSION**

For the reasons stated above, the Proposed Permits for both the Drews and Century gas plants are deficient and require additional revisions in order to ensure that the plants will comply with Rule 1134 requirements. For these reasons, Sierra Club and CCAEJ request and the Clean Air Act requires that the Administrator object to the Proposed Permit.

Respectfully,

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