

**DOCKETED**

<b>Docket Number:</b>	85-AFC-03C
<b>Project Title:</b>	Compliance - Application for Certification for Midway-Sunset Cogeneration Project
<b>TN #:</b>	237725-2
<b>Document Title:</b>	Attachment A - SQVAPCD Order Granting a Regular Variance
<b>Description:</b>	SQVAPCD - San Joaquin Valley Air Pollution Control District
<b>Filer:</b>	Greg Jans
<b>Organization:</b>	Midway Sunset Cogeneration Company
<b>Submitter Role:</b>	Applicant
<b>Submission Date:</b>	5/6/2021 4:03:41 PM
<b>Docketed Date:</b>	5/6/2021

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MidwaySunset Cogeneration Company

Greg Jans

PO BOX 11164

Bakersfield, CA 93389

BEFORE THE HEARING BOARD  
OF THE  
SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT  
SOUTHERN REGION  
STATE OF CALIFORNIA

In the matter of:

Midway Sunset Cogeneration Company

PO Box 11164

Bakersfield, CA 93389

For a variance from:

2070 - *Standards for Granting Applications*

2201 - *New and Modified Stationary Source*

*Review Rule*

2520 - *Federally Mandated Operating Permits*

4703 - *Stationary Gas Turbines*

District Permit Numbers:

S-1135-0-4 & -226-26

EPA AIRS Number:

06-029-\$1135

) DOCKET No. S-21-02R

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) ORDER GRANTING

) A REGULAR VARIANCE

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) Granted on: March 11, 2021

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) Effective from: March 11, 2021

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) Effective to: March 9, 2022

On January 8, 2021, Midway Sunset Cogeneration Company (MSCC) filed with the Southern Region Hearing Board a petition for an interim variance and regular variance. An interim variance was heard and granted on January 13, 2021. Notice of the regular variance petition and hearing were given at least 30 days prior to the hearing. MSCC requested that the Hearing Board grant a regular variance from San Joaquin Valley Air Pollution Control District (District) Rules 2070, 2201, 2520, and 4703.

On January 13, 2021, a hearing on the petition for a regular variance was held. Greg Jans represented MSCC, while Patrick Houlihan, Senior Air Quality Specialist, represented the District. All persons, including the public, were given the opportunity to give testimony or make comment.

The Hearing Board declared the hearing closed after receiving testimony and took the matter under submission for the decision. The Hearing Board made the following findings of fact.

LOCATION AND EQUIPMENT

1. MSCC is a combined heat and power facility located at 3466 West Crocker Springs Road, Fellows, California, 93224.
2. The subject equipment consists of three 78.2 MW combustion turbine generators with dry low NOx combustors, selective catalytic reduction (SCR), and unfired heat recovery steam generators. The subject of the variance is turbine Unit C.
3. The operation of the subject equipment is authorized by duly issued District Permits.

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## **BACKGROUND**

MSCC is a combined heat and power facility that has historically supplied steam to adjacent oil fields for enhanced oil recovery and generated power for the California electrical grid as well as nearby oilfield operations. They have three combustion turbine generators (CTGs). The subject equipment is a nominally rated 78.2 megawatt utility quality natural gas fired CTG (Unit C).

Due to the declining need for steam in the adjacent oilfields, and the State of California's goal of becoming 100% carbon free in the electric grid supply of the state, MSCC submitted a request to mothball the facility, as the plant is no longer needed.

However, as a result of the August 2020 blackouts, the California Independent System Operator (CAISO) refused to grant mothball status and requested from the CAISO governing board approval to designate MSCC as a Reliability Must Run (RMR) facility. CAISO board approved this request on December 17, 2020, authorizing CAISO to begin RMR contract negotiations with MSCC. Normally this process takes four months to work through negotiations and receive Federal Energy Regulatory Commission approval. MSCC only had 14 days before the end of the year to attempt to find ways to make the entire facility available as requested by the CAISO.

As an RMR facility, and with no current option to sell steam, Unit C will be operated in simple cycle mode as a peaker plant. The conversion to peaking units required each unit's exhaust stream to bypass the Heat Recovery Steam Generator (HRSG) which, due to design, also bypasses the Selective Catalytic Control (SCR) grid used to control NOx emissions. MSCC installed leading edge combustion technology (Dry Low-NOx combustors) to control Unit A and Unit B peaking units' NOx emissions within permitted limits without the SCR grid years ago as part of the contract then signed. However, Unit C did not undergo such upgrades.

The granting of this variance would allow MSCC to operate Unit C in bypass mode (simple cycle peaker mode) and continue supplying power to California's grid long enough for MSCC to determine a permanent fix to Unit C's operating challenge. Unit C's future operational requirement will be dictated by the CAISO and their use of the RMR requirements for MSCC. MSCC's inability to meet the CAISO's RMR demands will result in considerable financial loss for MSCC. The variance request will allow Unit C to operate in bypass mode, bypassing the HRSG's steam production hardware and the SCR's NOx control. Bypassing Unit C's SCR would result in NOx emissions of 9 ppm or less versus permitted NOx emissions of 50 ppm. When CAISO has no need for Unit C's power, Unit C will be offline with zero NOx emissions.

## **RULE REQUIREMENTS**

1. The equipment subject to this variance is regulated by the following District Rules:
  - A. 2070 - *Standards for Granting Applications*
  - B. 2201 - *New and Modified Stationary Source Review Rule*
  - C. 2520 - *Federally Mandated Operating Permits*
  - D. 4703 - *Stationary Gas Turbines*

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2. District Rules 2070 and 2520 require that the subject equipment be operated in compliance with all conditions of the applicable permits. District Rules 2201 and 4703 require that the subject equipment operate within established emissions limits.

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## FINDINGS OF FACT

Pursuant to California Health & Safety Code § 42352, the following findings have been made:

1. *That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the District.*

The Hearing Board finds that operation of Unit C with excess NOx emissions will result in a violation of applicable requirements of District rules 2070, 2201, 2520, and 4703, in addition to the applicable conditions of the subject permits.

2. *That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing and elimination of a lawful business.*

The Hearing Board finds that it is beyond the reasonable control of MSCC to immediately comply with applicable District rules and permit conditions as the CAISO has required Unit C to be in a standby ready mode. Unit C has not operated yet in 2021. Requiring compliance would not let MSCC operate Unit C and that would subject them to financial penalties from CAISO.

3. *That the closing or taking would be without a corresponding benefit in reducing air contaminants.*

The Hearing Board finds that a closing or taking, during said time that Unit C will operate while bypassing the SCR, would be without a corresponding benefit in reducing air contaminants because a closing or taking would result in a disruption of contractual obligations to provide electrical power to the State grid.

4. *That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.*

The Hearing Board finds that MSCC was to mothball the facility at the end of 2020, but was prohibited to do so by the CAISO.

5. *During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.*

The Hearing Board finds that MSCC will not operate Unit C unless called for service by the CAISO.

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6. *During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if requested to do so by the District, and report these emissions levels to the District 1Jursua111 to a schedule established by the District.*

The Hearing Board finds that MSCC will continue to operate their continuous emissions monitoring system (CEMS) throughout the variance period to monitor emissions. This data is reported to the District through an electronic data polling system. In addition, MSCC will quantify the amount of excess emissions, using actual data from the CEMS in conjunction with fuel usage records, and will report those to the District at the conclusion of the variance.

#### GENERAL COMMENTS

The Hearing Board also finds that a nuisance as defined in District Rule 4102 is not expected to occur as a result of this variance. Nor would continued operations likely create an immediate threat or hazard to public health or safety.

It should be noted that the US Environmental Protection Agency (EPA), which monitors major sources, might not recognize this variance. MSCC should be aware that the EPA could take enforcement action on this matter if it deems such action is appropriate.

#### CONCLUSIONS AND ORDER

NOW, THEREFORE, the SOUTHERN REGION HEARING BOARD ORDERS that a regular variance be granted to MSCC, subject to the following conditions:

1. The variance shall be effective from March 11, 2021, through March 9, 2022, or until MSCC takes the necessary measures to procure an ATC and install the appropriate air pollution control device(s) or another method of obtaining compliance is undertaken, whichever occurs first.
2. Variance relief shall be granted from the applicable requirements of District Rules 2070, 2201, 2520, and 4703, in addition to the following permits and conditions:
  - A. Condition 5 of S-1135-0-4 and
  - B. Conditions 5, 21, 22, 38, 62 and 72 of S-1135-226-26.
3. The variance shall allow MSCC to operate in simple cycle mode, when called into service by the CAISO, and emit excess NO<sub>x</sub> emissions while they undergo the necessary measures to procure an ATC and install the appropriate air pollution control device(s).
4. The annual source test for Unit C shall be postponed if it is unable to be operated in combined cycle mode or until the appropriate air pollution control device(s) are installed and the testing timeframe within the ATC is followed.
5. Unit C shall only operate as necessary provided that the CAISO declares its operation mandatory to prevent a grid emergency.

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6. Excess NOx emissions shall not exceed 28,000 pounds over the duration of the variance period.

7. Should the total excess NOx emissions exceed one ton (2,000 pounds), MSCC shall do one of the following:

A. Submit emission reduction credits (ERC) equal to 20% of the total amount of excess NOx emissions. Initiation of said surrender shall occur within 30 days after the end of the variance;

OR

B. In lieu of surrendering ERC, MSCC can opt to pay three dollars and seventy five cents (\$3.75) for each pound of total excess NOx emissions. Payment of the mitigation fee shall occur within 30 days after the end of the variance. Payment shall be made to the District and shall be directed to the *"Miscellaneous Incentive Grant – Hearing Board,"* account.

8. A Federal Title V deviation report shall be submitted to the District within 10 days of discovery each time a Federal Title V permit condition is violated. The deviation report must be sent to the facility inspector.

9. Should the facility experience operational conditions likely to cause a public nuisance, MSCC shall cease the operations causing the problems and take all necessary actions to abate the problem immediately.

10. Within 15 calendar days after the end of the regular variance, and no later than March 24, 2022, MSCC shall submit a summary report to the District for the combined interim and regular variance period. If the report due date should fall on a day the District is closed, it shall be due the next business day. The report shall include the following:

- A. A detailed summary of the activities during the variance period,
- B. The date(s), time(s), and total duration that Unit C was operational without the use of the SCR,
- C. A calculation of excess emissions,
- D. The total amount of ERCs to be surrendered or payment to be submitted in accordance with condition #7 above, and
- E. The required certification of truth, accuracy, and completeness, signed by the designated responsible official as required by sections 9.13.1 and 10.0 of District Rule 2520 – *Federally Mandated Operating Permits*.

11. The end of variance summary report shall be submitted to the attention of:

Patrick Houlihan  
SJVAPCD, Compliance Department  
1990 East Gettysburg Avenue  
Fresno, CA 93726  
Telephone: (559) 230 5999  
E mail: patrick.houlihan@valleyair.org

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12. Failure to comply with any condition of this variance may render the variance null and void with the possibility of enforcement action taken that may include monetary penalties

MOTION: Dunn SECOND: Dr. Na

Ayes: Dunn, Stovall, Dr. Na  
Noes: None  
Abstained: None  
Recused: None  
Absent: None

THE FOREGOING DECISION IS APPROVED:

IA DocuSigned by:

E

3/31/2021

John Stovall, Vice Chair  
Hearing Board - Southern Region  
San Joaquin Valley APCD

Date

ATTEST:

DocuSigned by:

Michelle Franco

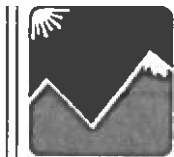
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3/31/2021

Michelle Franco, Deputy Clerk to the Boards

Date





# San Joaquin Valley

## AIR POLLUTION CONTROL DISTRICT

### PROOF OF SERVICE

I, Lien Vong, declare:

I am a resident of the State of California and over the age of 18 years, and not a party to the within action; my business address is San Joaquin Valley Air Pollution Control District, 1990 E. Gettysburg, Fresno, California 93726.

On April 01, 2021, I served the within documents:

ORDER GRANTING A VARIANCE – DOCKET No. S-21-02R

X by placing the document(s) listed above in a sealed envelope, and placing the same for mailing in the United States mail at Fresno, California, in accordance with the company's ordinary practices, and addressed as set forth below.

X based on an agreement of the parties with email addresses below, to accept service by transmitting via email the above listed document(s) to the email addresses set forth below on this date before 5 p.m.

\_\_\_\_\_ by personally delivering the document(s) listed above to the person(s) at the address(s) set forth below:

Midway Sunset Cogeneration Company  
Greg Jans  
PO BOX 11164  
Bakersfield, CA 93389

Roshni Brahmhatt  
USEPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901  
brahmhatt.roshni@epa.gov  
CARB – Enforcement Division  
PO Box 2815  
Sacramento, CA 95814  
variance@arb.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 01, 2021, at Fresno, California.

Lien Vong  
Office Assistant 11

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4800 Enterprise Way  
Modesto, CA 95356-8718  
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