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Attorneys for Petitioner
AES Alamitos, LLC

BEFORE THE HEARING BOARD OF THE

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

In the Matter of **AES ALAMITOS, LLC** Order Granting a Regular Variance Section 42350 of the California Health and Safety Code	Case No. 5278-4 Facility ID No. 115394 **[PROPOSED] REVISED FINDINGS AND DECISION AND ORDER GRANTING REGULAR VARIANCE** DATE: November 4, 2026 TIME: 9:30 a.m. PLACE: Hearing Board South Coast AQMD 21865 Copley Drive Diamond Bar, CA 91765

[PROPOSED] REVISED FINDINGS AND DECISION OF THE HEARING BOARD

The Petition for Regular Variance ("Petition") in Case No. 5278-4 filed on September 4, 2026 by AES Alamitos, LLC ("Petitioner" or "AES") was heard on the Consent Calendar on November 4, 2026 pursuant to notice and in accordance with the provisions of South Coast Air Quality Management District ("SCAQMD" or the "District") Rule 510. The matter was placed on the Consent Calendar pursuant to the Stipulation for Regular Variance to be Heard on Consent Calendar. The following members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Vice Chair; Jerry Abraham, MD, MPH, CMQ; Mohan Balagopalan; and Cynthia

Verdugo-Peralta. Petitioner, represented by Noah Perch-Ahern, did not appear. Respondent SCAQMD, represented by Grace M. LeBlanc, Deputy District Counsel I, did not appear.

The matter was submitted for consideration on the Consent Calendar. Public notice for the November 4, 2026, hearing was provided. The public was given the opportunity to testify, and none did. The Declaration of Jose Perez was received as evidence, and the [Proposed] Findings and Decision and Order Granting Regular Variance was received as an exhibit, and the case submitted. The Parties have agreed by Joint Stipulation to place this matter on the consent calendar and to the issuance of this Order.

The Hearing Board finds and declares as follows:

FINDINGS OF FACT

A. Background on Why Petitioner Seeks a Regular Variance

1. The AES generating facility located at 690 North Studebaker Road, Long Beach, California 90803 (SCAQMD Facility ID No. 115394) includes the Alamitos Energy Center, a combined-cycle gas turbine facility that commenced commercial operations in 2020, and the legacy Alamitos Generating Station, which uses once-through cooling ("OTC") technology. Two of the legacy OTC units—Unit 3 and Unit 4 (collectively, the "Units")—are the subject of the Petition. Unit 3 consists of Boiler No. 3 (Device ID D45) and its associated selective catalytic reduction unit (Device ID C139); Unit 4 consists of Boiler No. 4 (Device ID D48) and its associated selective catalytic reduction unit (Device ID C141). Each boiler is a 3,350 mmBTU/hr natural gas-fired steam generating boiler that drives a 320 MW electric generating unit.

2. The Alamitos Generating Station was one of several longstanding once-through cooling electric generating plants deemed necessary to remain available to serve the State's electricity needs in peak demand, thereby resulting in an extension of the final compliance date of the once-through cooling policy ("OTC Deadline") originally received for the 2020-2023 time period and extended again for the 2024-2026 timeframe.

3. As a part of this process, the Alamitos Generating Station is included in the State Electricity Supply Strategic Reliability Reserve Program administered by the California Department of Water Resources ("DWR"). This program is intended to support grid reliability

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while minimizing environmental impacts and limiting operations to extreme or emergency situations. Under the operative DWR contract, the Units may dispatch only when called upon by the State to respond to emergency energy events or for training, reliability testing, or compliance testing. The Units do not and cannot dispatch unless directed or approved by the California Independent System Operator ("CAISO") and approved by DWR. For CAISO dispatch, AES does not control when the Units are dispatched, how long they operate, or the load at which they operate; those matters are directed by CAISO.

4. As of the date of these Findings and Decision and Order, the final compliance date of the State's OTC Deadline for the Units at the Alamitos Generating Station is December 31, 2026, which is also the expiration date of the DWR contract for these Units. The Units must remain operational and available through the end of 2026 per the DWR contract in the event they are needed for emergency or related events.

5. It is possible, however, that the state or the federal government may direct AES to keep the Units on standby for emergency or grid reliability purposes past 2026. If the Units are deemed necessary to remain operational, AES believes that a regulatory order, or an indication that such order is to be issued, would likely occur by April 1, 2027.

6. A source test is required by SCAQMD rules and AES's permit conditions if the Units are ordered for the dispatch of electricity on or after December 31, 2026, but such an order is wholly outside of AES's control. AES seeks this Petition for a regular variance to avoid needlessly operating the legacy Units, and generating corresponding emissions, in order to perform source test requirements. AES is seeking to avoid a scenario in which it is required to come back online solely for the purpose of performing a source test. AES seeks to condition a source test on an order extending the permitting life of the Units or requiring the Units to come back online, in which case AES agrees to perform source testing requirements as set forth in conditions agreed upon with SCAQMD.

B. <u>Regular Variance Findings</u>

7. The following facts and conclusions support making the six findings in Health and Safety Code Section 42352(a) required to grant the requested variance. The SCAQMD Executive

Officer does not oppose the granting of the variance.

Petitioner Is, or Will Be, in Violation of California Health and Safety Code Section 41701 or of Any Rule, Regulation, or Order of the District

8. If Petitioner does not complete a source test for Units 3 and 4 by December 31, 2026, it will be in violation of SCAQMD Rules 203(b), 1135(e)(10), 2004(f)(1), 2012 Appendix A Attachment C (B), 3002(c), and 3004(a)(4); Permit Conditions D.28.2, D.28.5, and K.40.2; Administrative Conditions, Sections E.2 and F.4 of its Title V Permit; and Administrative Condition, Section F(II)(1) of its RECLAIM Permit.

Due to Conditions Beyond the Reasonable Control of Petitioner, Requiring Compliance Would Result in an Arbitrary or Unreasonable Taking of Property

9. Non-compliance is beyond the reasonable control of Petitioner because the decision as to whether the Units must remain operational after December 31, 2026, which triggers the need for a source test, is entirely within the discretion of the state and/or federal government.

The Closing or Taking Would Be Without a Corresponding Benefit in Reducing Air Contaminants

10. Performing the required source testing for each Unit would require the Unit to be online and combust natural gas for approximately 24 hours each time. The total cost associated with each testing event including contractor labor, carbon credits, fuel cost, and other variable operating cost is approximately $110,000 per unit. This would be a significant financial burden related to equipment that is unlikely to be used. The cost of running the Units for source testing would impose an undue burden on Petitioner and would produce unnecessary emissions with no corresponding benefit to Petitioner or the public.

Petitioner Has Given Consideration to Curtailing Operations of the Source in lieu of Obtaining a Variance

11. Petitioner cannot curtail operations in lieu of obtaining a variance. Petitioner needs to remain operational and grid-ready in the event its Units are ordered to be dispatched and therefore, the termination of operations prior to January 1, 2027 is not possible. Further, even if Petitioner terminated operations, should the Units be ordered back online, a violation would date

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back to December 31, 2026. Therefore, curtailment or termination of operations will not obviate the need for a variance.

During the Period the Variance is in Effect, Petitioner Will Reduce Excess Emissions to the Maximum Extent Feasible.

12. During the period the variance is in effect, there will be no excess emissions. The purpose of the variance is to avoid running the equipment for a source test, which would generate emissions. If the variance is granted, emissions that otherwise would have been generated will be avoided. Therefore, requiring a source test by December 31, 2026 would be without a corresponding benefit in reducing air contaminants.

During the Period the Variance is in Effect, Petitioner Will Monitor or Otherwise Quantify Emission Levels from the Source, if Requested To Do So By the District, and Report These Emission Levels to the District Pursuant to a Schedule Established by the District.

13. During the period the variance is in effect, Petitioner agrees to monitor emission levels from the Units. Fuel use records (e.g., utility gas bills) for the Units will be monitored and maintained onsite. CEMS for NOx emissions monitoring will be maintained during the variance period in accordance with the variance conditions.

C. **Increments of Progress**

Pursuant to California Health and Safety Code Section 42358, Section C has been added to the Conclusion and Order that includes a schedule of increments of progress specifying a final compliance date by which the emissions of air contaminants of a source for which the variance is granted will be brought into compliance with applicable emission standards.

CONCLUSION AND ORDER

THEREFORE, the Hearing Board orders as follows:

A. Petitioner is granted a regular variance from SCAQMD Rules 203(b), 1135(e)(10), 2004(f)(1), 2012 Appendix A Attachment C (B), 3002(c), and 3004(a)(4); Permit Conditions D28.2, D28.5, and K40.2; Administrative Conditions, Sections E.2 and F.4 of its Title V Permit; and Administrative Condition, Section F(II)(1) of its RECLAIM Permit from the date of this

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Order through and including December 31, 2029.

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

1. This variance shall only apply to Boiler No. 3 (Device ID D45), Boiler No. 4 (Device ID D48), Selective Catalytic Reduction (SCR) Serving Boiler No. 3 (Device ID C139), and SCR Serving Boiler No. 4 (Device ID C141).

2. Petitioner shall meet the following requirements for any boiler and its associated SCR (Device IDs D45, D48, C139, and C141) for calendar year 2026 if any boiler resumes operation on or before December 31, 2026:

a. Notify South Coast AQMD by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov), and Air Quality Engineer Philip Nguyen (pnguyen2@aqmd.gov) within 24 hours of startup.

b. Conduct the nitrogen oxide (NOx) Relative Accuracy Test Audit (RATA) in accordance with Section *F RECLAIM Monitoring and Source Testing Requirements* and *Rule 2012 Appendix A, Attachment C, (B)*.

c. Conduct the carbon monoxide (CO) and ammonia source tests in accordance with permit conditions D28.2 and D28.5.

d. Notify South Coast AQMD by calling 1-800-CUT-SMOG (referencing Hearing Board Case # 5278-4) and by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov) and Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov) at least 24 hours prior to commencing the ammonia, CO, and RATA tests.

e. Submit the complete ammonia, CO, and RATA test report(s) to South Coast AQMD by sending an email to South Coast AQMD Source Testing (Sourcetesting@aqmd.gov), Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), and Supervising AQ Inspector Thomas Lee (tlee2@aqmd.gov) within 45 calendar days after the test date.

f. Conduct the ammonia, CO, and RATA tests required under Conditions

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2(b) and 2(c) on or before December 31, 2026, or by a later date as approved by the Executive Officer unless Condition 2(h) applies. To the extent that testing becomes required and cannot reasonably be performed by the applicable deadline due to circumstances beyond AES's reasonable control, AES shall, no later than December 31, 2026, notify the District and request approval for a reasonable extension by calling 1-800-CUT-SMOG and by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov) and Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov). Any extension request submitted by Petitioner pursuant to this Condition shall include updates on the test scheduling and documentation demonstrating Petitioner's efforts to schedule and conduct the tests, and Petitioner shall continue to provide updates on test scheduling and its efforts to conduct the tests every 7 days thereafter or another frequency approved by the District until all tests are conducted.

g. To the extent ammonia, CO, and RATA tests are required for calendar year 2026 and are performed in 2027 pursuant to Condition 2(f), the testing shall satisfy the 2026 testing requirements and if applicable, any 2027 testing requirements.

h. To the extent ammonia, CO, and RATA tests are required for calendar year 2026 but are not performed in calendar year 2026, Petitioner is not required to conduct the testing absent state or federal regulatory approval allowing the boilers to operate.

3. Petitioner shall not be required to conduct the following tests for calendar year 2026 for any boiler and its associated SCR (Device IDs D45, D48, C139, and C141) if neither boiler resumes operation on or before December 31, 2026:

a. Nitrogen oxide (NOx) Relative Accuracy Test Audit (RATA) in accordance with *Section F RECLAIM Monitoring and Source Testing Requirements* and *Rule 2012 Appendix A, Attachment C, (B)*

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b. CO test in accordance with permit condition D28.2

c. Ammonia slip test in accordance with permit condition D28.5

4. Petitioner shall not be required to conduct the following tests for calendar year 2027, 2028, or 2029 for any boiler and its associated SCR (Device IDs D45, D48, C139, and C141) if the boiler is not operated in that calendar year:

a. Nitrogen oxide (NOx) Relative Accuracy Test Audit (RATA) in accordance with *Section F RECLAIM Monitoring and Source Testing Requirements and Rule 2012 Appendix A, Attachment C, (B)*

b. CO test in accordance with permit condition D28.2

c. Ammonia slip test in accordance with permit condition D28.5

5. Petitioner shall meet the following requirements if any boiler and its associated SCR (Device IDs D45, D48, C139, and C141) are operated during calendar year 2027, 2028, or 2029 for the first startup of each respective calendar year:

a. Notify South Coast AQMD by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov), and Air Quality Engineer Philip Nguyen (pnguyen2@aqmd.gov) within 24 hours of startup.

b. Conduct the nitrogen oxide (NOx) Relative Accuracy Test Audit (RATA) in accordance with *Section F RECLAIM Monitoring and Source Testing Requirements* and *Rule 2012 Appendix A, Attachment C, (B).*

c. Conduct the CO and ammonia source tests in accordance with permit conditions D28.2 and D28.5.

d. Notify South Coast AQMD by calling 1-800-CUT-SMOG (referencing Hearing Board Case # 5278-4) and by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov) and Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov) at least 24 hours prior to commencing the ammonia, CO, and RATA tests.

e. Submit the complete ammonia, CO, and RATA test report(s) to South

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Coast AQMD by sending an email to South Coast AQMD Source Testing (Sourcetesting@aqmd.gov), Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), and Supervising AQ Inspector Thomas Lee (tlee2@aqmd.gov) within 45 calendar days after the test date.

f. Conduct the ammonia, CO, and RATA tests required under Conditions 5(b) and 5(c) within 14 calendar days of startup, or by a later date as approved by the Executive Officer. To the extent that testing becomes required and cannot reasonably be performed by the applicable deadline due to circumstances beyond AES's reasonable control, AES shall, within 14 calendar days of startup, notify the District and request approval for a reasonable extension by calling 1-800-CUT-SMOG and by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov) and Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov). Any extension request submitted by Petitioner pursuant to this Condition shall include updates on the test scheduling and documentation demonstrating Petitioner's efforts to schedule and conduct the tests, and Petitioner shall continue to provide updates on test scheduling and efforts to conduct the tests every 7 days thereafter or another frequency approved by the District until all tests are conducted.

g. To the extent ammonia, CO, and RATA tests are required for calendar year 2027 or 2028 and are performed in the following calendar year (2028 or 2029, respectively) pursuant to Condition 5(f), the testing shall satisfy the testing requirements for the previous year and, if applicable, the calendar year in which the testing occurs.

6. Petitioner shall notify South Coast AQMD within 24 hours of dispatch of any boiler and its associated SCR (Device IDs D45, D48, C139, and C141) by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov), and Air

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Quality Engineer Philip Nguyen (pnguyen2@aqmd.gov) providing documentation of the dispatch order and a description of the dispatch order.

7. Petitioner shall notify South Coast AQMD by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov), Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov), and Air Quality Engineer Philip Nguyen (pnguyen2@aqmd.gov) no later than April 2, 2027, stating whether as of April 1, 2027, either the state or federal government has ordered, or indicated they will order, the boilers (Device IDs D45 and D48) to remain operational.

8. Petitioner shall operate the Continuous Emissions Monitoring System (CEMS) to continuously monitor the exhaust from the boilers (Device IDs D45 and D48) and record all required parameters (i.e. NOx concentration, oxygen content, and fuel flow) pursuant to Rule 2012, Appendix A, Chapter 2 for the duration of the variance period including showing valid zeros for all parameters when the boilers are not operating. In lieu of the of the abovementioned requirement, the Petitioner may choose to comply with the requirements in Rule 2012(c)(2)(D) and 2012(c)(2)(E), as amended on November 3, 2023.

9. Petitioner shall submit all recorded CEMS monitoring data, by sending an email to Air Quality Inspector Adam Tavasolian (atavasolian@aqmd.gov) and Supervising Air Quality Inspector Thomas Lee (tlee2@aqmd.gov). The recorded CEMS monitoring data shall be submitted within 14 calendar days following the end of each quarter. This Condition shall not apply if the Petitioner chooses to comply with the requirements in Rule 2012(c)(2)(D) and 2012(c)(2)(E), as amended on November 3, 2023, as noted in Condition 8, above.

10. Petitioner shall pay all applicable fees, including excess emission fees, if applicable, to the Clerk of the Hearing Board within 15 days of notification in writing that the fees are due, or the variance shall be invalidated pursuant to Rule 303(k).

11. Petitioner shall notify the Clerk of the Hearing Board in writing when final

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compliance is achieved.

C. Petitioner shall comply with the following increment of progress for the duration of the variance period:

1. Petitioner shall provide the schedule of increments of progress pursuant to Condition 7, no later than April 2 of the applicable year, stating whether as of April 1, 2027, April 1, 2028, and April 1, 2029, either the state or federal government has ordered, or indicated they will order, the boilers (Device IDs D45 and D48) to remain operational.

2. If the boilers (Device IDs D45 and D48) are ordered to remain operational for any of the three years, 2027, 2028, or 2029, Petitioner shall comply with the requirements of Condition 5.

FOR THE BOARD: _____

DATED: _____

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