

**BEFORE THE ADMINISTRATOR  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF	)	
	)	
Clean Air Act Final Renewed	)	
Title V Operating Permit	)	
	)	
Issued to Caerus Piceance, LLC	)	Title V Permit No. 03OPGA267
for the Hunter Mesa Water Treatment	)	
Facility, Garfield County, Colorado	)	
	)	
Issued by the Colorado Department of	)	
Public Health and Environment, Air Pollution	)	
Control Division	)	

---

**PETITION TO OBJECT TO FINAL RENEWED TITLE V OPERATING PERMIT  
NO. 03OPGA267 FOR CAERUS PICEANCE’S HUNTER MESA WATER  
TREATMENT FACILITY**

---

Pursuant to Section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), the Center for Biological Diversity (“Center” or “Petitioner”) petitions the Administrator of the United States Environmental Protection Agency (“Administrator” or “EPA”) to object to the final renewed Title V Operating Permit (“Title V Permit”) issued by the Colorado Department of Public Health and Environment’s Air Pollution Control Division (“Division”) authorizing Caerus Piceance, LLC (hereafter “Caerus”) to operate the Hunter Mesa Water Treatment Facility (“Hunter Mesa”) in Garfield County County, Colorado.

Petitioners request the EPA Administrator object on the basis that the Title V Permit fails to assure compliance with Title V requirements under the Clean Air Act and fails to assure compliance with applicable Air Quality Control Commission (“AQCC”) regulations in the Colorado State Implementation Plan (“SIP”).

The Division’s final Title V Permit, which was issued on February 1, 2025, and the associated final Technical Review Document (“TRD”), are attached as Exhibits 1 and 2, respectively.

**THE HUNTER MESA WATER TREATMENT FACILITY**

Hunter Mesa is an oil and gas wastewater treatment facility. The facility accepts oil and gas wastewater produced from oil and gas wells and hydraulic fracturing that is laden with volatile organic compounds (“VOC”). The facility accepts wastewater via trucks and pipelines and processes the wastewater with tanks, separators, and evaporation ponds using dissolved air

floatation. The water is stored for reuse in hydraulic fracturing, trucked for disposal, or piped for well-injection disposal. Solid waste, or sludge, produced during operation is stored and ultimately trucked away for disposal.

Hunter Mesa is a major source of VOC emissions, which are released as the liquids and solids handled and processed by the facility off-gas. VOCs include a number of gases known to be extremely harmful to public health, including hazardous air pollutants like benzene, toluene, hexane, and xylene. *See* EPA, “Technical Overview of Volatile Organic Compounds,” website available at <https://www.epa.gov/indoor-air-quality-iaq/technical-overview-volatile-organic-compounds> (last accessed March 27, 2025). VOCs also react with sunlight to form ground-level ozone, a respiratory irritant and the key ingredient of smog. *See* EPA, “Ground-level Ozone Basics,” website available at <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics> (last accessed March 27, 2025). The primary source of VOCs at Hunter Mesa are the three dissolved air floatation impoundments, which are permitted to emit up to 143.1 tons of VOCs annually, but VOCs are released from a number of other pollutant emitting activities, including tanks.

## **PETITIONER**

The Center for Biological Diversity is a nonprofit, 501(c)(3) conservation organization. The Center’s mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands and waters, and public health through science, policy, and environmental law. Based on the understanding that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked, the Center is working to secure a future for animals and plants hovering on the brink of extinction, for the ecosystems they need to survive, and for a healthy, livable future for all of us.

## **PROCEDURAL BACKGROUND**

The Center submitted comments on the draft Hunter Mesa Title V Permit on October 23, 2024. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit (Oct. 23, 2024). The Division responded to the Center’s comments on December 11, 2024. *See* Exhibit 4, Colorado Air Pollution Control Division, “Response to Comments on Draft Operating Permit” (Dec. 11, 2024). The proposed permit was thereafter submitted to EPA for the agency’s 45-day review. EPA did not object to the proposed permit. The Division issued the final permit on February 1, 2025.

According to the EPA, the 60-day deadline for filing a petition to object began on January 27, 2025. *See* EPA, “Title V Operating Permit Public Petition Deadlines in Region 8,” website available at <https://www.epa.gov/caa-permitting/title-v-operating-permit-public-petition-deadlines-region-8> (last accessed March 27, 2025). Pursuant to 42 U.S.C. § 7661d(b)(2), this petition is now timely submitted within 60 days following a lack of objection from the EPA.

## GENERAL TITLE V PERMITTING REQUIREMENTS

The Clean Air Act prohibits qualifying stationary sources of air pollution from operating without or in violation of a valid Title V permit, which must include conditions sufficient to “assure compliance” with all applicable Clean Air Act requirements. 42 U.S.C. §§ 7661c(a), (c); 40 C.F.R. §§ 70.6(a)(1), (c)(1). “Applicable requirements” include all standards, emissions limits, and requirements of the Clean Air Act, including all requirements in an applicable implementation plan, or SIP. 40 C.F.R. § 70.2. Congress intended for Title V to “substantially strengthen enforcement of the Clean Air Act” by “clarify[ing] and mak[ing] more readily enforceable a source’s pollution control requirements.” S. Rep. No. 101-228, at 347, 348 (1990), *as reprinted in* A Legislative History of the Clean Air Act Amendments of 1990, at 8687, 8688 (1993). As EPA explained when promulgating its Title V regulations, a Title V permit should “enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements.” Operating Permit Program, Final Rule, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992). Among other things, a Title V permit must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. 42 U.S.C. § 7661c(c); 40 C.F.R. §§ 70.6(a)(1), (c)(1).

Under the Clean Air Act, “any person” may petition EPA to object to a proposed permit “within 60 days after the expiration of [EPA’s] 45-day review period.” 42 U.S.C. § 7661d(b)(2); *see also* 40 C.F.R. § 70.8. Each objection in the petition must have been “raised with reasonable specificity during the public comment period provided for in § 70.7(h) of this part, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.” 40 C.F.R. § 70.8(d). Any objection included in the petition “must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements [of 40 C.F.R. Part 70].” 40 C.F.R. § 70.12(a)(2).

Upon receipt of a petition, EPA “*shall* issue an objection within [60 days] if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of this chapter, including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661d(b)(2) (emphasis added); *see also* 40 C.F.R. § 70.8(c) (“The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements under this part.”). When deciding whether a petitioner has met this demonstration requirement, EPA will evaluate the entirety of the permit record, including the statement of basis and response to comments. *See In re Valero Refining-Texas, L.P.*, Order on Petition No. VI-2021-8 (June 30, 2022). Indeed, EPA’s review of a Title V petition is confined to the petition itself, including exhibits, the permitting record, and any final permit that may be available. *See* 40 C.F.R. § 70.13.

## GROUNDINGS FOR OBJECTION

For the reasons set forth below, the Title V Permit fails to comply with applicable requirements under the Clean Air Act. The issues discussed below were raised in comments on the draft Title V Permit for Hunter Mesa.

### **I. The Title V Permit Fails to Assure Compliance With Applicable Requirements in the Colorado SIP**

A Title V Permit must include “enforceable emission limitations and standards [] and such other conditions as are necessary to assure compliance with applicable requirements of the [Clean Air Act], including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661c(a). The “applicable implementation plan” refers to “Any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking under title I of the [Clean Air] Act that implements the relevant requirements of the [Clean Air] Act[.]” 40 C.F.R. § 70.2.

Here, the Title V Permit for Hunter Mesa fails to assure compliance with provisions of the Colorado SIP requiring the use of reasonably available control technology (“RACT”) to control VOC emissions. The Center raised this issue with reasonable specificity on pages 3-4 of the technical comments submitted with the October 23, 2024 comment letter.

Under the Colorado SIP, “no person shall dispose of volatile organic compounds through evaporation or spillage unless RACT [reasonably available control technology] is utilized.” AQCC Regulation No. 7, Part B, Section III.A. This requirement applies statewide in Colorado. This requirement is echoed in the Title V Permit at Section IV, Condition 30.c, which also states, “no person shall dispose of volatile organic compounds through evaporation or spillage unless Reasonably Available Control Technology (RACT) is utilized.”<sup>1</sup>

In its comments, the Center raised specific concerns that the Title V Permit did not assure compliance with the Colorado SIP at AQCC Regulation No. 7, Part B, Section III.A because it did not assure compliance with RACT for a number of pollutant emitting activities at Hunter Mesa. Although the Division acknowledged the RACT requirements were applicable and indeed applied to certain activities at Hunter Mesa, namely the dissolved air floatation impoundments (*see* Exhibit 1, Title V Permit at Section II, Condition 1.4), the Title V Permit did not assure compliance with SIP RACT requirements in relation to other activities, particularly the facility’s two 5,000 barrel produced water tanks and one 500 barrel sludge tank, which release uncontrolled VOC emissions. The Center commented:

Specifically, the draft Title V permit expressly authorizes the disposal of VOCs through evaporation, yet requires no controls, let alone RACT, to limit emissions for a number of

---

<sup>1</sup> Although the Title V Permit identifies AQCC Regulation No. 24, Part B, Section III.A as authority for this RACT provision, AQCC Regulation No. 24 has not yet been incorporated into the Colorado SIP and is not yet federally enforceable. Rather, this RACT provision is currently set forth in the SIP at AQCC Regulation No. 7, Part B, Section III.A. Regardless, inclusion of this applicable RACT provision into the Title V Permit at Section IV, Condition 30.c establishes a federally requirement. *See* 40 C.F.R. § 70.6(b).

activities. It is especially concerning that venting of VOCs from the sludge tanks and produced water tanks is allowed, yet the draft Title V permit sets forth no federally enforceable controls to limit emissions or otherwise meet SIP RACT requirements.

The Center continued:

The whole purpose of venting is to dispose of evaporated VOCs into the air. Although the impoundments are subject to RACT requirements because they dispose of VOCs through evaporation, the produced water tanks and sludge tanks must also be subject to RACT. Given that the tanks no doubt vent, they dispose of VOCs through evaporation just like the impoundments. RACT must be applied to control emissions from these tanks to assure compliance with the Colorado SIP.

Exhibit 3, Center Comments at 3-4.

In response to comments, the Division simply responded, “VOCs emitted due to venting of tanks are not being disposed of through either evaporation or spillage; therefore, Section IV, Condition 30.c (Colorado Regulation No. 24, Part B, Section III.A) does not apply to the venting of these tanks.” Exhibit 4, Response to Comments at unnumbered page 2. This cursory response makes no sense and does not demonstrate that the Title V Permit assures compliance with applicable RACT requirements.

To begin with, it is unclear how the Division determined that VOCs emitted due to venting of tanks are not being disposed of through evaporation. As the Center noted in its comments, the purpose of venting VOC gases is to get rid of VOCs, in other words “dispose” of these undesirable gases. The fact that the produced water tanks and sludge tank vent gaseous VOCs indicates these tanks are indeed disposing of VOCs through evaporation. Indeed, if VOCs vented from tanks are not being disposed of, then there would be no VOC emissions from the tanks. Although the produced water tanks and sludge tank are identified by the Title V Permit as “insignificant” sources of VOCs (*see* Exhibit 1, Title V Permit at Appendix A), this does not mean the tanks do not vent VOCs. The Colorado SIP at AQCC Regulation No. 7, Part B, Section III.A is clear that any disposal of VOCs through evaporation is subject to RACT requirements.

However, the Division’s response is even more confounding given that the nature of VOC emissions from the tanks are identical to VOC emissions from the dissolved air floatation impounds at Hunter Mesa, which the Division acknowledges are subject to RACT requirements in the Colorado SIP. As the Title V Permit notes, wastewater entering Hunter Mesa first enters the two 5,000 barrel produced water tanks before entering the dissolved air floatation impoundments. *See* Exhibit 1, Title V Permit at 1. The dissolved air floatation impoundments then produce skimmed solids, which are stored in the sludge tank. *See id.* In other words, VOC emissions from the tanks are released from the same substances handled by the dissolved air floatation impoundments, meaning that VOC emissions from the tanks are the same VOC emissions released by the dissolved air floatation impounds. Put another way, the VOC emissions released from the tanks are the same VOC emission that are subject to RACT with regards to the operation of the dissolved air floatation impoundments.

The Title V Permit does not assure compliance with the Colorado SIP because it does not assure operation of the produced water tanks and sludge tank at Hunter Mesa utilizes RACT to control VOC emissions. These tanks dispose of VOCs by evaporation just as the dissolved air floatation impoundments at Hunter Mesa dispose of VOCs by evaporation and are therefore subject to RACT requirements set forth under AQCC Regulation No. 7, Part B, Section III.A. The Division's response to the Center's comments did not resolve this issue or otherwise demonstrate that the Title V Permit assures compliance with applicable requirements.

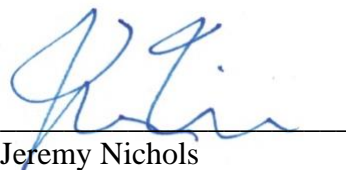
The Administrator must object to the issuance of the Title V Permit for the Hunter Mesa Water Treatment Facility on the basis that it fails to assure compliance with Colorado SIP provisions requiring compliance with RACT with regards to the operation of the produced water tanks and sludge tank.

### CONCLUSION

Pursuant to 42 U.S.C. § 7611d(b)(2) and 40 C.F.R. § 70.8(d), the EPA must object to the issuance of the Title V Permit for the Hunter Mesa Water Treatment Facility in Garfield County, Colorado. As this Petition demonstrates, the Title V Permit fails to assure compliance with applicable requirements under the Colorado SIP. The Title V Permit does not contain terms, conditions, or other requirement that assure that Caerus utilizes RACT to control VOC emissions from the produced water tanks and sludge tanks. Accordingly, the Center requests the Administrator object to the Title V Permit and require the Division to revise and reissue the Permit in a manner that complies with the requirements of the Clean Air Act and the Colorado SIP.

DATED: March 27, 2025

Respectfully submitted,



Jeremy Nichols  
Senior Advocate  
Environmental Health Program  
Center for Biological Diversity  
1536 Wynkoop St., Ste. 421  
Denver, CO 80202  
303-437-7663  
[jnichols@biologicaldiversity.org](mailto:jnichols@biologicaldiversity.org)

Pursuant to 40 C.F.R. § 70.8(d), copies of this petition have been concurrently transmitted to the following parties:

Michael Ogletree, Director  
Colorado Air Pollution Control Division  
4300 Cherry Creek Drive South  
Denver, CO 80246

Caerus Piceance, LLC  
1001 17<sup>th</sup> St., Suite 1600  
Denver, CO 80202

## **TABLE OF EXHIBITS**

### Exhibit

1. Final Hunter Mesa Water Treatment Facility Title V Permit
2. Final Hunter Mesa Water Treatment Facility Title V Permit Technical Review Document
3. Comments of the Center for Biological Diversity on the draft renewed Title V Permit for the Hunter Mesa Water Treatment Facility
4. Colorado Air Pollution Control Division Response to Center for Biological Diversity Comments