

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

IN THE MATTER OF	)	
	)	
Clean Air Act Final Renewed	)	
Title V Operating Permit	)	
	)	
Issued to Bargath, LLC	)	Title V Permit No. 09OPGA340
for the Starkey Gulch Compressor Station,	)	
Garfield County, Colorado	)	
	)	
Issued by the Colorado Department of	)	
Public Health and Environment, Air Pollution	)	
Control Division	)	

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**PETITION TO OBJECT TO FINAL RENEWED TITLE V OPERATING PERMIT  
NO. 09OPGA340 FOR BARGATH’S STARKEY GULCH COMPRESSOR STATION**

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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 Bargath, LLC (hereafter “Bargath”) to operate the Starkey Gulch Compressor Station in Garfield 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 limits.

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

**THE STARKEY GULCH COMPRESSOR STATION**

The Starkey Gulch Compressor is an oil and gas processing facility. The facility receives gas from nearby wells that is run through separators to remove oil and wastewater and compressed with several large engines for transport via pipeline and further processing by additional downstream processing facilities. Sources of air pollution at the Starkey Gulch Compressor Station include compressor engines, oil and wastewater storage tanks, and routine gas venting from maintenance activities.

The Starkey Gulch Compressor Station is a major source of nitrogen oxide (“NO<sub>x</sub>”) emissions, which are released from the compressor engines, but is also a large source of harmful volatile organic compounds (“VOCs”) and other hazardous air pollutants (“HAPs”).

NO<sub>x</sub> emissions are a byproduct of combustion and include a number of gases known to be harmful to human health and the environment, including nitrogen dioxide. *See* EPA, “Basic information about NO<sub>2</sub>,” website available at <https://www.epa.gov/no2-pollution/basic-information-about-no2> (last accessed April 1, 2025). 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 April 1, 2025). Both NO<sub>x</sub> and 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 April 1, 2025).

Annually, the facility has the potential to emit up to 122.9 tons of NO<sub>x</sub> and 49 tons of VOCs. The primary source of NO<sub>x</sub> are the facility’s compressor engines and the primary source of VOCs at the Starkey Gulch Compressor Station include the oil and wastewater storage tanks and gas venting.

## **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 Starkey Gulch Compressor Station Title V Permit on September 13, 2024. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit (Sept. 13, 2024).<sup>1</sup> The Division responded to the Center’s comments on December 16, 2024. *See* Exhibit 4, Colorado Air Pollution Control Division, “Response to Comments on Draft Operating Permit” (Dec. 16, 2024). The proposed permit was subsequently submitted to EPA for the agency’s 45-day review. The EPA’s 45-day review concluded on

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<sup>1</sup> The cover letter of the Center’s comments is mistakenly dated September 14, 2024. The comments were submitted on September 13, 2024, as acknowledged by the Division.

January 31, 2025. EPA did not object to the proposed permit. The Division issued the final permit on March 1, 2025.

Pursuant to 42 U.S.C. § 7661d(b)(2), this petition is now timely submitted on April 1, 2025, within 60 days following a lack of objection from the EPA during the agency’s 45-day review period.

## 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 the Starkey Gulch Compressor Station.

### **I. Section II, Condition 3 of the Title V Permit Related to Gas Venting is Unenforceable and Fails to Assure Compliance with Applicable Limits**

Section II, Condition 3 of the Title V Permit establishes applicable limits for “emissions from maintenance and blowdown activities,” identified as “MAIN-1.” Among other requirements, the Title V Permit limits VOC emissions from maintenance and blowdowns to 9.1 tons per year, total facility-wide hazardous air pollutant emissions, and total gas vented to 3.1 million standard cubic feet (“MMscf”) per year. *See* Exhibit 1, Title V Permit at 55. This Condition, however, is not enforceable as a practical matter, does not set forth sufficient monitoring, and overall does not assure compliance with the applicable limits. The Center raised these issues with reasonable specificity on pages 6-8 of the technical comments attached to the September 13, 2024 comment letter.

#### **A. Background**

Emission limitations and standards within a Title V permit must be “enforceable.” 42 U.S.C. § 7661c(a). To be enforceable, terms and conditions must be enforceable as a practical matter. *See In the Matter of Plains Marketing LP, et al.*, Order on Petition Nos. IV-2023-1 and IV-2023-3 at 30 (Sept. 18, 2023). Inherent in this requirement is that limitations and standards must be unambiguous, understandable, and capable of informing regulators and the public as to what is actually required. *See e.g. In the Matter of West Elk Coal Mine*, Order on Petition VIII-2024-3 at 33 (May 24, 2024) (noting that ambiguity can render conditions unenforceable). Further, to be enforceable and assure compliance, a Title V permit must set forth monitoring that assures compliance with permits terms and conditions, including “periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit[.]” 40 C.F.R. § 70.6(a)(3)(i)(B); *see also* 42 U.S.C. § 7611c(c) and 40 C.F.R. § 70.6(c)(1); *see also In the Matter of XTO Energy Inc., Wildcat Compressor Station*, Order on Petition No. VI-2023-4 (Aug. 7, 2023) at 19-21 (objecting to permit that failed to set forth methodologies for demonstrating compliance with applicable limits).

#### **B. Section II, Condition 3 is Unenforceable as a Practical Matter**

To begin with, as the Center commented, it is not clear what specific activities are authorized to emit in accordance with Condition 3. Condition 3.1 states that emissions of VOCs must be limited from “maintenance and blowdown activities” and explains that “maintenance and blowdown activities” include activities “such as plant blowdowns, compressor blowdowns,

filter changes, pneumatic starter venting during engine startups, or other maintenance and blowdown activities[.]” As written, it is not clear what specific “maintenance and blowdown activities” are subject to Condition 3. Condition 3.1 uses the phrase “such as,” suggesting that the activities identified in Condition 3.1 are simply examples of “maintenance and blowdown activities,” not a comprehensive list of the specific activities considered to be “maintenance and blowdown activities.” Condition 3.1 also includes the phrase “other maintenance and blowdown activities,” which is a vague and open-ended description of the specific activities subject to the applicable limits in Condition 3. It is not clear what “other” activities may be included and certainly not specific enough to ensure “other maintenance and blowdown activities” can be reliably and accurately identified and monitored in order to verify compliance.

More importantly, it is simply not clear what the term “maintenance and blowdown activities” refers to. The term “maintenance” has broad and ambiguous meaning and it is unclear what specific activities at the Starkey Gulch Compressor Station constitute “maintenance” activities as opposed to “non-maintenance” activities. Further, as the Center noted in its comments, the broad meaning of the term suggests that any instance of “maintenance” that leads to the venting of gas could be subject to the applicable limit, yet it does not appear that the Division or Bargath intended that the term “maintenance” be so broadly construed in the context of the applicable limits set forth in Condition 3. *See Exhibit 3, Center Technical Comments at p. 6.* Similarly, it is unclear what the term “blowdown” refers to and what defines a “blowdown” activity as opposed to a “non-blowdown” activity. Although it is understood that a “blowdown” refers to a gas venting event, it is not clear what defines a “blowdown” as opposed to venting gas for “maintenance” or for other purposes.

Although Condition 3.1 refers to plant blowdowns, compressor blowdowns, filter changes, and pneumatic starter venting during engine startups as specific examples of “maintenance and blowdown activities,” even these terms similarly lack specific meaning that would provide a basis for assessing whether Bargath is in compliance with Condition 3.

The term “plant blowdown” is vague and unspecific and appears to essentially refer to any instance of gas venting at the Starkey Gulch Compressor Station. At the least, it is not clear what defines a “plant blowdown” and from where gas is even vented during “plant blowdowns.” It is unclear whether this term refers to a blowdown of every piece of equipment at the Starkey Gulch Compressor Station or just portions of equipment or whether there are other parameters that define what constitutes a “plant blowdown” as opposed to another type of blowdown.

The term “compressor blowdowns” is also unclear as to what it is referring to and lacks any detail to understand what is meant by a “compressor blowdown.” Although it appears a “compressor blowdown” is distinct from a “plant blowdown,” it is not clear what distinguishes the two types of blowdowns. Additionally, it is not clear whether the term “compressor blowdown” refers to venting from one or more of the facility’s compressor engines or whether it refers to venting from any piece of equipment involved in the compression of gas, such as pipelines and valves.

It is also not clear what “filter changes” refers to and how venting of gas occurs in relation to this activity. It is unclear what equipment and/or activities utilize filters and where the changing of such filters would lead to the release of emissions subject to Condition 3.

The phrase “pneumatic starter venting during engine startups” is also vague and undefined. The Title V Permit does not explain what a “pneumatic starter” is, where such starters are located, and what defines pneumatic starter venting “during engine startups.”

In response to comments on this issue, the Division asserted, “These common operations and pieces of equipment do not need to be more explicitly defined in the Title V Permit[.]” Exhibit 4, Response to Comments at Unnumbered Page 2. In support of its response, the Division points to EPA’s July 10, 1995 “White Paper for Streamlined Development of Part 70 Permit Applications.” However, EPA’s 1995 White Paper does not support the Division’s assertion.

For one, the 1995 White Paper was intended to guide states in the development of streamlined Title V permit applications and does not speak to the development of the content of Title V permits themselves. The Division quotes one paragraph of EPA’s 1995 White Paper, which states that a description of emission units “can be quite general.” EPA White Paper at 8. This paragraph is from Part B, Section 2 of EPA’s White Paper, which refers to the type of information required to be included in Title V Permit applications. This paragraph does not refer to the required content of Title V permits or otherwise provide guidance on how states should draft permit content in relation to the need to ensure the description of emission units assures compliance with applicable requirements.

If anything, the EPA’s 1995 White Paper actually appears at odds with the Division. While acknowledging that certain emission activities may be generically grouped in Title V permit applications, such grouping of activities may occur only “where (1) the class of activities or emissions units subject to the requirement can be unambiguously defined in a generic manner and where (2) effective enforceability of that requirement does not require a specific listing of subject units or activities[.]” EPA White Paper at 10. Here, for the group of activities subject to Condition 3, the Title V Permit has not unambiguously defined the group of activities. Further, effective enforceability of Condition 3 requires a specific list of subject activities.

Regardless, the EPA’s 1995 White Paper does not stand for the proposition that the Division is allowed to include vague, ambiguous, or otherwise unenforceable permit terms in Title V permits that fail to assure compliance with applicable requirements. In response to comments, the Division asserts that “Condition 3.1 specifically defines the maintenance and blowdown activities as ‘plant blowdowns, compressor blowdown, filter changes, pneumatic starter venting during engine startups, or other maintenance and blowdown activities[.]’” This is not a specific definition of “maintenance and blowdown activities.” As discussed above, the terms in Condition 3.1 are not sufficiently defined such that it is understood what all activities are specifically subject to Condition 3 for purposes of assessing compliance with applicable requirements. At the least, inclusion of the phrase “or other maintenance and blowdown activities” in Condition 3.1 provides no clarity or specific insight as to what activities are specifically subject to Condition 3. “Other” is not a specific term that enables anyone to

accurately or reliably identify activities subject to Condition 3. Contrary to the Division's assertion that the Title V Permit "provides sufficient activity descriptions," the Title V Permit does not.

**C. Section II, Condition 3 Fails to Set Forth Sufficient Monitoring to Assure Compliance With Applicable Limits**

A Title V permit must set forth monitoring requirements to assure compliance with the permit terms and conditions. *See* 42 U.S.C. § 7661c(c). To this end, a Title V permit must contain "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit[.]" 40 C.F.R. § 70.6(a)(3)(i)(B); *see also* 40 C.F.R. § 70.6(c)(1) (Title V permits must contain monitoring requirements "sufficient to assure compliance with the terms and conditions of the permit."). Where a Title V permit fails to require sufficient monitoring to assure compliance, the permit cannot provide information necessary to determine whether a source is in compliance and therefore is unenforceable as a practical matter, contrary to Title V of the Clean Air Act. *See* 42 U.S.C. § 7661c(a) (stating that Title V permits shall include "enforceable emission limitations and standards").

In the case of the Starkey Gulch Compressor Station, the Title V Permit fails to set forth sufficient monitoring to assure compliance with the applicable limits set forth in Condition 3.

To demonstrate compliance with the applicable emission limits, Condition 3.1 requires Bargath to calculate emissions based on an equation requiring the input of gas composition data and the volume of vented gas. However, while Condition 3.3 requires Bargath to complete an extended gas analysis on an annual basis in order to ascertain gas composition data, the Title V Permit sets forth no actual procedures or methods for accurately monitoring and recording volume of gas vented during maintenance and blowdown activities.

Although Condition 3.1 states that compliance must be calculated "using the monthly quantity of natural gas vented," the Title V Permit does not actually set forth any specific method for monitoring and recording the monthly quantity of natural gas vented. While Condition 3.2 requires Bargath to limit the "quantity of natural gas vented from maintenance and blowdown activities" to no more than 3.1 MMscf per year, this Condition also does not set forth a specific method for monitoring and recording the quantity of gas vented during maintenance and blowdown activities. The Condition does require Bargath to record the "occurrence" of maintenance and blowdown activities on a monthly basis, but does not otherwise require Bargath to specifically monitor and record volumetric data such that the "occurrence" of maintenance and blowdown activities provides accurate data regarding the quantity of gas vented.

In comments, the Center noted that a determination of the volume of gas vented "depends upon the duration of venting events, but also upon an accurate calculation of volume based on temperature, pressure, and total moles of gas." Exhibit 3, Center Technical Comments at p. 7. The Title V Permit does not require monitoring of any of these variables.

In response to comments, the Division did not refute that the Title V Permit fails to set forth sufficient monitoring and recording of the volume of gas vented. Rather, the Division stated that methods for monitoring and recording the volume of gas vented at the Starkey Gulch Compressor Station are set forth in Permitting Section Memo 20-04, or PS Memo 20-04, which is a November 6, 2020 Colorado Air Pollution Control Division memo meant to provide state-level guidance regarding “Routine or Predictable Gas Venting Emissions Calculations and Instructions on Permitting for Oil and Natural Gas Operations.”

Referencing PS Memo 20-04 in response to the Center’s comments does not fulfill the Division’s duty to assure the Title V Permit sets forth sufficient monitoring that assures compliance with applicable requirements. For one, the Title V Permit does not reference or otherwise rely in any explicit way on PS Memo 20-04. Thus, even if PS Memo 20-04 may set forth some monitoring, this monitoring is not set forth in the Title V Permit.

Additionally, PS Memo 20-04 is not a federally enforceable guidance memo. Rather it is a state-issued guidance document that at best is state-only enforceable (if the document is enforceable at all). The Title V Permit cannot rely on non-federally enforceable monitoring to assure compliance with the federally enforceable limits in Condition 3.

Finally, PS Memo 20-04 does not actually set forth any specific monitoring requirements. Rather, it sets forth non-binding options for permittees in Colorado to monitor routine or predictable gas venting emissions. In its response to comments, the Division cites “Condition 3.1.2” of PS Memo 20-04, but this Condition simply sets forth various generic methods for calculating the volume of emissions from routine or predictable gas venting, including “using a flow meter” or calculating using “division-approved equations and parametric monitoring during the routine or predictable gas venting event (i.e., temperature and pressure).” These generic options for measuring the volume of emissions during gas venting do not constitute sufficient monitoring that assures compliance with applicable limits at the Starkey Gulch Compressor Station.

In its response to comments, the Division asserted, “this draft permit is consistent with EPA’s intent for Title V testing, recordkeeping, and reporting requirements.” Exhibit 4, Response to Comments at unnumbered page 3. Contrary to the Division’s assertion, not only is the Title V Permit inconsistent with EPA intent, it is also inconsistent with applicable Title V statutory and regulatory requirements.

The EPA has already objected to virtually identical Title V permits setting forth gas venting limits at other oil and gas processing facilities. *See In the Matter of Lucid Energy Delaware, LLC, Frac Cat Compressor Station and Big Lizard Compressor Station*, Order on Petition Nos. VI-2022-05 and VI-2022-11 (Nov. 16, 2022) at 15-19; *In the Matter of XTO Energy Inc., Wildcat Compressor Station*, Order on Petition No. VI-2023-4 (Aug. 7, 2023) at 19-21 (“*Wildcat Order*”). While these permits established gas venting emission limits, they did not set forth sufficient monitoring to assure compliance with the limits. In objecting, the Administrator specifically held that because the Title V permits did not require permittees to follow any particular monitoring or recordkeeping methodology related to measuring the volume of vented gas the permits did not “set forth” monitoring sufficient to assure compliance. 42



U.S.C. § 7661c(c).” *Wildcat Order* at 20. Here, for the same reasons, EPA must object to the issuance of the Title V Permit for the Starkey Gulch Compressor Station.

### 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 Starkey Gulch Compressor Station in Garfield County, Colorado. As this Petition demonstrates, the Title V Permit fails to assure compliance with applicable gas venting limits. The Title V Permit is not enforceable as a practical matter and fails to set forth monitoring that assures compliance with the applicable limits. 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.

DATED: April 1, 2025

Respectfully submitted,



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

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## **TABLE OF EXHIBITS**

### Exhibit

1. Final Starkey Gulch Compressor Station Title V Permit
2. Final Starkey Gulch Compressor Station Title V Permit Technical Review Document
3. Comments of the Center for Biological Diversity on the draft renewed Title V Permit for the Starkey Gulch Compressor Station
4. Colorado Air Pollution Control Division Response to Center for Biological Diversity Comments