

**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. 08OPGA321
for the Jangles Compressor Station, 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. 08OPGA321 FOR BARGATH’S JANGLES COMPRESSOR STATION**

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 Jangles Compressor Station in Garfield County, Colorado.

The Center requests 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 requirements, including applicable requirements in the Colorado State Implementation Plan (“SIP”) set forth in the state’s Air Quality Control Commission (“AQCC”) regulations.

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

THE JANGLES COMPRESSOR STATION

The Jangles Compressor Station 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 Jangles Compressor

Station include compressor engines, oil and wastewater storage tanks, and routine gas venting from maintenance activities.

The Jangles Compressor Station is a major source of nitrogen oxide (“NO_x”) and carbon monoxide (“CO”) 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_x 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 NO₂,” website available at <https://www.epa.gov/no2-pollution/basic-information-about-no2> (last accessed April 8, 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 8, 2025). Both NO_x 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 8, 2025).

Annually, the facility has the potential to emit up to 140.2 tons of NO_x, 39.4 tons of CO, and 56.8 tons of VOCs. The primary source of NO_x and CO are the facility’s compressor engines and the primary source of VOCs at the Jangles Compressor Station include the engines 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 Jangles Compressor Station Title V Permit on December 3, 2023. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit (Dec. 3, 2023). The Division responded to the Center’s comments on December 19, 2024. *See* Exhibit 4, Colorado Air Pollution Control Division, “Response to Comments on Draft Operating Permit” (Dec. 19, 2024). The proposed permit was subsequently submitted to EPA for the agency’s 45-day review. The EPA’s 45-day review concluded on February 7, 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 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 state implementation plan (“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.

GROUND 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 Jangles Compressor Station.

I. The Title V Permit Does not Assure Compliance With Limits Applicable to the Six Compressor Engines

The Title V Permit fails to assure the six reciprocating internal combustion engines operating at the Jangles Compressor Station—Units ENG-01—ENG-06, comply with applicable NO_x and CO emission limits, as well as applicable limits on fuel throughput. The Center raised this issue with reasonable specificity in its comments on the draft Title V permit. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit, Technical Comments at 3-7.

A Title V permit must assure compliance with applicable requirements. *See* 42 U.S.C. § 7661c(a). To this end, a permit may only be approved if the conditions of the permit provide for compliance with all applicable requirements and requirements of Title V. *See* 40 C.F.R. § 70.7(a)(1)(iv); *see also* Colorado’s approved Title V program at AQCC Regulation No. 3, Part C, Section V.B.4 (a permit may only be issued if “[p]ermit conditions provide for compliance with all applicable requirements[.]”). Applicable requirements include, among other things, “Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the [Clean Air] Act.” 40 C.F.R. § 70.2. In this case, the Title V Permit does not assure compliance with applicable limits set forth in the underlying preconstruction permit for the Jangles Compressor Station.

As noted in Section I, Condition 1.3, the Title V Permit for the Jangles Compressor Station incorporates the requirements of Issuance 4 of Construction Permit 05GA0075. *See* Exhibit 5, Construction Permit 05GA0075, Issuance 4 (Feb. 21, 2017). This is the “preconstruction permit” that authorized the initial construction and operation of the Jangles Compressor Station pursuant to the Colorado SIP, which was approved under Title I of the Clean Air Act. According to Construction Permit 05GA0075, the reciprocating internal combustion compressor engines at the Jangles Compressor Station must meet specific emission and operational limits. Specifically, the permit, which was adopted pursuant to the Colorado SIP, sets forth the following applicable limits for each compressor engine, ENG-01—ENG-06:

Standard	Applicable Limit
NO _x	17 tons per year
CO	2.8 tons per year
Fuel consumption throughput	77.5 MMscf per year

See Exhibit 5, Permit 05GA0075 Issuance 4 at 4-5, Conditions 6 and 8. Unfortunately, the Title V Permit does not assure compliance with these applicable requirements.

As the Center commented, the Title V Permit establishes higher NO_x and CO emission limits and does not set forth any limit on fuel consumption for ENG-01—ENG-06. Section II, Condition 1 of the Title V Permit establishes a NO_x limit of 23.3 tons per year for ENG-01—ENG-05 and a CO limit of 6.5 tons per year for all six engines. See Exhibit 1, Title V Permit at 16, Section II, Condition 1. The permit does not even mention fuel consumption throughput, let alone set forth the applicable limits.

In response to comments, the Division asserted that the NO_x and CO emission limits are “the same as the NO_x and CO limits listed in the initial Title V permit issued on January 1, 2018[.]” Exhibit 4, Division Response to Comments at Unnumbered Page 3. Although the NO_x and CO limits are the same in the initial Title V Permit issued on January 1, 2018, it does not appear that these limits were properly established according to the Colorado SIP or are legitimately applicable.

It is critical to first note that when Bargath’s predecessor applied for its initial Title V Permit in 2008, the Jangles Compressor Station was subject to Issuance 2 of Construction Permit 05GA0075. This permit established a NO_x emission limit of 17 tons per year for each compressor engine and a CO emission limit of 5.7 tons per year for each compressor engine. See Exhibit 5, Permit 05GA0075 Issuance 2 (June 7, 2007) at 7-14, Attachment A. Accordingly, when Bargath’s predecessor applied for its initial Title V Permit, the applicant expressly acknowledged these applicable limits and requested they be incorporated into the initial Title V Permit. See Exhibit 6, Williams Production RMT Company, “Title V Permit Application, Jangles Compressor Station” (May 30, 2008) at Unnumbered Page 2, Section 1.0.¹ In spite of the applicable requirements in Permit 05GA0075 Issuance 2 and despite the initial Title V Permit application, when the initial Title V Permit was finally issued in 2008 it set forth a 23 ton per year NO_x limit for each engine and a 6.5 ton per year CO limit for each engine. These limits, however, were contrary to applicable requirements and cannot now form the basis for the NO_x and CO limits in the renewed Title V Permit.

It is unclear why the initial Title V Permit contained these higher emission limits. Although Title V permits may be used to modify construction permits, a source must specifically apply for such a modification. See AQCC Regulation No. 3, Part C, Section III.B.7. Here, there is no indication that Bargath’s predecessor applied or intended to apply for such a modification. It is telling that neither the TRD for the initial Title V Permit nor the application for the initial Title V Permit mention or otherwise state that the initial Title V Permit intended to modify underlying applicable emission limits in the preconstruction permit or that Bargath’s predecessor expressly requested any such modification. See Exhibit 6 and Exhibit 7, TRD for Initial Title V Permit 08OPGA321 (Jan. 1, 2008). As the EPA has held, “Unless and until a title I permit terms are changed through the appropriate title I process, they remain ‘applicable requirements’ for

¹ Due to the extremely large PDF file size of the 2008 initial Title V Permit application, Exhibit 6 contains only the first five sections of the 2008 application. The full application can be accessed from the Air Pollution Control Division’s website at <https://oitco.hylandcloud.com/cdphermipop/docpop/docpop.aspx?docid=5028805&vieweronlyforsingle=true>.

Title V purposes.” *In the Matter of Century Aluminum of South Carolina, Inc.*, Order on Petition IV-2023-09 at 15 (Nov. 2, 2023).

It is further telling that even after issuance of the initial Title V Permit, modifications to Construction Permit 05GA0075 continued to set forth the applicable 17 ton per year NO_x limit for each engine and 2.8 ton per year CO limit for each engine. In 2016, the Division issued Permit 05GA0075 Issuance 3 and in 2017 the Division issued Issuance 4. *See* Exhibit 8, Construction Permit 05GA0075, Issuance 3 (Nov. 29, 2016) and Exhibit 5. Both permits contain the applicable 17 ton per year NO_x limit for each engine and 2.8 ton per year CO limit for each engine. This further underscores that the NO_x and CO limits for the engines in the initial Title V Permit did not reflect applicable requirements.

Although it may perhaps be asserted that the renewed Title V Permit modified the underlying applicable limits, this does not appear to be the case. As the TRD indicates, although the renewed Title V Permit incorporated some modifications, it did not incorporate modifications to any underlying limits applicable to the engines. *See* Exhibit 2, TRD at 7-9. In response to comments, the Division noted, “In this renewal Title V permit, the source is not requesting any minor or significant modifications.” Exhibit 4, Division Response to Comments at Unnumbered Page 4.

With regards to the applicable fuel consumption throughput limits, the Division appears to have been confused by the Center’s comments. In comments, the Center stated:

We are concerned that the draft Title V permit does not assure compliance with applicable throughput limits for ENG01-ENG06. According to Permit No. 05GA0075, each engines’ throughput must be limited to no more than 77.5 MMscf/year. The draft Title V permit neither includes these throughput limits nor requires monitoring of throughput to assure compliance. The Title V permit must incorporate applicable throughput limits and ensure sufficient periodic monitoring to assure compliance.

Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit, Technical Comments at 5. In response, the Division stated:

The emission limits incorporated into the Operating Permit were calculated based on each engine operating at 8,760 hours per year (i.e., 365 days per year, 24 hours per day); therefore, limits on the hours of operation are not necessary for the emission limits to be practically enforceable. Under the provisions of Section II, Condition 1.5 of the Operating Permit the owner or operator is required to monitor and record the actual hours of operation for each engine on a monthly basis, which must then be used to calculate actual emissions as required by Section II, Conditions 1.1, 1.2, 1.3, and 1.5 of the Operating Permit. This federally enforceable monitoring represents practically enforceable limits and is consistent with EPA’s intent for Title V testing, recordkeeping, and reporting requirements.

Exhibit 4, Division Response to Comments at Unnumbered page 3. As is clear, the Division appears to believe the Center's comments related to hours of operation when in fact they specifically addressed fuel consumption throughput.

In any case, the Division's response did not resolve this issue. The final Title V Permit continues to fail to assure compliance with the fuel consumption throughput limits set forth in Permit 05GA0075 Issuance 4. Condition 8 of this underlying applicable permit clearly states the Bargath must limit fuel consumption to no more than 77.5 MMscf per year for each engine and to calculate throughput each month for purposes of calculating 12-month rolling totals. *See* Exhibit 5 Permit 05GA0075 Issuance 4 at 5, Condition 8. The Title V Permit neither incorporates these limits nor sets forth any monitoring of fuel consumption throughput to assure compliance with these limits.

Accordingly, the Title V Permit fails to assure compliance with all applicable requirements, contrary to the Clean Air Act. With regards to the six compressor engines operating at the Jangles Compressor Station, the Title V Permit does not contain conditions that assure compliance with applicable emissions and throughput limits set forth in the underlying preconstruction permit. The Administrator must therefore object to the issuance of the Title V Permit.

II. The Title V Permit Improperly Exempts Storage Tanks as "Insignificant" Activities

In issuing the Title V Permit, the Division included two fixed roof 300-barrel liquid storage tanks manifolded together, TK-1/TK-2, in the "List of Insignificant Activities" set forth in Appendix A. This effectively exempted emissions from these tanks, which are uncontrolled, from any oversight under the Title V Permit. Exhibit 1, Title V Permit at 84. The exemption of TK-1/TK-2 as an insignificant activity, however, is contrary to requirements under 40 C.F.R. § 70, as well as Colorado's Title V permitting program approved by the EPA pursuant to 40 C.F.R. § 70 and the Colorado SIP. The Center raised this issue with reasonable specificity in comments on the draft Title V Permit. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit, Technical Comments at 1-3.

Under Title V regulations, the EPA "may approve as part of a State program a list of insignificant activities and emission levels which need not be included in permit applications." 40 C.F.R. § 70.5(c). To this end, the Division has promulgated a list of "insignificant activities" that have been approved by the EPA as part of Colorado's Title V permitting program. This list, set forth at AQCC Regulation No. 3, Part C, Section II.E.3, includes, among other activities, "individual emission points in attainment or attainment/maintenance areas having uncontrolled actual emissions of any criteria pollutant of less than two tons per year[.]" AQCC Regulation No. 3, Part C, Section II.E.3.a.

In the Title V Permit, TK-1/TK-2 is listed as "insignificant" due to emissions being below two tons per year. However, there is no support for this conclusion and for exempting emissions from TK-1/TK2 from the Title V Permit.

To begin with, an emission point cannot be exempt from a Title V permit as an “insignificant” source if it would allow a source to avoid an applicable requirement. *See* AQCC Regulation No. 3, Part C, Section II.E. Here, TK-1/TK-2 is subject to applicable requirements under the Clean Air Act. Under Construction Permit 05GA0075, Issuance 4, TK-1/TK-2 is subject to a VOC emission limit of 5.9 tons per year. *See* Exhibit 5, Construction Permit 05GA0075, Issuance 4 (Feb. 21, 2017) at 4, Condition 6. This limit was also set forth in the initial Title V Permit for the Jangles Compressor Station, reflecting the fact that the VOC limit was an applicable requirement. *See* Exhibit 9, Initial Title V Permit, Jangles Compressor Station (Jan. 1, 2008) at 19, Section II, Condition 2. While Bargath now claims uncontrolled actual emissions from TK-1/TK-2 are below de minimis reporting levels, the fact remains the tanks are still subject to VOC emission limits that are applicable requirements. Construction Permit 05GA0075, Issuance 4 has not been modified or otherwise updated to explicitly eliminate the units TK-1/TK-2 and the respective VOC limit from the underlying preconstruction permit. Accordingly, the tanks cannot be exempt as an “insignificant” activity.

In response to comments, the Division did not address whether TK-1/TK-2 was subject to an applicable VOC limit. Rather, the Division stated, “The owner or operator submitted to the Division a notification that these tanks were below reporting thresholds on September 9, 2021.” Exhibit 4, Division Response to Comments at Unnumbered Page 1. According to the Division:

The Division believes that the conjunction of the owner or operator certifying that the information in the below reporting threshold notification is true, accurate, and complete and the ongoing requirement to maintain sufficient records that the tanks qualify for the exemption under the provisions of Colorado Regulation No. 3, Part C, Section II.E.3 is sufficient to monitor compliance with this exemption

Exhibit 4, Division Response to Comments at Unnumbered Pages 1-2. The notification referred to by the Division was a one-page “Emissions Permit/APEN Cancellation Request” asking the Division to “cancel” TK-1/TK-2. *See* Exhibit 10, Annual Pollutant Emission Notice Cancellation Notice (Sept. 9, 2021). This request, however, cannot serve to allow Bargath to avoid compliance with applicable requirements as it did not modify Construction Permit 05GA0075, Issuance 4 pursuant to the procedures in the Colorado SIP at AQCC Regulation No. 3, Part B.² Further, it appears the September 9, 2021 notification is not consistent with the Colorado SIP and Colorado’s Title V permitting program.

Under Colorado’s Title V permitting program, the applicable de minimis threshold is “uncontrolled actual emissions of any criteria pollutant of less than two tons per year[.]” AQCC

² Annual Pollutant Emission Notices are not permits, they are simply notices filed with the Division to enable the agency to track emission inventories and assure payment of emission fees. *See* Colorado SIP at AQCC Regulation No. 3, Part A, Section II. The cancellation of an Annual Pollutant Emission Notice simply notifies the Division that an emission units is no longer subject to reporting and that fees no longer need to be paid, it does not alter permits or otherwise affect other requirements that may be applicable. Emission units that may not be subject to Annual Pollutant Emission Notice reporting “must nevertheless comply with all requirements that are otherwise applicable specifically to the exempted emission units[.]”. AQCC Regulation No. 3, Part A, Section II.D.1.

Regulation No. 3, Part C, Section II.E.3.a. Under the Colorado SIP, “uncontrolled actual emissions” are defined as, “The annual emission rate corresponding to the annual process rate listed on the Air Pollutant Emissions Notice form, without consideration of any emission control equipment or procedures.” AQCC Regulation No. 3, Part A, Section I.B.46.³

For emissions from TK-1/TK-2, there is no corresponding Air Pollutant Emissions Notice form. Thus, there is no established “process rate” by which to assess the annual emission rate. Furthermore, even if there was a “process rate” to rely upon, such rate is to be assessed without consideration of any emission control equipment or procedures. In the case of VOC emissions from TK-1/TK-2, there are no controls. This means the annual emission rate must be assessed without consideration of any procedures that would limit emissions.

In the case of TK-1/TK-2, it does not appear that uncontrolled actual VOC emissions were calculated in accordance with the Colorado SIP. According to Bargath’s Title V Permit renewal application, estimated VOC emissions from TK-1/TK-2 were based on an assumption that throughput would be limited to 1,716 barrels of liquid annually. *See* Exhibit 11, Title V Operating Permit Renewal Application, Jangles Compressor Station (Nov. 5, 2021) at PDF p. 126. This assumed throughput, however, does not represent a physical or design limitation. Rather, it appears as if the assumed throughput rate reflects a “procedure” to limit emissions.

Indeed, Construction Permit 05GA0075, Issuance 4, which is the underlying applicable preconstruction permit, establishes a throughput limit of 2490 barrels per year for TK-1/TK-2. *See* Exhibit 5, Construction Permit 05GA0075, Issuance 4 (Feb. 21, 2017) at 5, Condition 8. This indicates throughput for TK-1/TK-2 is capable of being much higher than the assumed 1,716 barrels year. It is telling that in prior emission notices submitted to the Division, throughput of up to 3,650 barrels per year has been reported for TK-1/TK-2. *See* Exhibit 12, Air Pollutant Emission Notice for TK-1/TK-2 (Dec. 22, 2010). This underscores that to the extent throughput is limited to 1,716 barrels per year, it is due to procedures undertaken by Bargath to limit throughput and therefore emissions. Under Colorado’s Title V permitting program and the Colorado SIP, such procedures are not to be considered when assessing uncontrolled actual emissions and whether emissions are below de minimis thresholds.

Here, it is inappropriate to exempt TK-1/TK-2 as insignificant. The unit is not only subject to an applicable VOC emission limit, but its uncontrolled actual VOC emissions are also not below de minimis thresholds. There is no support for the Division’s justification for exempting TK-1/TK-2 as insignificant. Inclusion of TK-1/TK-2 in the Title V Permit’s list of insignificant activities is contrary to the Colorado SIP and Title V of the Clean Air Act. The Administrator must therefore object to the issuance of the Title V Permit for the Jangles Compressor Station.

III. The Title V Permit Does Not Assure Compliance With Applicable VOC Emission Limits for Gas Venting

³ Current AQCC regulations set forth the definition of “uncontrolled actual emissions” at AQCC Regulation No. 3, Part A, Section I.B.55. However, this renumbering has yet to be approved by the EPA and incorporated into the SIP. Nevertheless, the definition is the same in the SIP and in current AQCC regulations.

Section II, Condition 3 of the Title V Permit establishes applicable limits for “routine or Predictable Emissions from Maintenance and Blowdown Activities,” identified as “MAIN-1.” Among other requirements, the Title V Permit limits VOC emissions from five “Activities” and establishes other related limits. *See* Exhibit 1, Title V Permit at 44. 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 this issue with reasonable specificity in comments on the draft Title V Permit. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit, Technical Comments at 7-10.

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

As the Center commented, it is first not clear what the term “routine or predictable” emissions means and how “routine or predictable” gas venting emissions differ from gas venting that is not “routine or predictable.” The Title V Permit contains no specific definition or explanation as to what comprises a “routine or predictable” act of gas venting such that one can be reliably and accurately identified and monitored in order to verify compliance.

Although Section II, Condition 3.1 identifies the five “activities” subject to the “routine or predictable” emissions limits, it is not clear what these “activities” specifically encompass, what they entail, and how they can be reliably identified in order to assure compliance with the applicable limits. The Title V Permit provides no specific description of the five activities, but rather simply lists the activities in terms of ambiguous phrases that do not appear grounded to any particular definitions or context that would enable an understanding of what they mean. As the Center noted in its comments:

- Condition 3.1.1 identifies Activity 01 as “Blowdown and purge.” It is not clear what operational parameters define a “blowdown” or a “purge,” what equipment might

experience blowdowns or purges, or what distinguishes a “blowdown” or “purge” from other gas or liquid venting activities.

- Condition 3.1.2 identifies Activity 02 as “Engine startups.” It is not clear what constitutes an engine startup and why or how “engine startups” differ from the normal engine operating conditions covered in the Title V Permit under Section II, Condition 1.
- Condition 3.1.3 identifies Activity 03 as “Tank depressurization when opening.” It is not clear what tank or tanks this condition is referring to, what constitutes “depressurization,” or what is being “opened” on the tanks that are being depressurized.
- Condition 3.1.4 identifies Activity 04 as “Dump events when thief hatch is open.” It is not clear what a “dump event” is, what a “thief hatch” is, where thief hatches are located at the Jangles Compressor Station, and what constitutes an “open” thief hatch.
- Condition 3.1.5 identifies Activity 05 as “Load out events.” It is not clear what this phrase refers to and whether it refers to truck loading of condensate from tanks or loading of other equipment or loading of other substances. The Center posited that “loading” could entail a spill of condensate or produced water because it loads condensate or produced water onto the ground.

Without specific and accurate definitions of the activities identified in Condition 3.1, the condition cannot be enforced as a practical matter and the Title V Permit does not assure compliance with the applicable emission limits.

In response to comments on this issue, the Division stated:

The Division explains justification and methodologies for permitting ROPE [routine or predictable emissions] from oil and natural gas operations in Permit Section Memo 20-04 “Routine or Predictable Gas Venting Emissions Calculation and Instructions on Permitting for Oil and Natural Gas Operations” where many of the processes identified by the commenter are defined and clarified, including, but not limited to the ROPE activities (sic) identified in Section II, Condition 3 of the Operating Permit.

Exhibit 4, Division Response to Comments at Unnumbered Page 6. This response and more specifically the Division’s reference of Permitting Section Memo 20-04 did not resolve issues over the practical enforceability of Condition 3.

Permitting Section Memo 20-04, or PS Memo 20-04 is a non-binding November 6, 2020 Colorado Air Pollution Control Division memo meant to provide state-level guidance regarding permitting of routine or predictable venting at oil and gas facilities. *See* Exhibit 13, PS Memo 20-04 (Nov. 6, 2020). The memo is not referenced or mentioned in the Title V Permit or the TRD and does not appear to have formed a basis for the applicable requirements set forth at Section II, Condition 3 of the Title V Permit. Aside from the reference in the Division’s response to comments, it does not appear that PS 20-04 was intended to inform the application of Condition 3 or to otherwise form the basis of compliance determinations. Furthermore, PS

Memo 20-04 is not a federally enforceable document. 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.

Regardless, PS Memo 20-04 does not provide the clarity and specificity asserted by the Division in its response. The Memo does not explain or define what “routine or predictable” is intended to mean in the context of permitting routine or predictable gas venting at facilities such as the Jangles Compressor Station. Although the Memo identifies examples of “typical” routine or predictable gas venting sources, it is only meant to provide guidance and not be a fully inclusive list of what constitutes “routine or predictable” gas venting. *See* Exhibit 13 at 4-5.

With regards to the specific activities listed under Section II, Condition 3.1 of the Title V Permit, PS Memo 20-04 further fails to provide any additional clarity or specificity. The Memo does not define “blowdown and purge” or otherwise explain what this means in the context of the Jangles Compressor Station. Similarly, “engine startups” are not defined or even mentioned in the Memo and it remains unclear how “engine startups” differ from normal operation of the engines. The phrase “tank depressurization when opening” is also not in the Memo. Although the Memo provides some examples of routine or predictable gas venting from fixed-roof storage tanks, it does not identify “tank depressurization when opening” or otherwise provide information that would enable an understanding of what this activity means at the Jangles Compressor Station. The phrase “dump events when thief hatch is open” is somewhat defined by the Memo. *See* Exhibit 13 at 8. It defines “Dump Event” as “[t]he opening of a dump valve allowing liquid to flow from a separator equipped with a dump valve to a storage tank” and “Thief Hatch” as “a closable aperture in a storage vessel,” but it not clear what this means in the context of the Jangles Compressor Station. The only storage tanks identified in the Title V Permit are TK-1/TK-2 and it is unclear whether “dump events when thief hatch is open” applies to these tanks or other tanks that may exist at the Jangles Compressor Station. Finally, the phrase “Load out events” is not defined by the Memo. Although the Memo refers to venting during truck loadout of tanks, the Title V Permit’s use of the phrase “load out events” indicates this activity may include more than simply truck loadout of tanks.

In its response to comments, the Division also 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 6. In support of its response, the Division pointed 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.

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. 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.

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 Jangles Compressor Station, the Title V Permit fails to set forth sufficient monitoring to assure compliance with the applicable limits set forth in Condition 3.

With regards to emissions during "blowdown and purge," or Activity 01, Bargath is required under Condition 3.2 to measure total VOC emissions based on the volume of gas vented. While Condition 3.5.1 sets forth parameters required to be considered when measuring volume of gas vented, it does not appear to ensure that Bargath accurately measures volume.

For one, while the Condition requires consideration of temperature and pressure, the Title V permit does not require any actual monitoring or measurements of temperature and pressure such that it ensures Bargath accurately records these conditions for purposes of assuring compliance. Although Condition 3.6 requires Bargath to monitor and record temperature and

pressure, the Title V permit does not explain how temperature and pressure are to be measured or otherwise set forth a methodology for monitoring temperature and pressure that ensures accurate and reliable data. Condition 3.6 simply says that these operating parameters “must be monitored.” However, with no explanation as to how temperature and pressure should be monitored, the Title V Permit does not set forth sufficient monitoring. Additionally, while Condition 3.6 requires Bargath to monitor the “unique physical volume between isolation valves,” it is not clear how this volume is actually measured. It further unclear how Bargath identifies “isolation valves,” what “isolation” means, and whether this “unique physical volume” represents the full physical volume or some other “unique” volume. Overall, Condition 3.6 does not set forth sufficient monitoring that assures accurate monthly calculations of the volume of gas vented. This in turn means the Title V Permit fails to set forth sufficient monitoring to assure compliance with the applicable VOC emission limit.

With regards to emissions during Activities 02-05, Condition 3.2.1 of the Title V Permit simply assumes a certain amount of VOCs emitted per event, but the permit does not limit the duration of events such that the “per event” approach to monitoring yields reliable data regarding the volume of gas vented and therefore the amount of VOCs emitted. The Title V permit does not otherwise require Bargath to monitor the volume of gas vented.

While Condition 3.4 limits the number of events, there is nothing to limit how long events may take place and therefore nothing to limit the volume of gas vented. As the Center commented, “An event could last an hour or several days, which could lead to a higher volume of gas vented and VOCs emitted, yet the draft Title V permit assumes VOC emissions would be the same, which is preposterous.” Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit, Technical Comments at 9. The “per event” approach to monitoring VOC emissions from Activities 02-05 does not accurately reflect the actual volume of gas vented and therefore the actual VOC emissions, meaning the Title V Permit does not set forth sufficient monitoring that assures compliance with applicable requirements.

In response to comment regarding the sufficiency of monitoring of the volume of gas vented for Activity 01, the Division stated:

Condition 3.6 of the draft operating permit states “the following operating parameters must be monitored and recorded for each event resulting in routine or predictable emissions”, meaning that there is a monitoring frequency (i.e., every time a ROPE activity is done).

Exhibit 4, Response to Comments at Unnumbered Page 6. Although the Center raised specific concerns over whether Condition 3.6 sets forth sufficient monitoring, the “frequency” of monitoring was not among them. The Division’s response does not address the fact that Condition 3.6 does not set forth the specific methods for accurately monitoring temperature, pressure, and unique physical volume between isolation valves such that it assures reliable and accurate measurements of the volume of gas vented and the amount of VOCs vented such that it assures compliance with applicable limits.

The Division further responded:

Furthermore, the Division provides guidance on calculation and monitoring methodologies for routine or predictable (ROPE) blowdown emissions outlined in PS Memo 20-04, Condition 3.1.2 states that “the volume of emissions from ROPE events can be either directly measured using a flow meter or calculated using division-approved equations and parametric monitoring during the ROPE event (i.e., temperature and pressure).

Exhibit 4, Response to Comments at Unnumbered Page 6. 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, as discussed above, 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 Jangles Compressor Station.

In response to comment regarding the sufficiency of monitoring of the volume of gas vented for Activities 02-05 and specifically the Title V Permit’s reliance on the “per event” approach to monitoring, the Division simply stated its “disagreement” with the Center and provided several “reasons” supporting its disagreement. Exhibit 4, Response to Comments at Unnumbered Pages 6-7. These “reasons” did not resolve the issue or otherwise provide legitimate support for the Division’s “disagreement.”

For Activity 02, “Engine Startups,” the Division cites 40 C.F.R. § 63.6625(h), which states that the startup time for engines should be limited to 30 minutes, after which time the applicable National Emission Standards for Hazardous Air Pollutants apply. The Division appears to have implied that this requirement establishes a limit on the duration of engine startup. It does not. The rules simply establishes a time threshold after which different standards apply. The Division next asserted that Condition 3.5 requires monitoring of “the date, time, and duration of each routine or predictable emission event.” Presumably the Division meant to refer to Condition 3.4. While monitoring the “date, time, and duration” of events is useful, the Title V

Permit is clear that the monitoring method used to demonstrate compliance for Activity 02 is the “per event” approach to monitoring which does not factor in the duration of events or otherwise provide accurate information regarding the volume of gas vented. Condition 3.4 does not set forth sufficient monitoring that yields reliable data from the relevant time period that is representative of Bargath’s compliance with applicable VOC limits.

For Activities 03-05, the Division again pointed to PS Memo 20-04. Citing Sections 4.2.1 and 4.2.2., the Division asserted that based on the Memo, venting from tanks is limited to one hour. While there is no one-hour limit on venting set forth in the Title V Permit, PS Memo 20-04 does not actually limit tank venting to no more than one hour. Sections 4.2.1 and 4.2.2 simply require that different emission factors be used to calculate potential VOC emissions depending on whether the venting occurs for less than one hour or for longer than one hour. As the Division notes, “Any duration of event beyond the first one hour are required to follow the emission calculation methodology outlined in PS Memo 20-04, Section 4.2.2.” Exhibit 4, Response to Comments at Unnumbered Page 7. This is not a limit on the duration of the venting events authorized by the Title V Permit. The Division next asserted that Condition 3.5 requires monitoring “the date, time, and duration of each routine or predictable emission event.” Presumably the Division meant to refer to Condition 3.4. While monitoring the “date, time, and duration” of events is useful, the Title V Permit is clear that the monitoring method used to demonstrate compliance for Activities 03-05 is the “per event” approach to monitoring which does not factor in the duration of events or otherwise provide information regarding the volume of gas vented. Condition 3.4 does not set forth sufficient monitoring that yields reliable data from the relevant time period that is representative of Bargath’s compliance with the applicable VOC limits.

The EPA has already objected to virtually identical Title V permits setting forth gas venting VOC 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 VOC 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 Jangles Compressor Station for not setting forth monitoring sufficient to assure compliance with gas venting VOC limits.

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 Jangles Compressor Station in Garfield County, Colorado. As this Petition demonstrates, the Title V Permit fails to assure compliance with applicable limits, does not assure compliance with the Colorado SIP, and does not assure compliance with Title V requirements. 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 8, 2025

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'J. Nichols', is written over a horizontal line.

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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 Jangles Compressor Station Title V Permit
2. Final Jangles 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 Jangles Compressor Station
4. Colorado Air Pollution Control Division Response to Center for Biological Diversity Comments
5. Construction Permit 05GA0075, Issuance 4 (Feb. 21, 2017)
6. Williams Production RMT Company, “Title V Permit Application, Jangles Compressor Station” (May 30, 2008)
7. TRD for Initial Title V Permit 08OPGA321 (Jan. 1, 2008)
8. Construction Permit 05GA0075, Issuance 3 (Nov. 29, 2016)
9. Initial Title V Permit, Jangles Compressor Station (Jan. 1, 2008)
10. Air Pollutant Emission Notice Cancellation Notice (Sept. 9, 2021)
11. Title V Operating Permit Renewal Application, Jangles Compressor Station (Nov. 5, 2021)
12. Air Pollutant Emission Notice for TK-1/TK-2 (Dec. 22, 2010)
13. Air Pollution Control Division PS Memo 20-04 (Nov. 6, 2020)