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. 08OPGA323
for the Hyrup 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. 08OPGA323 FOR BARGATH'S HYRUP 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 Hyrup 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 April 1, 2025 and are attached as Exhibits 1 and 2, respectively.

THE HYRUP COMPRESSOR STATION

The Hyrup 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 Hyrup Compressor

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

The Hyrup Compressor Station is a major source of nitrogen oxide ("NO_x") emissions and also releases large amounts of carbon monoxide ("CO") and 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 NO_2," website available at https://www.epa.gov/no2-pollution/basic-information-about-no2 (last accessed May 2, 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 May 2, 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 May 2, 2025).

Annually, the facility has the potential to emit up to 156.2 tons of NO_x, 52.8 tons of CO, and 82.7 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 Hyrup Compressor Station include the engines, 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 Hyrup Compressor Station Title V Permit on August 30, 2024. *See* Exhibit 3, Center for Biological Diversity Comments on Draft Title V Permit (Aug. 30, 2024). The Division responded to the Center's comments on January 24, 2025. *See* Exhibit 4, Colorado Air Pollution Control Division, "Response to Comments on Draft Operating Permit" (Jan. 24, 2025). The proposed permit was subsequently submitted to EPA for the agency's 45-day review. The EPA's 45-day review concluded on March 10, 2025. EPA did not object to the proposed permit. The Division issued the final permit on April 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.

GROUNDS 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 Hyrup Compressor Station.

I. The Title V Permit Does Not Ensure Adequate Monitoring to Assure the Flare Controlling Emissions from the Tanks Complies 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").

Here, the Title V Permit for the Hyrup Compressor Station does not set forth sufficient monitoring to assure compliance with the VOC limit applicable to the two 400-barrel condensate storage tanks and one 22 barrel condensate flash tank, AIRS ID 005 and 030, at the Hyrup Compressor Station. Of primary concern is that the Permit does not assure sufficient monitoring of the enclosed combustion device, or flare, used to control VOC emissions. Although Section II, Condition 2 requires Bargath to limit VOC emissions to no more than 0.5 tons per year from the condensate tanks and 4.1 tons per year from the condensate flash tank and to assure the flare achieves a minimum 95% VOC destruction efficiency, the Title V Permit does not set forth adequate monitoring to assure compliance with these limits.

In comments, the Center detailed concerns over inadequate monitoring from the flare and the failure of the draft Title V Permit to set forth sufficient monitoring to assure compliance. *See* Exhibit 3, Center Comments on Draft Title V Permit, Technical Comments at 1-5. The Center highlighted the draft Title V Permit's improper reliance on qualitative parametric monitoring to assure compliance with quantitative limits.

In response to the Center's comments, the Division agreed that the draft Title V Permit failed to require sufficient monitoring and in particular failed to require sufficient testing. The Division responded:

> To address this comment, the Division added a federally enforceable initial and periodic (every 5 years) performance testing condition (Condition 2.7) that is utilized in conjunction with continuous monitoring (including, but not limited to: visible emissions

> and pilot light) to monitor compliance with 95% VOC control efficiency identified in the operating permit.

Exhibit 4, Division Response to Comments at Unnumbered Page 1. Although the Center appreciates that the Division acknowledged the deficiencies in the draft Title V Permit and agreed to require some performance testing of the flare to assure compliance with applicable limits, the final Title V Permit unfortunately still does not set forth sufficient monitoring that assures compliance with applicable limits.

Although the Division cited Condition 2.7, it appears that Section II, Condition 2.8 requires performance testing to verify compliance with applicable VOC limit and the minimum 95% VOC destruction efficiency for the flare. Unfortunately, while the Title V Permit requires an initial compliance test by May 1, 2025, the Permit requires testing only once every five years thereafter. This is too infrequent to assure continuous compliance with the applicable annual limits and the 95% VOC destruction efficiency.

It is first critical to highlight that the Division provided no rationale for determining that performance testing only once every five years is sufficiently periodic to assure ongoing and continuous compliance with the limits applicable to the dehydrators. In its response to comments, the Division simply acknowledged the deficiency in the draft Title V Permit and added Condition 2.8 into the final Title V Permit. This lack of a rationale alone is grounds for the Administrator to object.

As the EPA has made clear, "In all cases, the rationale for the selected monitoring requirements must be clear and documented in the permit record." *In the Matter of CITGO Refining and Chemicals Company, L.P.*, Order on Petition No. VI-2007-01 at 7-8 (May 28, 2009) (granting petition because permitting authority "did not articulate a rationale for its conclusions that the monitoring requirements… are sufficient to assure compliance") (hereinafter, "CITGO Order"); *see also* 40 C.F.R. § 70 .7(a)(5). In general, the EPA has described five factors that should be relied upon in determining appropriate monitoring under Title V, including:

> (1) The variability of emissions from the unit in question; (2) the likelihood of a violation of the requirements; (3) whether add-on controls are being used for the unit to meet the emission limit; (4) the type of monitoring, process, maintenance, or control equipment data already available for the emission unit; and (5) the type and frequency of the monitoring requirements for similar emission units at other facilities.

CITGO Order at 7-8 (May 28, 2009). These five factors are generally applied on a case-by-case basis. *Id*. at 7.

In this case, even though the Center commented that sufficiently frequent performance testing must be required, there is no explanation as to how the Division determined that testing once every five years was sufficient for the Hyrup Compressor Station. In comments, the Center detailed that it was questionable whether once-every-five-year testing of flare VOC destruction efficiency, which is required by state-only rules, was sufficiently frequent due to numerous

reports of flares failing to continuously achieve required destruction efficiencies. *See id*. Technical Comments at 2-5.

Here, the five-year frequency of the performance testing requirement is far too infrequent to assure compliance with the 95% minimum VOC destruction efficiency requirement, as well as the annual VOC limit.[1]

Indeed, the Division's awareness over the need to ensure adequate and regular (i.e., more frequently than every five years) testing and monitoring of flares is reflected in its own policies, regulations, and in other permits issued in Colorado.

For example, as the Center noted in its comments, in a Title V Permit for an oil and gas production facility in Jackson County, Colorado the Division required semiannual testing of a flare to assure compliance with an applicable 98% VOC destruction efficiency requirement. In Title V Permit No. 17OPJA401 issued for the Bighorn 0780 S17 CTB Facility, the Division required:

> On a semi-annual basis, a source compliance test shall be conducted on the TCI 4800 control device to measure the emission rate of Volatile Organic Compounds (VOC) in order to demonstrate the enclosed combustor achieves a minimum destruction efficiency of 98% for VOC, and to monitor compliance with the annual emission limits[.]

Exhibit 5, Air Pollution Control Division Colorado Operating Permit, D90 Energy, LLC—Bighorn 0780 S17 CTB Facility, Permit No. 17OPJA401 (Jan. 1, 2020) at Section II, Condition 2.8.

Similarly, the Division has adopted a policy requiring at least annual testing of flares whenever a permittee requests a VOC control efficiency greater than 95%. *See* Exhibit 6, Air Pollution Control Division, "Oil and Gas Industry Enclosed Combustion Device Overall Control Efficiency Greater than 95%," Permitting Section Memo 20-02 (Feb. 4, 2020) at 4-5. It is not clear why, in light of this policy, the Division did not require more frequent testing of the flare at the Hyrup Compressor Station.

Although the Division may assert that more frequent testing may only be necessary at higher control efficiencies (i.e., greater than 95%), there is no support for this assertion. If a flare is not likely to achieve a greater than 95% destruction efficiency, thereby requiring semi-annual or annual testing, then there is no valid basis to conclude that a flare operating at a 95% destruction efficiency is somehow less likely to fail or otherwise less capable of not achieving

[1] The Title V Permit also exempts Bargath from all testing to assure compliance with the 95% destruction efficiency "[i]f the combustor is EPA certified for the performance requirements of 40 CFR §60.5412(a)(1)(i)[.]" Exhibit 1, Title V Permit at 39-40, Section II, Condition 2.4. This exemption is not appropriate and does not assure compliance with requirements applicable to the Hyrup Compressor Station and does not represent sufficient periodic monitoring. 40 C.F.R. § 60.5412(a)(1)(i) relates to compliance with New Source Performance Standards at 40 C.F.R. Part 60, Subpart OOOO and only applies to affected sources that constructed, modified, or reconstructed after August 23, 2011 and before September 18, 2015. According to the TRD for the Title V Permit, 40 C.F.R. Part 60, Subpart OOOO is not applicable to the Hyrup Compressor Station. *See* Exhibit 2, TRD at 14.

the required destruction efficiency and does not require comparably frequent testing. Put another way, the distinction between 95% destruction efficiency and greater than 95% destruction efficiency is arbitrary in the context of assuring adequate monitoring. There is no support for requiring annual or semi-annual testing only when VOC destruction efficiency requirements are higher than 95%.

The Division's response to the Center's comments appears to indicate that it believes once-every-five-year testing in conjunction with parametric monitoring required by the Title V Permit is sufficient to assure compliance. However, for this to be true, the Division would have to demonstrate that parametric monitoring assures compliance with applicable quantitative limits, including the 95% VOC destruction efficiency, during the time between testing. The Division made no such demonstration. To the contrary, all indications are that the parametric monitoring set forth in the Title V Permit will not assure compliance.

As the Center detailed in its comments, to the extent the Title V Permit requires parametric monitoring of the flare, this monitoring does not assure compliance with the applicable quantitative limits, in particular the applicable 95% VOC destruction efficiency requirement. In comments, the Center detailed that while the draft Title V Permit relied upon presence of pilot light monitoring and visible emissions monitoring, monitoring these parameters does not yield data representative of the source's compliance with applicable quantitative limits, contrary to 40 C.F.R. § 70.6(a)(3)(i)(B). *See* Exhibit 3, Center Comments on Draft Title V Permit, Technical Comments at 1-2. The Center also provided numerous examples of flares at oil and gas production and processing facilities failing to achieve a minimum 95% VOC destruction efficiency, even where there was a pilot light present and even where visible emission limits were met. *See id*. Technical Comments at 2-4.

In its response to comments, the Division did not respond to the Center's specific concerns that pilot light monitoring and visible emission monitoring were insufficient to assure compliance with the applicable quantitative limits in Section II, Condition 2. The Division simply asserted that pilot light and visible emissions monitoring in conjunction with testing once every five years will assure compliance with the 95% destruction efficiency. *See* Exhibit 4, Division Response to Comments at Unnumbered Page 1-2. However, the Division provided no information or analysis to support this assertion and did not respond to the Center's specific concerns over the failure of the Title V Permit's qualitative monitoring to assure compliance.

The EPA has generally rejected the Division's reliance on pilot light monitoring and visible emissions monitoring to assure compliance with applicable quantitative emission limits, including VOC destruction efficiency limits, for flares at oil and gas production and processing facilities. *See* In *the Matter of Bonanza Creek Operating Company, LLC*, Order on Petition No. VIII-2023-11 (Jan. 30, 2024); *In the Matter of DCP Operating Company LP, Platteville Natural Gas Processing Plant*, Order on Petition No. VIII-2023-14 (April 2, 2024); In *the Matter of HighPoint Operating Corporation, Anschutz Equus Farms 4-62-28*, Order on Petition No. VIII-2024-6. Here, any reliance on such parametric monitoring in the intervening time between flare performance testing appears similarly unsupported and insufficient to assure compliance with applicable limits. Without more frequent performance testing of the flare, the Title V Permit does not set forth sufficient monitoring under Title V.

The Administrator must object to the issuance of the Title V Permit for the Hyrup Compressor Station over the failure of the permit to assure adequate monitoring of the flare used to control emissions from the facility's storage tanks. Although the Division required once-every-five-year performance testing to verify compliance with applicable limits set forth at Section II, Condition 2, there is no support for the conclusion that once-every-five-year testing is sufficiently frequent enough to assure compliance with the applicable VOC limit and the applicable 95% VOC destruction efficiency, which apply on a continuous basis.

II. The Title V Permit Does Not Assure Compliance With the Applicable VOC Emission Limit for Gas Venting

Section II, Condition 3 of the Title V Permit establishes an applicable limit for "VOC 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 11.6 tons per year. *See* Exhibit 1, Title V Permit at 71, Condition 3. 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 5-7 of the technical comments attached to the August 30, 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 form "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 Hyrup 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 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 Hyrup 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 Hyrup 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. Here, Condition 3.1 does not provide any level of specificity to fully understand what activities are actually to Condition 3. 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 the activities subject to Condition 3. It is telling that while Condition 3.2 provides factors to estimate volume of gas vented during "Plant Blowdowns" and "Equipment Blowdowns," the Condition also notes that there may be other events not listed, but does not list these other events or otherwise specifically identify what other events are intended to fall under the oversight of Condition 3.

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 Hyrup Compressor Station, the Title V Permit fails to set forth sufficient monitoring to assure compliance with the applicable limits set forth in Condition 3. The Center raised this issue with reasonable specificity on pages 5-7 of the technical comments attached to the August 30, 2024 comment letter.

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 (i.e., "Vented Volume"). 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 volume of gas vented, the Title V Permit does not actually set forth any specific method for accurately monitoring and recording the volume of natural gas vented.

While Condition 3.2 requires Bargath to rely on "Volume of Natural Gas Released Per Event " factors to calculate the volume of gas vented during "Plant Blowdowns" and "Equipment Blowdowns," these factors are based on the assumption that every venting event will release a fixed volume of gas. There is no support for this assumption in the record and no support for these assumptions to serve as sufficient monitoring that demonstrates compliance with applicable limits.

For the assumed "volume of gas released per event" factors to be valid, there would either need to be limits on the volume of gas vented, temperature, and pressure, or physical or operational design constraints that effectively limit the volume of gas vented. As the Colorado SIP states, a facility's potential to emit pollutants is based on "[t]he maximum capacity of a stationary source to emit a pollutant under its physical and operational design." AQCC Regulation No. 3, Part A, Section I.B.37. To the extent that limitations on potential to emit are imposed, such limits must be "state enforceable and federally enforceable." *Id*.

In this case, neither Condition 3 nor the underlying Construction Permit, Permit No. 05GA0273 (Issuance 3, June 1, 2016), establish state and federally enforceable limits on the volume of gas vented during plant blowdowns and equipment blowdowns, as well as the pressure at which gas is vented and the temperature at which gas is vented, which also both affect volume. Indeed, while Permit No. 05GA0273 limits throughput for other equipment at the facility, it explicitly does not limit throughput for the unit MAIN-1. *See* Exhibit 7, Construction Permit No. 05GA0273 (Issuance No. 3, June 1, 2016) at 6, Condition 3. While the Title V Permit limits the number of "Compressor Station Blowdown Events" and "Engine Blowdown Events," it does not limit the volume of gas that can be vented during these events. There appears to be no legitimate limit on the ability of Bargath to vent more gas at variable temperatures and pressure that would lead to higher than assumed volumes of gas vented and higher VOC emissions from plant blowdowns and equipment blowdowns. Further, there is no information in the Title V Permit, the TRD, and the underlying Construction Permit that the assumed volumes reflect "the maximum capacity" of the Hyrup Compressor Station to vent gas under its physical and operational design during plant blowdowns and equipment blowdowns. This indicates the volume of vented gas factors for "Plant Blowdowns" and "Equipment Blowdowns" are not accurate and not representative of the source's compliance.

Condition 3.1 is even more problematic as it provides no specific method of calculating the volume of gas vented for venting events that are not plant blowdowns or equipment blowdowns. For these events, the Condition simply states, "determinations of the representative amount of gas released for each type of event may be based on the specifications of the equipment that is vented and any other relevant information[.]" This is not sufficient monitoring as it sets forth no clear methodology for accurately measuring the volume of gas vented and does not assure that such "determinations" are accurate and representative of the source's compliance.

In other Title V permits, the Division has established federally enforceable limits and monitoring of volume, temperature, and pressure to assure accurate monitoring of VOC emissions associated with gas venting at oil and gas production and processing facilities. In a Title V permit issued recently for another gas compressor station, the Division established a VOC limit for 20 different "blowdown events," including blowdowns related to pigging and compressor units. Exhibit 8, Air Pollution Control Division Colorado Operating Permit, Rockies Express Pipeline LLC REX Cheyenne Hub Compressor Station, Permit No. 21OPWE480 (Jan. 1, 2025) at 48 and 50, Section II, Condition 3. To assure compliance with the applicable limits, the Title V permit established federally enforceable limits on the "unique physical volume between isolation valves" and required monitoring of temperature and pressure during each blowdown event. *See id*. REX Cheyenne Hub Compressor Station Title V Permit at 48-51, Section II, Conditions 3.1, 3.2, 3.3, and 3.4.

In response to comments, the Division first stated:

> The volumes of natural gas vented for the permitted blowdown types were identified in the APEN update received by the Division on May 31, 2019 and were certified by the owner or operator as complete, true, and accurate on the Air Pollutant Emission Notice (APEN).

Exhibit 4, Response to Comments at Unnumbered Page 2. The 2019 Annual Pollutant Emission Notice referred to by the Division presents estimates of the potential volume of gas vented and VOCs emitted during certain maintenance and blowdown activities. However, these estimates do not appear to represent the Hyrup Compressor Station's potential to emit as defined by the Colorado SIP and do not appear to have been presented as factors intended to inform monitoring of emissions in the Title V Permit. If anything, it appears the estimates were intended to inform the establishment of the VOC emission limit, not to inform the monitoring of emissions.[2]

The Division further stated that methods for monitoring and recording the volume of gas vented at the Hyrup 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." *See* Exhibit 9, PS Memo 20-04 (Nov. 6, 2020).

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. *See In the Matter of Bonanza Creek Operating Company, LLC*, Order Petition No. VIII-2023-11 (Jan. 30, 2024) at 14.

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 Hyrup Compressor Station.

In its response to comments, the Division asserted the Title V 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

[2] Indeed, Annual Pollutant Emission Notices 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. They are not a form of emissions monitoring.

the Title V Permit inconsistent with EPA intent, it is also inconsistent with applicable Title V statutory and regulatory requirements.

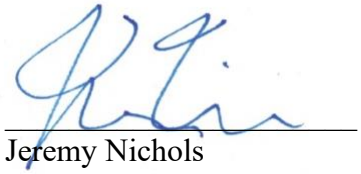
The EPA has already objected to virtually identical Title V permits setting forth gas venting limits at other oil and gas processing facilities. *See In the Matter of Lucid Energy Delaware, LLC, Frac Cat Compressor Station and Big Lizard Compressor Station*, Order on Petition Nos. VI-2022-05 and VI-2022-11 (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 Hyrup 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 Hyrup Compressor Station in Garfield County, Colorado. As this Petition demonstrates, the Title V Permit fails to assure adequate monitoring, does not 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: May 8, 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 Hyrup Compressor Station Title V Permit
2. Final Hyrup 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 Hyrup Compressor Station
4. Colorado Air Pollution Control Division Response to Center for Biological Diversity Comments
5. Air Pollution Control Division Colorado Operating Permit, D90 Energy, LLC—Bighorn 0780 S17 CTB Facility, Permit No. 17OPJA401 (Jan. 1, 2020)
6. Air Pollution Control Division, "Oil and Gas Industry Enclosed Combustion Device Overall Control Efficiency Greater than 95%," Permitting Section Memo 20-02 (Feb. 4, 2020)
7. Construction Permit No. 05GA0273 (Issuance No. 3, June 1, 2016)
8. Air Pollution Control Division Colorado Operating Permit, Rockies Express Pipeline LLC REX Cheyenne Hub Compressor Station, Permit No. 21OPWE480 (Jan. 1, 2025)
9. PS Memo 20-04 (Nov. 6, 2020).