



April 24, 2025

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Administrator Lee Zeldin
United States Environmental Protection Agency
William Jefferson Clinton Building
Mail Code:1101A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Clean Air Act Notice of Intent to Sue Pursuant to 42 U.S.C. §§ 7604(b)(2) and 7661d(b)(2) Over EPA's Failure to Respond to the Title V Petition to Object to the Platteville Natural Gas Processing Plant Title V Permit No. 02OPWE252

Administrator Zeldin:

On behalf of the Center for Biological Diversity ("Center") and its thousands of members who are harmed by air pollution in Colorado, I write to inform you that the Center intends to file suit against you for "a failure of the Administrator [of the United States Environmental Protection Agency ("EPA")] to perform any act or duty under this chapter which is not discretionary with the Administrator." 42 U.S.C. § 7604(a)(2). Specifically, under 42 U.S.C. § 7661d(b)(2), EPA has a non-discretionary duty to "grant or deny" petitions to object to Title V permits "within 60 days after the petition is filed." EPA failed to respond to the Center's Title V Petition to Object ("Petition") to Title V Permit No. 02OPWE252 issued by the Colorado Department of Public Health and Environment ("CDPHE") to DCP Operating Company, LP, ("DCP") for its Platteville Natural Gas Processing Plant ("Platteville Plant") within 60 days of the Center filing the Petition on February 18, 2025.

We intend to bring a lawsuit against you 60 days from the postmark date of this letter, or shortly thereafter, under Section 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2), for your failure to perform a non-discretionary duty outlined in 42 U.S.C. § 7661d(b)(2).

The Center 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. The Center has more than 93,000 members, many of whom are harmed by your failure to perform a mandatory duty under the Clean Air Act.

CDPHE is the agency responsible for issuing Title V operating permits in Colorado. CDPHE first issued a Title V permit to DCP for the Platteville Plant in 2007. On April 26, 2017,

DCP applied for an additional renewal of the permit. CDPHE first proposed to renew the permit on April 3, 2023. In response to a prior petition to object filed by the Center, EPA rejected parts of the proposed permit and sent the permit back to CDPHE.

As a result of EPA's order, CDPHE reopened the renewal permit and posted a revised draft permit for public comment on August 16, 2024. The Center submitted timely comments on the draft permit on September 13, 2024. CDPHE responded to the comments but did not redress the problems they identified and submitted the proposed permit to EPA for its 45-day review period. When this review period ended without EPA objecting, the Center timely submitted its Petition to EPA within 60 days of the close of EPA's 45-day review period—on February 18, 2025—as required by 42 U.S.C. § 7661d(b)(2). The Center's Petition raises issues regarding the federal and practical enforceability of the Platteville Plant permit's terms and conditions and whether the permit assures compliance with applicable requirements under the Clean Air Act.

The Clean Air Act provides: “The Administrator shall grant or deny such [Title V] petition within 60 days after the petition is filed.” 42 U.S.C. § 7661d(b)(2). Responding to Title V petitions within 60 days pursuant to 42 U.S.C. § 7661d(b)(2) is a non-discretionary duty under the Clean Air Act. The Center submitted the Petition for the Platteville Plant Title V permit to EPA on February 18, 2025, via the email address titlevpetitions@epa.gov, per EPA instruction.¹ EPA therefore had until April 21, 2025, to grant or deny the Petition. EPA neither granted nor denied the Petition by this date, nor has EPA done so as of the date of this letter. Therefore, EPA is in violation of 42 U.S.C. § 7661d(b)(2) by failing to perform its non-discretionary duty. “Any person” may commence a civil action against the Administrator for failing to perform a non-discretionary duty under the Act. 42 U.S.C. § 7604(a)(2).

As required by 40 C.F.R. § 54.3, the full name and address of the persons providing this notice are:

Center for Biological Diversity
1536 Wynkoop St., Ste. 421
Denver, CO 80202

However, please direct all correspondence and communications regarding this matter to the undersigned counsel using the contact information below.

Please contact the undersigned if you would like to discuss this matter. If we do not hear from you within 60 days, we will be forced to assume that you are not interested in settling this matter and will file our complaint.

Sincerely,

/s/ Ryan Maher

¹ Normally petitions are submitted via the EPA's Central Document Exchange platform, but due to technical difficulties, the EPA has directed people to submit petitions to the email address, titlevpetitions@epa.gov.

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