

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

IN THE MATTER OF)	
)	
Clean Air Act Final Renewed Class I)	
Title V Operating Permit)	
)	
Issued to Bonanza Explorations, Inc.)	Title V Permit No. 99365
for the Copperstone Gold Mine)	
)	
Issued by the Arizona Department of)	
Environmental Quality)	
)	

**PETITION TO OBJECT TO FINAL CLASS I TITLE V OPERATING PERMIT
NO. 99365 FOR BONANZA EXPLORATIONS' COPPERSTONE GOLD MINE**

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 Class I Title V Operating Permit ("Title V Permit") issued by the Arizona Department of Environmental Quality ("ADEQ") authorizing Bonanza Explorations, Inc. ("Bonanza") to operate the Copperstone Gold Mine in La Paz County, Arizona. The final renewed Title V Permit and Technical Support Document ("TSD") are attached as Exhibits 1 and 2, respectively.

Petitioners request the EPA object on the basis that ADEQ failed to make its response to comments available prior to issuing the final renewed Title V Permit.

THE COPPERSTONE GOLD MINE

The Copperstone Gold Mine is an underground mining operation located in La Paz County in western Arizona that uses drilling, blasting, mucking, and backfill to extract gold ore. The mine utilizes cyanide leaching to recover gold and is subject to Clean Air Act National Emission Standards for Hazardous Air Pollutants due to emissions of mercury and other harmful pollutants. Sources of air pollution at the mine include crushers, gold processing equipment, generators, and more. Because the mine is subject to National Emission Standards for Hazardous Air Pollutants at 40 C.F.R. Part 63, Subpart EEEEEEE, the mine is subject to Title V permitting requirements.

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

ADEQ provided public notice of the draft renewed Class I Title V Permit for the Copperstone Gold Mine and an opportunity for public comment on February 14, 2024. Petitioner submitted timely and significant comments on the draft Title V Permit on March 14, 2024. *See* Exhibit 3, Comments of the Center for Biological Diversity on the draft renewed Title V Permit for the Copperstone Gold Mine (March 14, 2024). Petitioner's comments included detailed technical comments regarding the adequacy of the draft renewed Title V Permit.

On June 3, 2025, ADEQ provided Petitioner with its response to comments and also provided notice of the issuance of the final renewed Class I Title V Permit. *See* Exhibit 4, E-mail from ADEQ transmitting response to comments and final permit; Exhibit 5, ADEQ, "Responsiveness Summary to Public Comments and Questions" (June 3, 2025). In subsequent correspondence, Petitioner learned that ADEQ submitted the proposed renewed Title V Permit to EPA for the agency's 45-day review on February 21, 2025. During this 45-day period, EPA did not object to the issuance of the renewed Title V Permit. 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. 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 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).

Public involvement in Title V permitting is paramount. To this end, permitting programs must provide for “public notice, including offering an opportunity for public comment and a hearing” on draft permits. 42 U.S.C. § 7661a(b)(6); *see also* 40 C.F.R. § 70.7(h). The permitting authority must “keep a record of the commenters and of the issues raised during the public participation process, as well as records of the written comments submitted during that process [] and such records shall be available to the public.” 40 C.F.R. § 70.7(h)(5). Permitting authorities must also “respond in writing to all significant comments raised during the public participation process[.]” 40 C.F.R. § 70.7(h)(6). If significant comments are received, the permitting authority must provide EPA “the written response to comments [] and an explanation of how those comments and the permitting authority’s responses are available to the public.” 40 C.F.R. § 70.8(a)(1).

A proposed Title V permit, as well the written response to comments and an explanation of how the written response to comments is available to the public, must be transmitted to EPA upon which the agency has 45 days to object if the proposed permit is not in compliance with applicable requirements or requirements under Title V. If the EPA does not object, 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.”). Additionally, failure of the permitting authority to comply with federal Title V permitting rules at 40 C.F.R. § 70.8(a) or to process a permit consistent with 40 C.F.R. § 70.7(h) “shall constitute grounds for an objection.” 40 C.F.R. § 70.8(c)(3)(i) and (iii).

GROUND FOR OBJECTION

For the reasons set forth below, the Administrator must object to the issuance of the Title V Permit for the Copperstone Gold Mine.

I. ADEQ Did Not Make its Response to Comments Available to the Public Prior to Issuing the Title V Permit

Although ADEQ responded to the Center's significant comments on the draft Title V Permit, the agency did not make the final response to comments available to the public as required prior to issuing the proposed and final Title V Permit.¹

On June 3, 2025, the Center received an e-mail from ADEQ transmitting the agency's response to comments, as well as the final Title V Permit and TSD, all of which were dated June 3, 2025. *See* Exhibit 4. Having not previously received a final response to comments or received notice that the proposed Title V Permit was submitted to EPA for review, the Center inquired on the same day, "Could you let me know when ADEQ submitted the proposed Class I permit to EPA for the agency's 45-day review?" Exhibit 6, E-mail chain between the Center for Biological Diversity and ADEQ.

ADEQ subsequently answered, "After the public comment period, it was submitted to EPA review for the second time on 02/21/2025."² Exhibit 6. In response, the Center asked, "[C]an you send me the response to comments that were sent to EPA on 2/21/2025?" *Id.* On June 4, ADEQ responded, "Please refer to the responsiveness summary attached to the first email sent to you yesterday." *Id.* Confused, the Center inquired as to whether it had missed an e-mail from ADEQ transmitting the final response to comments on February 21, 2025. ADEQ clarified that while a response to comments was submitted to the EPA on February 21, 2025, it was not sent to the Center or otherwise made available to the public at that time. ADEQ stated, "No, we did not send the responsiveness summary to the commenters on 2/21/2025, since this is a renewal permit but not a new permit." *Id.*

When transmitting a proposed Title V permit to EPA for the agency's 45-day review, permitting authorities must not only provide a written response to all significant comments, but must also provide "an explanation of how those public comments and the permitting authority's responses are available to the public." 40 C.F.R. 70.8(a)(1); *see also* 40 C.F.R. § 70.8(c)(1) (noting that EPA's 45-day review is based on receipt of the proposed permit and supporting information required by 40 C.F.R. § 70.8(a)(1) and 40 C.F.R. § 70.7(h)(5) (requiring that permitting authorities make their response to comments available to the public). Accordingly, a final Title V Permit may only be issued by a permitting authority if the EPA has received a copy of the proposed permit and the information required under 40 C.F.R. § 70.8(a) and if the final response to comments has been made available to the public. *See* 40 C.F.R. § 70.7(a)(1)(v).

Here, while ADEQ apparently provided EPA with a response to comments when transmitting the proposed Title V Permit on February 21, 2025, the response was not provided to

¹ The grounds for raising this objection arose after the close of the public comment period. The EPA therefore has a duty to review the Center's petition on this issue pursuant to 40 C.F.R. § 70.8(d).

² The draft Title V Permit was originally submitted to EPA for concurrent review on February 2, 2024. However, in accordance with 40 C.F.R. § 70.8(a)(1)(ii), due to the timely receipt of the Center's significant comments, ADEQ was required to respond to public comments and resubmit the proposed permit and supporting materials required by 40 C.F.R. § 70.8(a)(1). According to ADEQ, the proposed permit was resubmitted on February 21, 2025.

the Center or otherwise made available to the public by ADEQ. By ADEQ's own admission, the response to comments was intentionally not sent to the Center on February 21, 2025. The final response to comments was only sent on June 3, 2025, after the final Title V Permit was issued and only three days before the 60-day Title V petition deadline.³ Thus, in issuing the proposed and ultimately final Title V Permit, ADEQ failed to comply with the requirements of 40 C.F.R. §§ 70.7 and 70.8.

In e-mail correspondence to the Center, ADEQ appears to believe that it was not required to make the response to comments available prior to issuance of the Title V Permit because it was a "renewal permit" and not a "new permit." This is an unsupported and irrelevant distinction. Title V regulations are clear that the issuance of Title V permit renewals are subject to the same requirements as the issuance of initial (i.e., new) Title V permits. *See* 40 C.F.R. § 70.7(a)(1); *see also* 42 U.S.C. § 7661a(b)(6) (requiring that procedures for the review of permits apply to all permit actions, including "renewals").

The EPA has definitively held that the failure to make a response to comments available to the public prior to the issuance of a Title V permit is contrary to Title V regulations and grounds for an objection. In a recent permit proceeding in Utah, the EPA objected to the issuance of a Title V permit on the basis that the permitting authority failed to make its response to comments available to the public when issuing a proposed Title V permit, contrary to 40 C.F.R. § 70.7(h)(5) and 70.8(a)(1). *See In the Matter of Kinder Morgan Altamont, LLC*, Order on Petition No. VIII-2024-23 (May 30, 2025). In a virtually identical proceeding, the permitting authority provided a response to comments to the EPA, but did not make the response available to the public. The EPA not only ordered the permitting authority to "make the RTC [response to comments] available to the public," but also to "re-submit the proposed permit package (including the required explanation concerning the public availability of the comments and RTC) to the EPA for a new 45-day review period, followed by a new 60-day petition period[.]" *Id.* at 8.

ADEQ's failure to make its final response to comments available prior to the issuance of the proposed and final Title V Permit means that the agency has deprived both the EPA and the public, including the Center, of the ability of effectively review the Title V Permit and ensure it complies with the Clean Air Act. In the EPA's case, the agency was not provided with a final response to comments, but rather a draft response that could not allow the agency to effectively review the proposed Title V Permit to assure compliance under the Clean Air Act. In the

³ The response to comments transmitted to the EPA on February 21, 2025 appears to have been posted at some point to EPA's Permit Hub website, <https://permitsearch.epa.gov/oms-permit-hub/permit/6ad1067c-e140-f011-b4cb-001dd808d1c9>. However, this response to comments was explicitly titled a "draft" with "date pending" and was not the final response to comments. Further, it is unclear when the response was actually posted by the EPA to its website. Regardless, even if EPA ultimately posted ADEQ's draft response to comments, this is not a substitute for ADEQ's independent duty to ensure that responses to public comments are made available to the public when submitting proposed Title V permits to the EPA. Here, ADEQ did not inform the Center or the public that it had responded to comments on February 21, 2025 or that the response, albeit draft, was available at any particular location or would be available at any particular location. Even if EPA at some point posted the draft response to comments to its website, ADEQ itself clearly did not make any response to comments available to the Center or the public prior to submitting the proposed Title V permit to EPA for review.

Center's case, the final response to comments came three days before the 60-day Title V petition deadline, effectively preventing the Center from scrutinizing the response to comments and fulfilling its right to raise substantive issues in a petition requesting the EPA object to the issuance of the Title V Permit pursuant to 42 U.S.C. § 7661d(b)(2).

ADEQ was required to make its written response to comments available to the public when submitting the proposed Title V Permit to EPA for review and prior to issuance of the final Title V Permit. *See* 40 C.F.R. §§ 70.7(h)(5) and 70.8(a)(1). In response to Petitioner's timely and significant comments on the draft Title V Permit, ADEQ did not make its response to comments available to the public. Accordingly, the Administrator must object to the issuance of the renewed Title V Permit for the Copperstone Gold Mine.

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 Copperstone Gold Mine in La Paz County. As this Petition demonstrates, ADEQ failed to respond to make its final response to comments available to the public prior to issuing the proposed and final Title V Permit. Accordingly, ADEQ failed to comply with 40 C.F.R. § 70.7 and 40 C.F.R. § 70.8, which constitutes grounds for an objection pursuant to 40 C.F.R. § 70.8(c)(3). Accordingly, Petitioner requests the Administrator object to the Title V Permit.

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Respectfully submitted,



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cc (per 40 C.F.R. § 70.8(d) and A.A.C. R18-2-307(E)):

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TABLE OF EXHIBITS

1. Final Title V Permit for Copperstone Gold Mine (June 3, 2024)
2. Final Title V Permit Technical Support Document for Copperstone Gold Mine (June 3, 2024)
3. Comments from Center for Biological Diversity on Draft Title V Permit (March 14, 2024)
4. E-mail from ADEQ transmitting response to comments and Final Title V Permit
5. ADEQ Response to Comments on Draft Title V Permit (June 3, 2025)
6. E-mail thread between ADEQ and the Center