



Environmental and Animal Defense

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July 1, 2025

BY CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Lee Zeldin, Administrator
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Clean Air Act Notice of Intent to Sue Pursuant to 42 U.S.C. §§ 7604(b)(2) and 7661(b)(2) Over Failure to Respond to Clean Air Act Title V Petition Over Rocky Mountain Midstream LLC's Auburn Compressor Station, Weld County, CO, Title V Permit No. 21OPWE433

Administrator Zeldin:

Please be advised that we represent the Center for Biological Diversity, which intends to sue you and the United States Environmental Protection Agency (“EPA”) for your failure “to perform any act or duty under this chapter which is not discretionary. . .” 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. 21OPWE433 issued by the Colorado Department of Public Health and Environment (“CDPHE”) to Rocky Mountain Midstream, LLC (“Rocky Mountain Midstream”) for its Auburn Compressor Station within 60 days of the Center filing the Petition on April 24, 2025.



501 S. Cherry Street, Suite 1100
Denver, CO 80246

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 set forth in 42 U.S.C. § 7661d(b)(2).

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. 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. The Center submitted comments on the draft Auburn Compressor Station Title V Permit on March 29, 2024. CDPHE responded to the Center's comments on January 8, 2025. The proposed permit was thereafter submitted to EPA for the agency's 45-day review. EPA did not object to the proposed permit. CDPHE issued a Title V permit to Rocky Mountain Midstream for the Auburn Compressor Station on March 1, 2025.

The Center timely submitted its Petition to EPA within 60 days of the close of EPA's 45-day review period, on April 24, 2025, as required by 42 U.S.C. § 7661d(b)(2). The Center's Petition raises issues regarding the permit's failure to assure compliance with applicable requirements, such as failing to set forth sufficient monitoring to assure compliance with limits applicable to the flare controlling emissions from the dehydrators and tanks.

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 Auburn Station on April 24, 2025 via the email address titlevpetitions@epa.gov, per EPA instruction.¹ EPA therefore had until June 23, 2025, to grant or deny the Title V petition. EPA neither granted nor denied the Title V petition by this date and/or by 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.

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.

“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, you are hereby notified that the full names and addresses 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/ Alexa McKay

Alexa McKay

Environmental and Animal Defense

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s/ Jeremy McKay

Jeremy McKay

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Counsel for Center for Biological Diversity
