BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF	)	
	)	
Clean Air Act Final Modification to Title V Operating Permit	)	
	)	
Issued to Holly Energy Partners—Operating, L.P., Denver Products Terminal, Adams County, Colorado	)	Title V Permit No. 96OPAD172
	)	
Issued by the Colorado Department of Public Health and Environment, Air Pollution Control Division	)	
	)	

PETITION TO OBJECT TO FINAL MODIFICATION TO TITLE V OPERATING PERMIT NO. 96OPAD172 FOR HOLLY ENERGY PARTNERS—OPERATING, L.P.'S DENVER PRODUCTS TERMINAL

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 significant modification to the Title V Operating Permit ("Title V Permit") issued by the Colorado Department of Public Health and Environment's Air Pollution Control Division ("Division") authorizing Holly Energy Partners—Operating, L.P. (hereafter "Holly") to operate the Denver Products Terminal (hereafter "Denver Terminal") located in Adams County, Colorado. The Title V Permit authorized Holly to substantially increase gasoline throughput at the Denver Terminal.

Petitioners request the EPA Administrator object on the basis that the Title V Permit fails to require sufficient periodic monitoring in accordance with Title V requirements.

The Division's final modified Title V Permit and associated Technical Review Document ("TRD") were issued May 29, 2025 and are attached as Exhibits 1 and 2, respectively.

THE DENVER PRODUCTS TERMINAL

The Denver Products Terminal is a bulk petroleum products storage and handling terminal located northeast of Denver. The facility receives and distributes large amounts of gasoline, diesel fuel oil, ethanol, and other petroleum liquids via tank truck and railcar loading

and unloading. The primary sources of air pollution at the facility include 17 storage tanks, truck and rail loading and unloading, leaking equipment, and a facility flare.

The Denver Terminal is a large source of volatile organic compound ("VOC"), nitrogen oxide ("NO_x"), and carbon monoxide ("CO") pollution. Most emissions are tied to the operation of an enclosed vapor combustion unit (i.e., a flare), which is used to combust VOC vapors that are captured during truck and rail loading and unloading. Vapors are routed to one of the storage tanks, which then routes waste vapors to the enclosed vapor combustion unit. Below are pictures illustrating the location of the flare, its high visibility, and large size. Combustion of these gases has the potential to emit 15.5 tons of NO_x and 38.7 tons of CO annually. It is assumed the flare, through combustion, will break down and reduce potential VOC emissions by at least 95%. Without the flare, the facility would have the potential to emit 2,140 tons of VOCs annually. With the flare, Holly asserts the facility's overall potential to emit would be 162 tons of VOCs annually. In addition to flare emissions, the facility's tanks regularly emit uncontrolled VOCs as petroleum products release vapors through leaks, maintenance, and other losses.

The enclosed flare is located on the southern end of the Denver Products Terminal. Combustion can be seen via satellites.

All air pollutants released at the Denver Terminal present risks to environmental health and welfare. NO_x emissions, which are a byproduct of combustion, 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 Sept. 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 Sept. 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 June 26, 2025).

The Denver Terminal is located in the Denver Metro/North Front Range severe ozone nonattainment area. Due to nearly 20 years of ongoing violations of national ambient air quality standards ("NAAQS") for ground-level ozone, this nine-county region with a population of more than four million people has been classified a "severe" ozone nonattainment area. Emissions of NO_x and VOCs in the region, including from the Denver Terminal, directly contribute to high ozone levels and unhealthy air quality in the region.

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

On March 3, 2025, the Division provided public notice and an opportunity to comment on a draft significant modification to the Title V Permit for the Denver Products Terminal. On April 24, 2025, the Division held a public hearing to accept verbal comments on the draft Title V Permit. On April 24, 2025, the Center and many other organizations both submitted written comments on the draft Title V Permit and provided verbal comments at the public hearing. *See* Exhibit 3, Center for Biological Diversity, *et al*. Comments on Draft Modified Title V Permit (April 24, 2025). After the comment period was extended, the Center and other organizations submitted follow up written comments on the draft Title V Permit. Exhibit 4, Center for Biological Diversity, *et al*. Supplemental Comments on Draft Modified Title V Permit (May 1, 2025).

The Division responded to both the Center's written and verbal comments on May 19, 2025. *See* Exhibits 5 and 6, Colorado Air Pollution Control Division, "Response to Comments on Draft Significant Modification to the Title V Operating Permit" (May 19, 2025) and "Response to General Comments on the Draft Title. V Significant Modification" (May 19, 2025). The permit was subsequently submitted to EPA for the agency's 45-day review. The EPA did not object to the Title V Permit. The Division issued the final significant modification of the Title V Permit on May 29, 2025.

According to EPA Region 8's Title V Operating Permit Public Petition Deadlines website, the 60-day deadline to file a petition to object is September 2, 2025. *See* EPA Region 8, "Title V Operating Permit Public Petition Deadlines in Region 8," website available at https://www.epa.gov/caa-permitting/title-v-operating-permit-public-petition-deadlines-region-8 (last accessed Sept. 2, 2025). Pursuant to 42 U.S.C. § 7661d(b)(2), this petition is thus 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 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 and fail to satisfy the Administrator's 2025 objection to the initial Title V Permit.

I. The Title V Permit Fails to Assure Compliance with Title V Monitoring Requirements

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 Denver Terminal fails to require sufficient monitoring to assure compliance with the applicable flare control efficiency requirements, as well as applicable VOC, NO_x, and CO limits established at Section II, Condition 2 of the Title V Permit.[1] As discussed above, the flare, or vapor combustion unit, used to control high amounts of VOC pollution at the Denver Products Terminal, releasing NOx, CO, and VOCs in the process.[2] As the Title V Permit indicates, the flare is presumed to achieve a 95% VOC control efficiency. *See* Title V Permit at Section II, Condition 2.2.1. If the flare does not operate consistent with this presumed control efficiency, potential VOC emissions, as well as NO_x and CO, could be out of compliance.

In comments, the Center detailed concerns over inadequate monitoring of flare emissions and the failure of the draft Title V Permit to set forth sufficient monitoring to assure compliance, including sufficiently frequent monitoring. *See* Exhibit 3, Center Comments, Technical Comments at 8-14 and Exhibit 4, Center Supplemental Comments at 1-3. The Center flagged that the draft Title V Permit failed to require any periodic testing of NO_x and CO emissions to verify emission factors and compliance with applicable annual limits, and failed to require any periodic testing of VOCs and VOC destruction efficiency to assure compliance with applicable limits. 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 these concerns, the Division added initial and ongoing federally enforceable performance testing for the VCU to the Operating Permit at Section II, Condition 2.12." Exhibit 5, Division Response to Comments at Unnumbered p. 5. 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.

At issue is that while the Title V Permit now requires testing of the flare, it only requires testing once within 180 days of permit issuance and once every 60 months (five years) thereafter. *See* Title V Permit at Section II, Condition 2.12. Testing once every five years does not assure ongoing compliance with applicable annual limits and it is unclear how the Division determined

[1] The applicable VOC, NO_x, and CO limits apply facility-wide, although the flare is the only source of NO_x and CO at the Denver Terminal and has the potential to emit the majority of VOC emissions.

[2] The flare specifically combusts vapors from Tank 1 (Emission Unit 1), Tank 14 (Emission Unit 14), and tank truck loading/unloading (Emission Unit 15). *See* Title V Permit at Section I, Table 6.1.

such an extended frequency represented sufficient periodic monitoring that complied with Title V requirements. Neither the Division's response to comments nor the TRD directly or explicitly explain why a once-every-five-year testing frequency was appropriate for the Denver Terminal.

The EPA has made clear that permitting authorities must provide a rationale for selected monitoring for a specific source. *See In the Matter of CITGO Refining and Chemicals Company, L.P.*, Order on Petition No. VI-2007-01 (May 28, 2009) at 7-8 ("*CITGO Order*"). The EPA has explicitly described the five source-specific 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. Moreover, the "rationale for the selected monitoring requirements must be clear and documented in the permit record." *In the Matter of United States Steel, Granite City Works*, Order on Petition No. V-2009-03 (Jan. 31, 2011) at 7-8. As EPA has noted, the extent of monitoring necessary is a case and context-specific determination, and "the more variable or less well-understood the emissions the less likely that a single stack test will reflect the operating conditions (and emissions) between stack tests, and the greater the need for more frequent stack testing or parametric monitoring between stack tests." *In the Matter of BP Products North America*, order on Petition No. V-2021-9, at 20 (Mar. 4, 2022) ("BP Order").

In response to comments, the Division appears to imply that testing once every five years is appropriate due to purported "continuous parametric monitoring" required by the Title V Permit. Exhibit 5, Division Response to Comments at Unnumbered p. 6. The Division cites a handful of prior EPA Title V petition orders and appears to imply that they support a determination that, "the initial and ongoing testing along with the continuous monitoring assures compliance with the CO, NOx, and VOC emissions rates." *Id*. These orders, however, do not speak to the case-specific facts at hand with the Denver Terminal and do not support the Division's implication. They certainly do not provide any source-specific rationale for the selected monitoring consistent with the EPA's *CITGO Order*.

In its response, the Division appears to rely on three specific EPA orders. *See* Exhibit 5, Division Response to Comments at Unnumbered Page 6. These orders include the following: *In the Matter of CF Industries East Point, LLC, Waggaman Complex*, Order on Petition No. VI-2024-II (June 25, 2024) "*Waggaman Complex Order*"); *In the Matter of Public Service Company of Colorado, Pawnee Station*, (Order on Petition VIII.2010-XX (June 30, 2011) ("*Pawnee Station Order*"); and *In the Matter of Public Service of New Hampshire, Schiller Station,* Order on Petition VI-2014-04 (July 28, 2015) ("*Schiller Station Order*"). None of these orders provide any specific insight as to how or why the Division determined it was appropriate to require testing of the enclosed combustion device only once every five years at the Denver Terminal.

In the *Waggaman Complex Order*, petitioners challenged a Title V permit over the frequency of performance testing in relation to particulate matter emissions from a natural gas-fired cogeneration boiler at an ammonia production facility in Louisiana. In rejecting the petitioners' arguments, the EPA noted the cogeneration boiler could only utilize "sweet natural gas" as fuel, was required to conduct periodic tune-ups in accordance with 40 C.F.R. § 63, Subpart DDDDD, and that particulate matter emissions from natural gas combustion are "typically low." *Waggaman Complex Order* at 8-9. Given that the issue at the Denver Terminal does not involve a cogeneration boiler and does not involve particulate matter emissions related to natural gas combustion, it is unclear how this order is relevant. This is especially true given that the Title V Permit does not contain any fuel composition limitations for the vapor combustion unit at the Denver Terminal and does not require any periodic "tune-up" requirements for the facility's enclosed combustion devices.

In the *Pawnee Station Order*, petitioners challenged a Title V permit over the frequency of performance testing in relation to particulate matter emissions from a baghouse controlling emissions from a coal-fired boiler. That Title V permit required annual testing of particulate matter emissions, although the permit allowed for once-every-five-year testing if the test results found that emissions were equal to or less than 50% of the applicable particulate matter limit. *Pawnee Station Order* at 10-11. While the EPA did not speak directly to the frequency of testing, the EPA ultimately held that, in conjunction with quantitative continuous opacity monitoring serving as an indicator of compliance, the testing requirements were sufficient to assure compliance. *See id*. at 12-13. Here, the Title V Permit for the Denver Terminal does not involve a coal-fired boiler, the operation of a baghouse, or particulate matter emissions. Further, the Title V Permit does not require annual testing of flare emissions or set forth a testing framework that allows for less frequent testing only if results are equal to or less than 50% of applicable limits. Additionally, and as will be addressed in more detail further in this Petition, the Title V Permit does not set forth any quantitative continuous monitoring that indicates compliance with applicable limits similar to the way continuous quantitative opacity monitoring may indicate compliance with particulate matter limits at a coal-fired boiler utilizing a baghouse.

Finally, in the *Schiller Station Order*, petitioners challenged a Title V permit over the frequency of performance testing in relation to particulate matter emissions from a coal-fired boiler utilizing an electrostatic precipitator to control emissions. Again, the EPA found that once-every-five-year testing of particulate matter emissions was appropriate in light of the permit's reliance on quantitative continuous secondary voltage monitoring as an indicator of compliance with particulate matter limits. *See Schiller Station Order* at 14-16. Here, the Title V Permit for the Denver Terminal does not involve a coal-fired boiler, the operation of an electrostatic precipitator, or particulate matter emissions. Additionally, and as will be addressed in more detail further in this Petition, the Title V Permit does not set forth any quantitative continuous monitoring that indicates compliance with applicable limits similar to the way continuous quantitative secondary voltage monitoring may indicate compliance with particulate matter limits at a coal-fired boiler utilizing an electrostatic precipitator.

Although the *Waggaman Complex*, *Pawnee Station*, and *Schiller Station Orders* dealt with vastly different sources of air pollution, equipment and operating scenarios, and emissions than those at issue with the Denver Terminal, the Division appears to believe these Orders are on

point due to the fact that EPA generally upheld the frequency of performance testing on the basis that there was also sufficient complementary parametric and/or compliance assurance monitoring. The Division specifically cites the *Pawnee Station Order* in which the EPA upheld a "three-pronged approach" to assuring compliance at a specific coal-fired boiler, one that relied upon performance testing, parametric monitoring, and a federally enforceable compliance assurance monitoring ("CAM") plan. Exhibit 5, Division Response to Comments at unnumbered p. 6. However, the Division's implied attempt to bootstrap the EPA's source-specific holdings in the *Pawnee Station Order*, as well as the *Waggaman Complex* and *Schiller Station Orders*, with the Denver Terminal is misplaced.

For one, unlike the monitoring requirements at issue in the *Waggaman Complex*, *Pawnee Station*, and *Schiller Station Orders*, the Title V Permit does not set forth parametric and compliance assurance monitoring that indicates compliance with quantitative limits applicable to the flare, in particular flare control efficiency.

Here, the Division appears to believe that, although testing may occur once every five years at the Denver Terminal, that parametric and compliance assurance monitoring will assure compliance between tests. For this logic to be correct, the Division would have to demonstrate that the parametric and compliance assurance monitoring indeed yields reliable data that is representative of Holly's compliance with applicable quantitative limits in between tests. No such demonstration was made.

In response to the Center's comments, the Division pointed to what it asserts to be "continuous monitoring [] including, but not limited to: visible emissions and pilot light" as providing adequate parametric monitoring to assure compliance. Exhibit 5, Division Response to Comments at unnumbered p. 5. However, as the Center commented extensively, the parametric monitoring required by the Title V Permit does not yield data that is representative of compliance.

Condition 2.5.2 of the Title V Permit requires that the presence of a pilot flame be continuously monitored as required by the compliance assurance monitoring requirements of Condition 2.11 and the compliance assurance monitoring plan in Appendix G. However, there is no information or analysis presented that indicates the mere presence of pilot light equates to effective control of VOC emissions. As the Center documented in detail in its comments, the mere presence of a pilot light does not automatically equate to a 95% VOC control efficiency or compliance with applicable annual limits. *See* Exhibit 3, Center Comments, Technical Comments at 10-12. Although testing once every five years could confirm a link between the presence of a pilot flame and compliance at the time of the infrequent test, this would not demonstrate that the mere presence of pilot flame equates to compliance at all times between testing.

Condition 2.5.3 requires visible emissions observations according to Condition 2.6. However, as the Center commented, although Conditions 2.6 requires visible emission monitoring to assure compliance with applicable opacity limits, the Condition is not clear that the presence of visible emissions constitutes a violation of the 95% control efficiency requirement and the applicable VOC limits. Regardless, there is no clear relationship between

the presence or absence of visible emissions and the VOC control efficiency of the enclosed vapor combustion unit and compliance with applicable limits. Neither the Division's response to comments nor the TRD explain how visible emissions specifically relate to VOC control efficiency and compliance with applicable limits, including applicable NO_x and CO limits.

In the *Pawnee Station* and *Schiller Station Orders*, there was clear quantitative parametric monitoring (opacity and secondary voltage) that was analytically linked to compliance with applicable particulate matter limits that the EPA found justified less frequent testing. Here, there is no information or analysis demonstrating that the parametric monitoring of the flare required by Section II, Conditions 2.5.2 and 2.5.3 yields data that reliably indicates compliance with the applicable control efficiency and applicable VOC, NO_x, and CO emission limits. The monitoring certainly yields data as to whether the flare is operating and perhaps malfunctioning or not, but there is no demonstrated relationship between the qualitative parametric monitoring set forth in the Title V Permit and compliance with the quantitative limits applicable to the flare at the Denver Terminal.

The Administrator recently objected to a Title V permit over the failure of the permitting authority to set forth sufficiently frequent testing in light of inadequate parametric monitoring. In *In the Matter of Inter Power Ahlcon Partners LP, Colver Power Plant*, the Administrator objected to a permit that attempted to rely on oxygen and carbon dioxide monitoring to demonstrate compliance with hourly VOC limits at power plant. The Administrator held the permit record failed to "establish a relationship between [oxygen and carbon dioxide] and compliance with the hourly VOC emission limit." *See In the Matter of Inter Power Ahlcon Partners LP, Colver Power Plant*, Order on Petition No. II-2020-13 (June 7, 2022) at 10 ("*Colver Power Plant Order*"). Although the permit required VOC testing every two years, the Administrator held that, taken together with a lack of sufficient parametric monitoring between testing, the record did not support this testing frequency.

Similarly, there is no relationship between the parametric monitoring set forth in the Title V Permit and compliance with the limits applicable to the flare at the Denver Terminal. Although the Division asserts the combination of performance testing and parametric monitoring assures compliance, this could only be true if the parametric monitoring yielded reliable data representative of the source's compliance. It does not. Taken together, the Title V Permit does not set forth sufficient periodic monitoring that assures the enclosed vapor combustion unit operating at the Denver Terminal complies with applicable limits. At a minimum, the Division's rationale and the permit record does not support the assertion that testing once every five years is sufficient to assure compliance.

The need to ensure adequate and more frequent testing and monitoring of the flare is reflected in the Division's own policies and in other permits.

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 control 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 7, 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 enclosed combustion devices whenever a permittee requests a VOC control efficiency greater than 95%. *See* Exhibit 8, 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. The Division did not respond to the Center's comments on these specific issues and did not provide any rationale for requiring annual or more frequent testing only when a permittee is required to comply with a control efficiency greater than 95%.

The need for more frequent testing of the flare is underscored by the EPA's *CITGO Order* and the Division's own rationale in writing the Title V Permit. For one, emissions from the flare at the Denver Terminal will be highly variable. The Division itself notes that the Title V Permit was written in such a way as to provide operational flexibility for Holly to process petroleum products of varying compositions and potential emissions. In response to the Center's comments as to why the draft Title V Permit did not establish additional operational limits to ensure compliance with the applicable facility-wide annual VOC limit, the Division pointed to EPA guidance regarding surface coating operations and noted that "both facilities need operational flexibility to process different material." Exhibit 5, Division Response to Comments at unnumbered p. 3. In light of this, the Division reasoned that operational limits were not necessary and that frequent monitoring of operational parameters, such petroleum product stored, Reid vapor pressure, and throughput would assure compliance with the applicable annual VOC limit. *See id*. The Division determined that monthly monitoring, not monitoring annually or once-every-five years, was necessary to assure compliance.

The need for more frequent testing of the enclosed vapor combustion unit at the Denver Terminal is further underscored by the potential for violations that could result if the flare is operating inefficiently. Because the amount of VOC emissions controlled by the facility's flare is very large (potential VOC emissions from the flare account for more than half of all facility-wide potential VOCs), if flare control efficiency is even slightly lower than 95%, potential emissions could be significant and compliance issues immediate. As the table below shows, if the flare is performing at only 90%, as opposed to 95%, potential emissions would double, very likely violating the applicable facility-wide VOC limit, bringing the entire Denver Terminal out of compliance. Additionally given that the Denver Terminal is located in the Denver Metro/North Front Range severe ozone nonattainment area, emissions could easily exceed nonattainment new source review permitting thresholds set forth under the Clean Air Act and the Colorado SIP. *See* AQCC Regulation No. 3, Part D.

Potential VOC Emissions (in tons per year) Based on Enclosed Combustion Device Control Efficiency (CE)[3]

Unit	Uncontrolled VOCs – 0% CE	95% CE	93% CE	90% CE
Tank 1	2.69	0.1345	0.1833	0.255
Tank 14	7.55	0.3775	0.5285	0.755
Tank Truck Loading/Unloading	1,125	56.25	78.75	112.5
TOTALS	1,135.24	56.762	79.2618	113.51

The Administrator must object to the issuance of the Title V Permit for the Denver Terminal over the failure of the permit to assure adequate monitoring of the enclosed vapor combustion unit used to control emissions at the facility. The Title V Permit does not meet the Administrator's previous objection to the initial Title V Permit and fails to assure sufficient periodic monitoring consistent with Title V and Title V regulations. Although the Division required once-every-five-year performance testing to verify compliance with applicable limits, including the applicable 95% control efficiency, there is no support for the conclusion that once-every-five-year testing is sufficiently frequently enough to assure compliance with the applicable 95% VOC destruction efficiency and annual VOC, NO_x, CO, limits, which apply on a continuous basis.

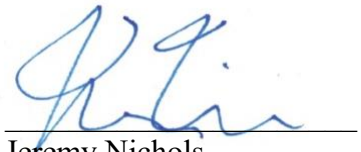
[3] Emissions based on Annual Pollutant Emission Notices submitted by Holly as part of its Title V Permit modification application. *See* Exhibit 9, Holly Permit Modification Application (Feb. 22, 2024) at Attachment B.

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 Denver Terminal in Adams County, Colorado. As this Petition demonstrates, the Title V Permit fails to assure compliance with applicable requirements. The Title V Permit does not set forth sufficient monitoring to assure compliance with limits applicable to the vapor combustion unit controlling emissions at the facility. Accordingly, the Center requests the Administrator object to the Title V Permit and require the Division to revise and reissue the Title V Permit in a manner that complies with the requirements of the Clean Air Act.

DATED: September 2, 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 Significant Modification to Title V Permit
2. Final Technical Review Document
3. Center for Biological Diversity Comments on Draft Title V Permit (April 24, 2025)
4. Center for Biological Diversity Supplemental Comments on Draft Title V Permit (May 1, 2025)
5. Colorado Air Pollution Control Division, "Response to Comments on Draft Significant Modification to the Title V Operating Permit" (May 19, 2025)
6. Colorado Air Pollution Control Division, "Response to General Comments on the Draft Title. V Significant Modification" (May 19, 2025
7. Air Pollution Control Division Colorado Operating Permit, D90 Energy, LLC—Bighorn 0780 S17 CTB Facility, Permit No. 17OPJA401 (Jan. 1, 2020)
8. 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)
9. Holly Permit Modification Application (Feb. 22, 2024)