



CENTER FOR BIOLOGICAL DIVERSITY

June 5, 2026

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: Notice of Intent to Sue Over Failure to Respond to Clean Air Act Title V Petition Over Aluminum Dynamics, Inc.'s Aluminum Processing Plant in the Town of Benson, Arizona in Cochise County

Dear Administrator Zeldin,

The Center for Biological Diversity intends to sue you and the Environmental Protection Agency ("EPA") for your failure to respond within 60 days to the petition to object to the Clean Air Act Title V Operating Permit issued by the Arizona Department of Environmental Quality ("ADEQ") authorizing Aluminum Dynamics, Inc. to construct and operate a new aluminum processing facility in Benson, Arizona in Cochise County.

We intend to bring a suit 60 days from the date of this letter, or shortly thereafter, under section 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2), against you for your failure to perform a non-discretionary duty outlined 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 89,000 members, many of whom are harmed by your failure to perform a mandatory duty under the Clean Air Act.

ADEQ is the agency responsible for issuing Title V operating permits in Arizona. ADEQ issued a draft Title V operating permit for Aluminum Dynamics, Inc. on July 16, 2025 and granted the public thirty days to comment on the draft permit. The Center submitted timely objections on the draft permit. On December 17, 2025, ADEQ responded to the Center's comments and forwarded a proposed permit to the EPA for review. The EPA did not object to the issuance of a final permit during its 45-day review period. Pursuant to 42 U.S.C. § 7661d(b)(2), the Center for Biological Diversity timely

submitted a petition to the Administrator of the EPA to object to the Aluminum Dynamics, Inc. Title V Permit on April 3, 2026. The petition raised issues regarding the adequacy of air pollution monitoring, enforceability of permit terms, and whether the permit assured compliance with applicable requirements under the Clean Air Act.

The Clean Air Act, at 42 U.S.C. § 7661d(b)(2), provides that “the administrator shall grant or deny such [Title V] petition within 60 days after the petition is filed.” Responding to Title V petitions pursuant to 42 U.S.C. § 7661d(b)(2) is a non-discretionary duty under the Clean Air Act. The Aluminum Dynamics, Inc. Title V petition was filed April 3, 2026, via the email address titlevpetitions@epa.gov. EPA therefore had until June 2, 2026 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 and therefore EPA is in violation of 42 U.S.C. § 7661d(b)(2). EPA is responsible for the violation of this non-discretionary duty by not responding to the Center for Biological Diversity’s petition within 60 days.

In keeping with the requirements of federal regulations, you are hereby notified that the full names and addresses of the persons providing this notice are:

Center for Biological Diversity
378 North Main Ave
Tucson, AZ 85701

If you wish to discuss this matter, please contact me at the information below.

Sincerely,



Jeremy Nichols
Senior Advocate
Center for Biological Diversity
(303) 437-7663
jnichols@biologicaldiversity.org