Title V/Clean Air Act: U.S. Environmental Protection Agency Order Denying Objection to Weld County, Colorado Oil and Natural Gas Production Facility

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04/21/2026

The United States Environmental Protection Agency ("EPA") issued a January 6th Order Denying a petition objecting to the issuance of a Clean Air Act Title V Operating Permit ("Permit") for Highpoint Operating Corporation ("Highpoint"). See Petition No. VIII-2025-29.

The relevant facility is designated the Anschutz Equus Farms facility in Weld County, Colorado.

The facility is described as an oil and gas natural gas production facility.

The federal Clean Air Act Title V program includes a provision that allows EPA To object to a Title V permit issued by a delegated state. In other words, Congress provided EPA a Clean Air Act oversight role while mandating that every Title V permit be subject to a 45-day review period before the Title V permit is finalized.

The EPA Administrator can object to a Title V permit at two points.

An objection may be made during the 45-day review period and in response to a public petition within 60 days after the end of the 45-day review period. Further, even if EPA fails to object to a proposed Title V permit, a right to petition the agency to reconsider its failure to object to the permit is potentially available. However, only those persons who have submitted comments to the draft permit during the applicable comment period have a right to petition.

The right to petition EPA arises at the close of the agency's 45-day review period.

The Center for Biological Diversity ("CBD") had filed a timely objection.

The facility is stated to be in an area classified as severe nonattainment for the 2008 8-hour ozone standard. Further, the facility is stated to separate mix-phase well production fluids and store natural gas condensate, crude oil, and produce water. Further, waste gasses from storage tanks and loadout units are stated to be routed to an enclosed combustion device. It is stated to be a major source of volatile organic compounds and nitrogen oxides.

The objections put forth by CBD include:

- The revised permit still fails to assure compliance with Title V monitoring requirements (arguing that the permit does not assure compliance with annual VOC, NOx, and CO emission limits, as well as 95% VOC control efficiency requirements applicable to storage tanks and truck loadout units at the facility, because testing requirements are too infrequent and parametric monitoring requirements do not supply the necessary data in between tests).

EPA denies this objection (stating that CBD never holistically considers the combined approach to compliance assurance and thereby fails to demonstrate that the permit overall does not assure compliance with the emission limits and VOC control efficiency requirements (noting that the concerns about testing frequency lacks any argument specific to the facility, units, or emissions at issue).

A copy of the EPA Order can be found here.