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Title V/Clean Air Act: U.S. Environmental Protection Agency Order Denying Objection to La Paz County, Arizona Gold Mine

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The United States Environmental Protection Agency ("EPA") issued a June 23rd Order denying a petition objecting to the issuance of a Clean Air Act Title V Operating Permit ("Permit") for the Bonanza Explorations, Inc., Copperstone Gold Mine ("Mine") in La Paz County, Arizona. See Petition No. IX-2025-26.

The Mine is described as an underground mining operation that uses drilling, blasting, mucking, and backfill to extract gold ore.

Emission units at the Mine are stated to include crushing, screening, and material handling operations, emergency generators, gold processing equipment, and various other operations. The Mine is subject to the National Emission Standards for Hazardous Air Pollutants ("NESHAP") under 40 C.F.R. part 63 subpart EEEEEEE.

The Title V Permit was issued by the Arizona Department of Environmental Quality ("ADEQ").

The Petition for Objection ("Petition") was submitted by the Center for Biological Diversity ("CBD").

The Federal Clean Air Act Title V Program includes a provision that allows the EPA to object to a Title V Permit issued by the delegated state. In other words, Congress provided the EPA and the Clean Air Act an oversight role while mandating that every Title V Permit be subject to a forty-five-day review period before the it is finalized.

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

An objection may be made during the forty-five-day review period and then respond to a public petition within sixty days after the end of the forty-five-day review period. Further, even if the 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 on the draft Permit during the applicable comment period have a right to petition.

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

CBD's Petition claims that ADEQ did not make its final response to comments available to the public as required prior to issuing the proposed and final Title V Permit. Specifically, CBD argues that while ADEQ responded to its significant comments on the draft permit for the Mine, the state 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. CBD further states that upon submittal of a proposed permit package to the EPA, permitting authorities must provide both a written response to all significant comments as well as an explanation of how those public comments and the permitting authority's responses are available to the public.

The response to comments were argued to have not been provided to CBD or otherwise made available to the public by ADEQ on the required date and only received them after the final Title V Permit was issued, and only three days before the 60-day Title V petition deadline. The organization is stated to acknowledge that the response to comments were posted at some point to the EPA's Permit Hub website, but contends that this does not absolve ADEQ of its "independent duty" to make the response to comments available to the Petitioner or the public prior to submitting the proposed permit to the EPA for review.

EPA denies CBD's request for an objection on the above-referenced claim.

The agency states that its regulations expressly require permitting agencies to respond in writing to all significant comments and to make these responses "available to the public," citing 40 C.F.R. § 70.7(h)(5). It further contends that the regulations do not explicitly prescribe the specific manner by which a response to comments must be made available to the public. Also cited is EPA's final 2020 rulemaking revising provisions of the title V permitting program, in which it states that the Agency was not requiring permitting authorities to provide notification that the proposed permit and the response to comments are available to the public within 30 days of sending the proposed permit to the Agency.

EPA notes that it has previously informed states that it makes response to comments available to the public in various ways, including, but not limited to, posting it to a publicly accessible electronic database or by retaining it in a permitting authority's public files and providing it to members of the public upon request.

A copy of the order can be found [here](#).