

**BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF)	
)	
Clean Air Act Final Revised Initial)	
Title V Operating Permit)	
)	
Issued to HighPoint Operating Corporation,)	Title V Permit No. 20OPWE423
Anschutz Equus Farms 4-62-28 NWNW Oil)	
and Gas Production Facility, Weld County,)	
Colorado)	
)	
Issued by the Colorado Department of)	
Public Health and Environment, Air)	
Pollution Control Division)	

**PETITION TO OBJECT TO FINAL REVISED INITIAL TITLE V OPERATING
PERMIT NO. 20OPWE423 FOR HIGHPOINT OPERATING CORPORATION'S
ANSCHUTZ EQUUS FARMS 4-62-28 NWNW
OIL AND GAS PRODUCTION FACILITY**

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 revised initial Title V Operating Permit ("revised Title V Permit") issued by the Colorado Department of Public Health and Environment's Air Pollution Control Division ("Division") authorizing HighPoint Operating Corporation's (hereafter "HighPoint") to operate the Anschutz Equus Farms 4-62-28 NWNW oil and gas production facility (hereafter "Equus Farms facility") located in Weld County, Colorado.

Petitioners request the EPA Administrator object on the basis that the revised Title V Permit fails to require sufficient periodic monitoring in accordance with Title V requirements and in response to a 2024 objection issued by the Administrator. *See In the Matter of HighPoint Operating Corporation, Anschutz Equus Farms 4-62-288 NWNW*, Order on Petition No. VIII-2024-6 (July 31, 2024) ("*HighPoint Order*").

The Division's final revised Title V Permit and associated Technical Review Document ("TRD") were issued May 7, 2025 and are attached as Exhibits 1 and 2, respectively.

THE ANSCHUTZ EQUUS FARMS 4-62-28 NWNW OIL AND GAS PRODUCTION FACILITY AND THE EPA'S OBJECTION

The Anschutz Equus Farms 4-62-28 NWNW oil and gas production facility receives and processes oil and gas produced from nearby wells. Oil (also referred to as condensate) and gas is run through separators to separate oil, gas, and wastewater. Oil and wastewater is dumped into tanks and loaded away by tanker trucks. Gas is processed and compressed with engines and transported via pipeline for further downstream processing. Flares are used to combust waste gas produced at the facility. Sources of air pollution at the facilities include compressor engines, flares, liquid storage tanks, truck loadout of oil and wastewater, and other activities.

The Equus Farms facility is major source of volatile organic compounds ("VOCs") and nitrogen oxide ("NO_x") emissions, a large source of carbon monoxide ("CO") emissions, and a significant source of other hazardous air pollutants ("HAPs"), including benzene, a known carcinogen. *See* EPA, "Benzene," Summary prepared by EPA available at <https://www.epa.gov/sites/default/files/2016-09/documents/benzene.pdf> (last accessed June 26, 2025).

NO_x emissions are a byproduct of combustion and include a number of gases known to be harmful to human health and the environment, including nitrogen dioxide. *See* EPA, "Basic information about NO₂," website available at <https://www.epa.gov/no2-pollution/basic-information-about-no2> (last accessed June 26, 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 June 26, 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 Equus Farms facility 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, including from the Equus Farms facility, directly contribute to high ozone levels in the region.

On July 31, 2024, the EPA Administrator objected to the issuance of the initial Title V Permit for the Equus Farms Facility. *See HighPoint Order*. Citing a failure to assure sufficient periodic monitoring of control performance and VOC, NO_x, and CO emissions from the facilities' flares, the Administrator ordered the Division to "amend the permit to ensure that it assures compliance with all federally enforceable permit conditions[.]" *Id.* at 11; *see also id.* at 13.

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 April 1, 2024, the Center petitioned the EPA Administrator to object to the issuance of the initial Title V Permit for the Equus Farms facility. *See* Exhibit 3, Center for Biological Diversity Petition to Object (April 1, 2024). On July 31, 2024, the Administrator objected to the issuance of the initial Title V Permit. *See HighPoint Order*. More than five months after the objection, the Division reopened the Title V Permit and issued a draft revised permit for public review and comment.

On February 5, 2025, the Center submitted comments on the draft revised permit. *See* Exhibit 4, Center for Biological Diversity Comments on Draft Revised Title V Permit (Feb. 5, 2025).

The Division responded to the Center's comments on March 12, 2025. *See* Exhibit 5, Colorado Air Pollution Control Division, "Response to Comments on Draft Revised Operating Permits" (Jan. 30, 2025). The permits were subsequently submitted to EPA for review. The EPA did not object to the revised permits. The Division issued the final revised initial Title V Permit on May 7, 2025.

Pursuant to 42 U.S.C. § 7661d(b)(2), this petition is now 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.

GROUND FOR OBJECTION

For the reasons set forth below, the revised Title V Permits continue to fail 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. Background: The EPA’s Objection to the Issuance of the Initial Title V Permit and the Division’s Revised Permit

In objecting to the issuance of the initial Title V Permit for the Equus Farms facility, the EPA Administrator found the Division did not assure sufficient periodic monitoring to ensure enclosed combustion devices, or flares, controlling emissions from the facility’s storage tanks

and tank loadout operations complied with the applicable 95% control efficiency requirements, as well applicable VOC, NO_x, and CO emission limits. *See HighPoint Order* at 9-11 and 13.¹

With regards to flare performance and VOC emissions, the Administrator found the permits inappropriately relied on parametric monitoring that was not linked to quantitative flare performance and appeared to rely on work practices and parametric monitoring requirements that were not federally enforceable. *See HighPoint Order* at 9-11. The Administrator also noted that while the Division appeared to acknowledge that performance testing was necessary to assure compliance with the 95% control efficiency, this testing requirement was “state-only enforceable.” *Id.* at 11.

With regards to NO_x and CO emissions from the flares, the Administrator found the Division’s justification for not requiring testing to assure compliance with applicable limits was “incorrect.” *See HighPoint Order* at 13. The Administrator also found the permit failed to require heat input monitoring necessary to verify compliance with applicable limits. *Id.*

In response to the Administrator’s objection, the Division revised the Title V Permit to add Condition 6 to Section II, which set forth requirements applicable to the enclosed combustion devices operating at the Equus Farms facility. Specifically, this new Condition sets forth federally enforceable requirements to conduct performance testing of the enclosed combustion devices in order to verify compliance with applicable control efficiencies, as well as applicable VOC, NO_x, and CO limits. *See Exhibit 1, Revised Title V Permit* at 27-28, Section II, Conditions 6.4-6.14.

The revised Title V Permit, however, only requires an initial compliance performance test of the facility’s flares within 180-day of permit issuance and testing only once every five years thereafter. *Id.* at 27, Section II, Condition 6.4. As will be explained further, testing only once every five years does not constitute sufficient periodic monitoring at the Equus Farms facility. Consequently, the revised Title V Permit does not meet the Administrator’s order and does not assure compliance with requirements under Title V of the Clean Air Act.

¹ Specifically, enclosed combustion devices, or flares, used to control VOC emissions from the following units at the Equus Farms facility: Unit PW, four 400-barrel fixed roof atmospheric produced water storage vessels; Unit COMP, four 400-barrel fixed roof atmospheric compression condensate storage vessels; Unit COND, thirteen 400-barrel fixed roof atmospheric production condensate storage vessels; Unit Hydrocarbon Loadout—Compression Condensate Tanks; and Unit Hydrocarbon Loadout—Production Condensate Tanks. To this end, the revised Title V Permit requires that all enclosed combustion devices meet a minimum 95% VOC control efficiency and to meet specific VOC emission limits. *See Exhibit 1, Revised Title V Permit* at 17, 19, 21, 23, Section II, Conditions 2, 3, 4, and 5. The revised Title V Permit additionally establishes a CO limit for the enclosed combustion device controlling emissions from Unit COMP and a NO_x and CO limit for the enclosed combustion device controlling emissions from Unit COND. *See id.* at 19 and 21, Section II, Conditions 3 and 4.

II. The Revised Permit Still 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 revised Title V Permit for the Equus Farms facility continues to fail to require sufficient monitoring to assure compliance with the applicable flare control efficiency requirements, as well as applicable VOC, NOx, and CO limits. Below Petitioner details the ongoing deficiencies and need for the Administrator to object.

Although the Center appreciates that the Division acknowledged the deficiencies in the initial Title V Permit and agreed with the Administrator that performance testing of the Equus Farms facility’s flares was necessary to assure compliance with applicable limits, the revised Title V Permit unfortunately does not assure sufficiently frequent testing and does not set forth sufficient periodic monitoring that assures compliance.

In comments on the draft revised Title V Permit, the Center raised specific concerns over the frequency of performance testing of the Equus Farms facility’s flares, calling attention to the failure of the Division to provide any rationale for determining that testing once every five years was sufficiently frequent for the flares at the Equus Farms facility. *See* Exhibit 4, Center Comments at 3-6. As the Center expressly commented, 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 its draft TRD, the Division provided no source-specific rationale as to why it believed that testing only once every five years was sufficiently frequent to assure compliance with applicable limits at the Equus Farms facility. Rather, the Division simply cited prior EPA Title V petition orders as generally supporting the concept that testing once every five years could be appropriate at a source. The Center commented that, while the Division cited prior EPA Title V petition orders addressing the frequency of monitoring at other sources, “these orders do not speak to the case-specific facts at hand.” Exhibit 4, Center Comments at 6.

In response to the Center’s comments, the Division provided no additional rationale as to why it believed testing once every five years was appropriate for the Equus Farms facility, but rather doubled down on its position that it had explained itself, stating:

As established in other EPA Orders that have been granted as well as the Division provided documentation of the rationale for the monitoring requirements in the TRD associated with this reopening, the EPA has several times described that periodic stack testing every five years in combination with parametric monitoring and maintenance requirements is adequate to assure compliance with short-term emission limits.

Exhibit 5, Division Response to Comments at Unnumbered Page 3. The Division otherwise provided no source-specific rationale for the selected monitoring consistent with the EPA’s *CITGO Order*. Indeed, in determining that testing once every five years was appropriate, the Division did not assess: (1) the variability of emissions from the flares at the Equus Farms facility; (2) the likelihood of a violation of applicable requirements at the facility; (3) whether add-on controls are being used for the unit to meet applicable limits; (4) the type of monitoring, process, maintenance, or control equipment data already available for flares; and (5) the type and frequency of the monitoring requirements for similar flares at other facilities.

As for the assertion that prior EPA Title V petition orders support the determination that testing once every five years is sufficient, the Division appears to rely on three specific EPA orders. See Exhibit 2, TRD at 3; Exhibit 5, Division Response to Comments at Unnumbered Page 3. 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 enclosed combustion devices only once every five years at the Equus Farms facility.²

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 Equus Farms facility 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 revised Title V Permit does not contain any fuel composition limitations for the Equus Farms facility's flares 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 revised Title V Permit for the Equus Farms facility does not involve a coal-fired boiler, the operation of a baghouse, or particulate matter emissions. Further, the revised 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 revised 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 revised Title V Permit for the Equus Farms facility does not involve a coal-fired boiler, the operation of

² The Division does not cite any specific sections or page numbers of these Title V petition orders, but rather just references the entire orders. However, Petitioner presumes that where the Division references these orders it is referring to instances where the EPA addresses monitoring frequency.

an electrostatic precipitator, or particulate matter emissions. Additionally, and as will be addressed in more detail further in this Petition, the revised 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 Equus Farms facility, 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 2, TRD at 4. However, the Division’s 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 Equus Farms facility is misplaced.

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

Here, the Division appears to believe that, although testing may occur once every five years at the Equus Farms facility, 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 HighPoint’s compliance with applicable quantitative limits in between tests. No such demonstration was made.

In response to the Center’s comments, the Division stated that Section II, Conditions 6.1 through 6.3 of the revised Title V Permit set forth “the parametric monitoring conditions required to assure compliance with emission limits.” Exhibit 5, Division Response to Comments at Unnumbered Page 3.³ These Conditions, however, are the same Conditions that the Administrator held “merely ensure that the ECDs are not malfunctioning, and that combustion is actually occurring.” *HighPoint Order* at 10. As the Center commented, compliance with these Conditions does not equate to compliance with applicable quantitative limits. See Exhibit 4, Center Comments at 6-12.

Condition 6.1 simply sets forth the opacity limit applicable to the enclosed combustion devices and does not actually set forth monitoring. Further, this opacity limit is a generic limit

³ The Division also cites the revised Title V Permit’s CAM plan, which applies only to the Equus Farms facility’s 13 400-barrel production condensate storage tanks, or Unit COND, as setting forth sufficient parametric monitoring. See Exhibit 2, TRD at 4. The CAM plan essentially echoes the provisions of Section II, Condition 6.2 and does not set forth any additional parametric monitoring. See Exhibit 1, Revised Title V Permit at 85, Appendix H.

set forth in the Colorado SIP at Air Quality Control Commission (“AQCC”) Regulation No. 1, Section II.A.5. This limit was not established based on any analysis or information equating it to compliance with the control efficiency and VOC, NO_x, and CO limits applicable to the Equus Farms facility.

Condition 6.2 requires the that the flares be operated with a pilot present at all times and that an autoigniter be utilized to continuously monitor presence of pilot light and to attempt to relight the flame if it is not detected. As the Center commented, although this qualitative monitoring requirement may yield data as to whether or not combustion is occurring in the flares, there is no indication that the mere presence of a pilot light indicates compliance with the applicable 95% control efficiency requirement or applicable emission limits. *See e.g.* Exhibit 4, Center Comments at 9-10. As the Center detailed in its 2024 petition to the EPA and reinforced in its comments on the draft revised Title V Permit, there are numerous examples of flares failing to achieve a 95% control efficiency even where a pilot light is present and combustion is occurring. *See e.g.* Exhibit 3, Center Petition to Object at 19-22.

Condition 6.3 sets forth visible emissions monitoring requirements for the flares, yet again there is no information or analysis demonstrating any relationship between visible emissions and compliance with the applicable 95% control efficiency requirement or applicable emission limits.⁴ Although Condition 6.3 may yield qualitative data indicating whether the flare is or is not malfunctioning, it does not provide data that reflects compliance with applicable quantitative limits.⁵ As the Center detailed in its 2024 petition to the EPA and reinforced in its comments on the draft revised Title V Permit, there appears to be numerous examples of flares failing to achieve a 95% control efficiency even where no visible emissions are reported. *See e.g.* Exhibit 3, Center Petition to Object at 19-22.

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 flares required by Section II, Conditions 6.2 and 6.3 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 flares are operating and perhaps malfunctioning, but there is no demonstrated relationship between the qualitative parametric monitoring set forth in the revised Title V Permit and compliance with the quantitative limits applicable to the flare at the Equus Farms facility.

⁴ It is telling that neither Condition 6.3 nor any other federally enforceable provision of the revised Title V Permit expressly states that the observation of visible emissions is indicative of a failure to comply with the control efficiencies and emission limits applicable to the flares. In fact, according to Condition 6.3.2, the visible emissions monitoring requirement is primarily meant to assure compliance with the “no visible emission” requirements set forth in Section II, Conditions 2.6.5, 3.6.5, 4.6.5, and 5.9.2 of the revised Title V Permit, which are all labeled “State Only” enforceable.

⁵ Although Condition 6.3.3 requires quantitative opacity monitoring in the event that visible emission are observed, this is to assure compliance with the applicable opacity limit set forth at Condition 6.1 and not a quantitative indication of compliance with applicable control efficiency and VOC, NO_x, and CO emission limits.

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, here, there is no relationship between the parametric monitoring set forth in the revised Title V Permit at Section II, Conditions 6.2 and 6.3 and compliance with the limits applicable to the flares at the Equus Farms facility. Although the Division claims 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 revised Title V Permit still does not set forth sufficient periodic monitoring that assures the enclosed combustion devices operating at the Equus Farms facility comply 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 flares 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 6, 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 7, 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 this issue 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 enclosed combustion devices at the Equus Farms facility is underscored by the potential emissions that could result if one or more flares is operating inefficiently. Because the amount of VOC emissions controlled by the facility's flares is very large, if flare control efficiency is even slightly lower than 95%, potential emissions could be significant. As the table below shows, if the flare is performing at only 90%, as opposed to 95%, emissions potential emissions would double. Given that the Equus Farms facility 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)**

Unit	Uncontrolled VOCs – 0% CE	95% CE	93% CE	90% CE
COND	647.60	32.38	45.33	64.76
PW	12.90	0.65	0.90	1.26
COMP	135.90	6.80	9.51	13.59
Loadout-COND	134.30	6.72	9.40	13.43
Loadout-COMP	6.60	0.33	0.46	0.66
TOTALS	937.30	46.88	65.60	93.70

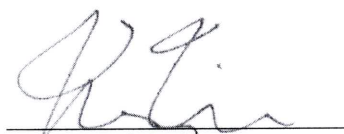
The Administrator must object to the issuance of the revised Title V Permit for the Equus Farms facility over the failure of the permit to assure adequate monitoring of the enclosed combustion devices used to control emissions from the facility's tanks and truck loadout operations. The revised Title 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.

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

DATED: June 27, 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:

Michael Ogletree, Director
Colorado Air Pollution Control Division
4300 Cherry Creek Drive South
Denver, CO 80246

HighPoint Operating Corporation
555 17th St., Ste. 3700
Denver, CO 80202

TABLE OF EXHIBITS

Exhibit

1. Final Revised Title V Permit
2. Final Revised Technical Review Document
3. Center for Biological Diversity Petition to Object (April 1, 2024)
4. Center for Biological Diversity Comments on Draft Revised Title V Permit (Feb. 5, 2025)
5. Colorado Air Pollution Control Division, "Response to Comments on Draft Revised Operating Permits" (Jan. 30, 2025).
6. Air Pollution Control Division Colorado Operating Permit, D90 Energy, LLC—Bighorn 0780 S17 CTB Facility, Permit No. 17OPJA401 (Jan. 1, 2020)
7. 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)