

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

IN THE MATTER OF)	
)	
Clean Air Act Significant Modification to)	
Title V Operating Permit)	
)	
Issued to Kinder Morgan Altamont LLC for)	Title V Permit No. 1300041005
the Altamont South Compressor Station)	
)	
Issued by the Utah Department of)	
Environmental Quality, Division of Air)	
Quality)	

**PETITION TO OBJECT TO CLEAN AIR ACT SIGNIFICANT MODIFICATION TO
TITLE V OPERATING PERMIT FOR KINDER MORGAN ALTAMONT LLC'S
ALTAMONT SOUTH COMPRESSOR STATION**

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 significant modification of Title V Operating Permit (“Title V Permit”) No. 1300041005 issued by the Utah Department of Environmental Quality, Division of Air Quality (“DAQ”) authorizing Kinder Morgan Altamont LLC (hereafter “Kinder Morgan”) to operate the Altamont South Compressor Station in Duchesne County, Utah (hereafter “Altamont South”).

The Center for Biological Diversity petitions the Administrator to object over DAQ’s failure to respond to public comments, a basic and fundamental requirement under Title V of the Clean Air. This failure to respond to public comments was apparently condoned by EPA Region 8.

THE ALTAMONT SOUTH COMPRESSOR STATION

The Altamont South Compressor Station receives and compresses natural gas from nearby oil and gas wells that are part of the Altamont Field in Duchesne County, Utah. The facility consists of compressor engines, dehydrators, flares, and liquid storage tanks. The facility is located in the Uinta Basin of northeast Utah, a region designated as nonattainment due to ongoing violations of national ambient air quality standards for ground-level ozone, the key ingredient of smog. Altamont South is a major source of nitrogen oxide pollution, which is an ozone precursor pollutant, and a large source of volatile organic compounds, also an ozone precursor pollutant.

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

The DAQ provided public notice of the draft significant modification of the Title V Permit for Altamont South and an opportunity for public comment on April 24, 2024. *See* Exhibit 1, Legal Notice for Draft Title V Permit for Altamont South Compressor Station, published in *Uintah Basin Standard* (April 24, 2024). Petitioner submitted timely and significant comments on the draft Title V Permit on May 22, 2024. *See* Exhibit 2, Comments of the Center for Biological Diversity on the draft Title V Permit for the Altamont South Compressor Station (May 22, 2024). Petitioner’s comments included detailed technical comments regarding the adequacy of the draft Title V Permit and the proposed modification. On May 23, 2024, Jared Crosby with DAQ acknowledged receipt of Petitioner’s comments. *See* Exhibit 3, E-mail response to Petitioner’s submission of comments (May 23, 2024).

On July 12, 2024, DAQ submitted a proposed Title V Permit to EPA for its 45-day review. *See* Exhibit 4, “EPA Region 8 - Title V Operating Permit Public Petition Deadlines” (Sept. 27, 2024) at .pdf p. 9. The DAQ did not respond to Petitioner’s comments prior to submitting the proposed Title V Permit to EPA. The EPA’s 45-day review period was from July 12, 2024 to August 26, 2024. During this 45-day period, EPA did not object to the issuance of the Title V Permit. DAQ issued a final Title V Permit on September 6, 2024. *See* Exhibit 5, Final Revised Title V Permit, Altamont South Compressor Station, Permit No. 1300041005 (Sept. 6, 2024).

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. 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 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).

Public involvement in Title V permitting is paramount. To this end, permitting programs must provide for “public notice, including offering an opportunity for public comment and a hearing” on draft permits. 42 U.S.C. § 7661a(b)(6); *see also* 40 C.F.R. § 70.7(h). The permitting authority must “keep a record of the commenters and of the issues raised during the public participation process, as well as records of the written comments submitted during that process [] and such records shall be available to the public.” 40 C.F.R. § 70.7(h)(5). Permitting authorities must also “respond in writing to all significant comments raised during the public participation process[.]” 40 C.F.R. § 70.7(h)(6). If significant comments are received, the permitting authority must provide EPA “the written response to comments [] and an explanation of how those comments and the permitting authority’s responses are available to the public.” 40 C.F.R. § 70.8(a)(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.”). Additionally, failure of the permitting authority to comply with federal Title V permitting rules at 40 C.F.R. § 70.8(a) or to process a permit consistent with 40 C.F.R. § 70.7(h) “shall constitute grounds for an objection.” 40 C.F.R. § 70.8(c)(3)(i) and (iii).

GROUNDS FOR OBJECTION

For the reasons set forth below, the Administrator must object to the issuance of the Title V Permit for Altamont South.

I. Utah Did Not Respond to Significant Public Comments on the Draft Title V Permit

Although notice and an opportunity for public comment was provided on the draft significant modification to the Title V Permit for Altamont South, the DAQ never responded to Petitioner's significant comments. This constitutes clear grounds for the Administrator to object.

Virtually all Title V permitting proceedings, including significant permit modifications, are subject to public notice and an opportunity for public comment. 40 C.F.R. § 70.7(h). To this end, the DAQ provided notice and a 30-day opportunity for public comment on the draft significant modification of the Title V Permit for Altamont South on April 24, 2024. *See* Exhibit 1.

On May 22, 2024, Petitioner submitted timely, detailed, and significant comments on the draft Title V Permit. *See* Exhibit 2. Per the public notice, the comments were e-mailed to Jared Crosby with the DAQ. Jared Crosby with DAQ acknowledged receipt of these comments on May 23, 2024. *See* Exhibit 3.

Petitioner's comments raised numerous detailed concerns over whether the modified Title V Permit complied with applicable requirements under the Clean Air Act and the Utah State Implementation Plan. Among the significant issues raised: the draft Title V Permit failed to require prompt reporting of deviations in accordance with 40 C.F.R. § 70.6(a)(3)(iii)(B) and the draft permit failed to establish terms and conditions to limit emissions consistent with underlying applicable requirements, including applicable requirements in the most recent underlying modified construction permit that the draft Title V Permit was incorporating.

After several weeks, Petitioner learned that DAQ had submitted a proposed Title V Permit to EPA Region 8 for review and that the EPA's 45-day review period began on July 12, 2024. *See* Exhibit 4 at .pdf p. 9. On July 30, Petitioner e-mailed Jared Crosby with the DAQ inquiring as to whether a response to comments would be forthcoming. *See* Exhibit 6, E-mail thread between Center for Biological Diversity and Jared Crosby with DAQ. On August 1, Jared Crosby responded, "We provide our response to comments with the proposed permit to EPA only." *Id.* Given that EPA's Title V regulations expressly require permitting authorities to make public comment responses available to the public, the Center sought further clarification on DAQ's response. In follow up e-mails, Petitioner requested confirmation that DAQ would not provide its response to comments to the Center for Biological Diversity. DAQ never responded to Petitioner's follow up inquiries.

On August 5, 2024, Petitioner e-mailed EPA Region 8 to inform the office of DAQ's position and to express concerns. *See* Exhibit 7, E-mail thread between Center for Biological Diversity and EPA Region 8. EPA Region 8 responded by forwarding "the documents that Utah

submitted to the Region as part of the proposed permit package for 45-day review.” *Id.* The e-mail transmitted four documents that consisted of a clean version of the proposed Title V Permit and three redlined versions of the proposed Title V Permit. *See* Exhibits 8-12. Neither document contained a response to Petitioner’s comments or even an acknowledgement that significant comments were received. In response, Petitioner asked EPA Region 8, “If this is what Utah submitted, does this mean Utah did not send EPA a response to comments to EPA? Or did the state even prepare a written response to comments in the first place?” Exhibit 7. EPA Region 8 never responded to Petitioner’s follow up inquiry.

The EPA’s 45-day review period ended August 26, 2024. In spite of obvious failures by the DAQ to comply with Title V public process requirements and obvious grounds for objection, EPA Region 8 informed Petitioner that there was no objection. Even though DAQ clearly failed to transmit to EPA Region 8 any “written response to comments” or an “explanation of how those comments and the permitting authority’s responses are available to the public,” no action was taken by EPA Region 8 to ensure compliance with Title V permitting requirements. DAQ issued a final Title V Permit on September 6, 2024. *See* Exhibit 5.

Although DAQ’s August 1, 2024 e-mail suggests that the agency may have responded to Petitioner’s significant comments, Petitioner has been unable to locate any actual response to comments and neither DAQ nor EPA Region 8 have been responsive to inquiries and requests for clarification. Petitioner can only conclude that DAQ did not actually respond to Petitioner’s comments on the draft Title V Permit.

Perhaps DAQ believes it did respond to Petitioner’s significant comments. Perhaps DAQ disagreed with Petitioner’s comments and rather than explain this in a written response, the agency thought it could simply ignore the comments. Or, perhaps DAQ believed that responding to public comments meant only that the agency must acknowledge receipt of comments. Possibly, DAQ was under the impression that responding to public comments meant only that the agency must generally think about the comments, but not actually provide any written response or take any action in response to comments. In either case, just because DAQ may have believed that it responded to comments does not mean the agency actually did.

Here, DAQ was required to provide a written response to significant comments on the Title V Permit and to make this written response to comments available to the public. *See* 40 C.F.R. §§ 70.7(h)(6) and 70.8(a)(1). In response to Petitioner’s timely and significant comments, DAQ did neither. Accordingly, the Administrator must object to the issuance of the Title V Permit for the Altamont South Compressor Station.

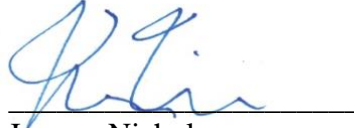
CONCLUSION

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 Altamont South Compressor Station in Duchesne County, Utah. As this Petition demonstrates, the DAQ failed to respond to significant comments on the draft Title V Permit. Accordingly, DAQ failed to comply with 40 C.F.R. § 70.8(a) and failed to process the permit under procedures required under 40 C.F.R. § 70.7(h), which constitutes

grounds for an objection pursuant to 40 C.F.R. § 70.8(c)(3). Accordingly, Petitioner requests the Administrator object to the Title V Permit.

DATED: October 15, 2024

Respectfully submitted,



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cc (per 40 C.F.R. § 70.8(d)):

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TABLE OF EXHIBITS

1. Legal Notice for Draft Title V Permit for Altamont South Compressor Station, published in *Uintah Basin Standard* (April 24, 2024).
2. Comments of the Center for Biological Diversity on the draft Title V Permit for the Altamont South Compressor Station (May 22, 2024).
3. E-mail response to Petitioner’s submission of comments (May 23, 2024).
4. “EPA Region 8 - Title V Operating Permit Public Petition Deadlines” (Sept. 27, 2024).
5. Final Title V Permit for Altamont South Compressor Station (Sept. 6, 2024)
6. E-mail thread between Center for Biological Diversity and Jared Crosby with DAQ.
7. E-mail thread between Center for Biological Diversity and EPA Region 8.
8. E-mail thread from EPA Region 8 transmitting documents submitted by Utah to Region 8 as part of the proposed permit package.
9. Clean Version of Proposed Altamont South Compressor Station Forwarded by EPA Region 8.
10. Redlined Version of Proposed Altamont South Compressor Station Title V Permit Forwarded by EPA Region 8.
11. Redlined Version of Proposed Altamont South Compressor Station Title V Permit Forwarded by EPA Region 8.
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