



April 7, 2026

**SENT VIA CERTIFIED MAIL**

Swift Beef Company  
800 North 8th Avenue  
Greeley, CO 80631

Wesley Mendonça Batista Filho  
Chief Executive Officer  
JBS USA Food Company Holdings  
1770 Promontory Circle  
Greeley, CO 80634

**Re: Notice of Violation for Operating JBS Swift's Greeley Slaughterhouse as a Major Source of Air Pollution without an Operating Permit in Violation of Title V of the Clean Air Act**

We submit this letter on behalf of the Center for Biological Diversity and its members (the Center) to notify Swift Beef Company and JBS USA Food Company Holdings (collectively JBS Swift Beef Company) under Section 304(a)(1) of the Clean Air Act, 42 U.S.C. § 7604(a)(1), of its ongoing violation of Title V of the Clean Air Act (CAA) at the Greeley Integrated Rendering Plant (the Plant), which JBS Swift Beef Company owns and operates. The Greeley Integrated Rendering Plant is a cattle slaughter and beef processing facility located in Weld County, Colorado. JBS Swift Beef Company is responsible for the Plant's air pollutant emissions and for obtaining all necessary air pollution permits.

The Plant emits air pollutants such as particulate matter, nitrogen oxides, volatile organic compounds, carbon monoxide, and ammonia. The Plant also emits hazardous air pollutants, including benzene, toluene, hexane, and formaldehyde. The Plant's air pollution is regulated by the Clean Air Act because it can endanger public health and welfare. Many of the pollutants listed here can lead to premature death, asthma, and decreased lung function. The hazardous air pollutants are regulated for their heightened health risks, including cancer. For example, children of pregnant women exposed to toluene are known to suffer developmental defects. For benzene, chronic exposure can cause chromosomal aberrations, excessive bleeding, damage to the immune system, and cancer. The quantity of the Plant's emissions is large enough that the Plant is classified as a major source of air pollution in the Denver Metro/North Front Range Nonattainment Area.

The Plant became subject to the requirement to obtain a Title V operating permit on January 27, 2020, and was required to submit an application for an initial permit by January 27, 2021. However, JBS Swift Beef Company did not file its initial Title V operating permit application (No. 22OPWE484) with the Air Pollution Control Division (APCD) of the Colorado Department of Health and Environment until April 20, 2022. A Title V operating permit for the Plant has not yet been issued. Because the permit application for the Plant was not timely submitted, the Plant is not eligible for the protection of the application shield provision under the CAA, the Colorado Air

Pollution Prevention and Control Act, and their implementing regulations. Thus, for the last 1,896 days, JBS Swift Beef Company has operated the Plant without a valid Title V permit, in violation of the CAA, the Colorado Air Pollution Prevention and Control Act, and their implementing regulations. At the expiration of sixty days from the date of this letter, the Center for Biological Diversity can file suit under the CAA's citizen suit provision, 42 U.S.C. § 7604(a), to seek declaratory and injunctive relief, civil penalties, and all other relief authorized by law.

## **I. Clean Air Act Requirements**

Congress enacted the Clean Air Act to “protect and enhance the quality of the Nation’s air resources.” 42 U.S.C. § 7401(b)(1). In service of this goal, the Administrator of the Environmental Protection Agency (EPA) promulgates regulations prescribing National Ambient Air Quality Standards (NAAQS). *Id.* § 7409(a)(1). These regulations apply to emissions known as criteria pollutants, which “cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare” and “the presence of which in the ambient air results from numerous or diverse mobile or stationary sources.” *Id.* § 7408(a)(1). The criteria pollutants regulated by the NAAQS are carbon monoxide, nitrogen oxides, ozone, particulate matter, sulfur dioxide, and lead. 40 C.F.R. §§ 50.1–50.21.

Title V of the 1990 Clean Air Act Amendments added an operating permit requirement, 42 U.S.C. § 7661a(a), and directed states to develop their own Title V operating permit programs under state law, *id.* § 7661a(d)(1). State permit programs must comply with CAA requirements and EPA regulations, and they must be approved by the EPA. *Id.* The EPA granted full approval for Colorado to administer its Title V operating permit program in 2000. Clean Air Act Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(l); State of Colorado, 65 Fed. Reg. 49,919 (Aug. 16, 2000). Under Colorado’s Air Pollution Prevention and Control Act and its implementing regulations, the Air Pollution Control Division of the Colorado Department of Public Health and Environment is responsible for issuing Title V permits in Colorado. *See* COLO. REV. STAT. § 25-7-114.5.

Under Title V, major sources of air pollution must obtain an operating permit. It is unlawful for a major source to operate “except in compliance with a permit issued by a permitting authority under [Title V].” 42 U.S.C. § 7661a(a). Colorado’s operating permit program regulations likewise prohibit “[a]ny major source” from operating “without first obtaining an operating permit in accordance with . . . this regulation.” 5 COLO. CODE REGS. § 1001-5:3C(II.A.1). To be considered a major source, a facility generally must have the potential to emit at least one hundred tons per year of any air pollutant. 42 U.S.C. § 7602(j); 5 COLO. CODE REGS. § 1001-5:3A(I.B.30.b). However, in areas that are not meeting the NAAQS, called “nonattainment areas,” facilities are considered major sources at lower potential-to-emit levels based on the severity of NAAQS nonattainment. For example, a facility with the potential to emit fifty tons per year of volatile organic compounds or nitrogen oxides (which are precursors for ground-level ozone) is considered a major source if it is in a “serious” ozone nonattainment area. 40 C.F.R. § 70.2; 5 COLO. CODE REGS. § 1001-5:3D(II.A.25.b.i).

Title V mandates that “[a]ny person required to have a permit . . . submit to the permitting authority . . . an application for a permit” no later than one year “after the date on which the source becomes subject to a permit program.” 42 U.S.C. § 7661b(c). Sources that timely submit complete applications within that period will “not be [in] violation” for “failure to have a permit.” *Id.* § 7661b(d). Under Colorado’s permit program, a timely and complete operating permit application acts “as a defense to an enforcement action for the source’s failure to have an operating permit.” 5

COLO. CODE REGS. § 1001-5:3C(II.B). This application shield allows a major source to continue operating until the permitting authority takes final action on the source's permit application. 42 U.S.C. § 7661b(c)-(d); 5 COLO. CODE REGS. § 1001-5:3C(II.B). Without the application shield, "no source subject to an operating permit may operate after the time it is required to file" its application. 5 COLO. CODE REGS. § 1001-5:3C(II.A.2). Under Title V and Colorado's operating permit program, the application shield is the sole provision that allows major sources without a permit to continue operating without violating the applicable rules. *See* 42 U.S.C. § 7661b(d); 5 COLO. CODE REGS. § 1001-5:3C(II.B).

Violations of the CAA and its permitting requirements are enforceable through the CAA's citizen suit provision. The CAA authorizes "any person" to bring a civil action against anyone alleged to be violating "an emission standard or limitation under this Act." 42 U.S.C. § 7604(a)(1). The CAA defines "an emission standard or limitation under this Act" to include "any requirement to obtain a permit as a condition of operations." *Id.* § (f)(4).

## **II. Factual Background**

The Plant is a large beef processing and rendering facility located at 800 North 8th Avenue, Greeley, CO 80631. It emits a variety of air pollutants, including particulate matter, nitrogen oxides, volatile organic compounds, carbon monoxide, ammonia, and hazardous air pollutants such as benzene, toluene, hexane, and formaldehyde.

The Denver Metro/North Front Range region of Colorado—which includes Greeley—was reclassified to serious nonattainment status for the 2008 ozone NAAQS on January 27, 2020. Finding of Failure to Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 Fed. Reg. 70,897 (Dec. 26, 2019). As a facility emitting over fifty tons per year of nitrogen oxides, an ozone precursor, the Plant was then required to submit an application for an initial Title V operating permit. JBS Swift Beef Company had one year from the date of reclassification—until January 27, 2021—to submit a permit application for the Plant. 42 U.S.C. § 7661b(c). JBS Swift Beef Company failed to do so. Therefore, it is not entitled to the protection of the application shield during the processing of its application. JBS Swift Beef Company continues to operate despite having neither a valid permit nor the protection of the application shield.

## **III. JBS Swift Beef Company's Clean Air Act Violation: Operating as a Major Source without a Title V Permit**

JBS Swift Beef Company is violating the Clean Air Act and Colorado regulations by continuing to operate the Plant, a major source, without a Title V operating permit.

In serious ozone nonattainment areas, a facility with the potential to emit fifty or more tons per year of volatile organic compounds or nitrogen oxides is a major source. On January 27, 2020, the Denver Metro/North Front Range area was reclassified to serious nonattainment status for ozone. Since at least 2019, the Plant's potential to emit nitrogen oxides has been greater than fifty tons per year, meaning it became a major source subject to CAA Title V operating permit requirements as a result of the January 27, 2020, reclassification.

Facilities are required to submit an initial Title V operating permit application within twelve months after they become subject to a CAA permit program. Thus, JBS Swift Beef Company was required to submit its complete initial permit application to APCD no later than January 27, 2021, twelve months after the nonattainment reclassification that subjected the Plant to Title V operating

permit requirements. JBS Swift Beef Company did not submit an initial Title V permit application to APCD by January 27, 2021. Thus, JBS Swift Beef Company is illegally operating the Plant without an operating permit in violation of 42 U.S.C. § 7661a(a), COLO. REV. STAT. § 25-7-114.3, and 5 COLO. CODE REGS. § 1001-5:3C(II.A.1) and has been doing so for 1,896 days, since January 27, 2021.

An operator of a major source of air pollution only receives application shield protection if their complete application was timely submitted. JBS Swift Beef Company submitted an initial Title V operating permit application for the Plant on April 20, 2022, which is 448 days after the deadline. Because JBS Swift Beef Company did not submit a timely permit application, it does not have the benefit of the application shield to allow the Plant's continued operation. To this date, APCD has not granted or denied JBS Swift Beef Company's permit application. Because it is ineligible for the application shield, JBS Swift Beef Company's late submission of a Title V permit application does not provide a defense for its ongoing violation of the CAA, the Colorado Air Pollution Prevention and Control Act, and their implementing regulations.

#### **IV. Relief to Be Requested**

To remedy this violation, the Center can ask that the court order JBS Swift Beef Company to pay civil penalties up to the amount authorized by the CAA. JBS Swift Beef Company is liable for penalties each day this violation continues. Penalties are calculated based on statutory limits and factors. *See* 42 U.S.C. § 7413(b), (e); 40 C.F.R. § 19.4 (Adjustment of Civil Monetary Penalties for Inflation). JBS Swift Beef Company could be liable for up to \$235,911,696 in civil penalties under these limits.

The Center can also seek declaratory relief confirming that JBS Swift Beef Company has violated and continues to violate the Clean Air Act. The Center can seek injunctive relief that requires JBS Swift Beef Company to take all actions necessary to comply with the CAA. Lastly, the Center can seek the recovery of costs, including attorney and expert fees, as authorized by the CAA.

#### **V. Parties Giving Notice**

The party giving notice, including its full name, address, and telephone number, is as follows:

Center for Biological Diversity  
Attn: Jeremy Nichols  
1536 Wynkoop Street, Suite 421  
Denver, Colorado 80202  
(303) 437-7663

The Center for Biological Diversity is a nonprofit conservation organization with an office in Denver, Colorado. The Center has over 93,000 members throughout the United States and the world and over 3,000 members in Colorado. 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 for Biological Diversity is working to protect public health and air quality, 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.

We would welcome the opportunity to discuss this matter with you and potentially resolve any disputes so as to avoid time-intensive and resource-consuming litigation. Please contact us promptly if you believe we do not understand facts about the Plant and the alleged violation correctly or wish to discuss effective remedies for the violation noted in this letter. Thank you.

Sincerely,

/s/ Wyatt Sassman

Wyatt Sassman  
Gregory Smith  
Helen Snow  
Michaela Krause  
Environmental Law Clinic  
University of Denver Sturm College of Law  
2255 East Evans Avenue  
Denver, CO 80208  
(303) 871-6140  
wyatt.sassman@du.edu  
greg.smith@du.edu  
helen.snow@du.edu  
michaela.krause@du.edu

*Counsel for Center for Biological Diversity*

cc:

Administrator Lee Zeldin  
Environmental Protection Agency  
Office of the Administrator 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Regional Administrator Cyrus Western  
Region 8, Environmental Protection Agency  
1595 Wynkoop Street  
Denver, CO 80202

Jill Hunsaker Ryan, Executive Director  
Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

Jared Polis, Governor  
State Capitol Building, Room 136  
200 East Colfax Avenue  
Denver, CO 80203

C T Corporation System  
Registered Agent for Swift Beef Company and JBS USA Food Company Holdings  
7700 East Arapahoe Road, Suite 220  
Centennial, CO 80112