ENERGY NEWS ALERT

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ENERGY IN THE LAW

Pressure Mounts to Revamp Colorado's
Air Quality Permitting Program for Oil and Gas Facilities

WildEarth Guardians (WEG) is mounting a coordinated campaign to force Colorado to change the way it issues air permits to exploration and production (E&P) facilities. WEG is lobbying state and federal officials to change a long-standing rule that allows operators to apply for an air permit 90 days after first production instead of obtaining the permit before drilling. WEG has also threatened to sue seven operators for relying on this rule. The changes WEG seeks will not improve air quality because state regulations already require operators to control emissions during the entire life cycle of a well, but they could delay drilling and open an additional channel for activists to object to oil and gas development.

In 1993, Colorado's Air Quality Control Commission (AQCC) recognized the need to measure production rates before operators could prepare accurate air permit applications. The AQCC adopted a rule allowing E&P facilities to submit permit applications 30 days after filing well completion reports, and in 2002 changed the deadline to 90 days after first production. Operators are required by AQCC Regulation No. 7 sections XII.D.1 and XVII.C.1.c to control tank emissions by 95 percent from the date of first production. During the first 90 days E&P facilities must also inspect components for leaks, operate tanks without venting, and comply with other emission standards.

WEG is attacking the 90-day rule despite these safeguards and appears to be gaining traction. The Air Pollution Control Division has stated it will review the rule, Representative DeGette asked Governor Polis to make changes, and a recent newspaper headline warned of "Toxic Air Pouring Through Loophole." WEG may file its lawsuits as early as April 22, 2019. All Colorado operators should ensure they comply with emission reduction requirements and develop a strategy for responding to this activist campaign.

For more information please contact Chris Colclasure or Jim Martin.