

Major Source Operating Permit/Coal Mine: Colorado District Court Addresses Alleged Violation of State Agency Permit Review Deadline



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A Colorado District Court (“Court”) (Gunnison County) Judge addressed motions filed by Wildearth Guardians and other environmental organizations alleging a violation of the Colorado Air Quality Control Act and C.R.S. §25-7-114.5(4) by certain Colorado state agencies. See Case No. 22CV30033.

The Colorado agencies include:

- Colorado Department of Public Health and Environment
- Colorado Air Pollution Control Division
- Colorado air quality Control Commission

(collectively, “Colorado Agencies”)

The environmental organizations filing the motions also included:

- Center for Biological Diversity
- Sierra Club
- High Country Conservation Advocates
- Wilderness Workshop

(collectively, “Wildearth Guardians”)

Wildearth Guardians asserted that the Colorado Agencies had not granted or denied a Major Source Operating Permit (“Permit”) for the West Elk Coal Mine within 18 months of receiving the application. As a result, they argued that the Court should require the Colorado Agencies to grant or deny the Permit.

The Court issued an Order granting partial summary judgment for Wildearth Guardians holding that the Colorado Agencies failed to take final action on the West Elk Coal Mine Permit application by September 30, 2021, in violation of C.R.S. §25-7-114.5(4). It noted that the Colorado agencies had asserted that it could not issue a draft Permit for public review and comment any earlier than June 1, 2023, therefore conceding the point.

A copy of the Court’s Order can be downloaded [here](#).