Voluntary Industry Consent Agreement/Confined Animal Feeding Operations: Environmental Organizations Petition U.S. Environmental Protection Agency for Rescission

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Twenty-four environmental organizations filed an October 26th petition before the United States Environmental Protection Agency Administrator ("Administrator") titled:

Petition to Rescind the Air Consent Agreement and Enforce Clean Air Laws Against Animal Feeding Operations ("Petition")

The Petitioners include the Buffalo River Watershed Alliance.

The *Petition* asks that the Administrator rescind an Air Compliance Agreement ("Agreement") which was developed by EPA during the George W. Bush Administration in 2005 for Confined Animal Feeding Operations ("CAFOs").

CAFOs executing this voluntary Agreement were granted a release and covenant not to sue for potential Clean Air Act, CERCLA, and EPCRA violations until emission factors could be developed that would enable them to estimate their emissions and determine the applicability of Clean Air Act permitting and CERCLA/EPCRA release reporting requirements.

A copy of the January 31, 2005, Federal Register Notice public noticing the Agreement can be found here.

CAFOs are agricultural operations where animals are raised in confined conditions. They generally involve congregation of animals, feed, manure, and production operations on a smaller land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking food in pasture. As a result, wastewater discharges and air emissions are concentrated in a smaller area.

The Petitioners argue that the Agreement should be rescinded because EPA has not accomplished a number of the research and emission factor tasks by the due date of 2010. They allege the following in the *Petition*:

- Air Pollution from CAFOs has serious health impacts on surrounding communities
- The Air Consent Agreement shields CAFOs from EPA enforcement actions
- EPA's monitoring study was flawed, undermining EPA's ability to develop valid EEMs

- EPA should terminate the Air Consent Agreement because EPA has failed to produce valid EEMs
- If EPA decides to proceed with the flawed EEM development process, it must immediately rescind the Safe Harbor provision

A copy of the *Petition* can be downloaded here.