Air Case Law/Litigation Update: Arkansas Environmental Federation Convention October 12th Presentation

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I undertook a presentation at the October 12th Arkansas Environmental Federation Convention of the sampling of the air/litigation cases that have occurred over the last 12 months.

Subjects discussed included:

- Judicial/Administrative Decision
- Enforcement/Citizen Suit Actions Filed/Pending
- Consent Administrative Orders

The issues addressed included:

- Revised Cross-State Air Pollution Update Rule/Ozone: Federal Appellate Court Addresses Challenge to Analytical Technique Utilized by EPA
- Interstate Transport/Ozone: Eighth Circuit Court of Appeals Rejects EPA's Motion to Transfer Arkansas's Petition
- Interstate Ozone (Update)
- State Implementation Plan/Clean Air Act: Federal Appellate Court Addresses Challenge to Colorado Exclusion of Temporary Emissions
- Reactivation/New Source Review: EPA Determination that Refinery Must Obtain PSD Permit
- Federal Appellate Court Determination (Hamilton Refining v. EPA) Reversing EPA Reactivation Finding
- Clean Air Act National Ambient Air Quality Standards
- Earthjustice action alleging nondiscretionary duty to complete designations and classifications for 2015 ozone National Ambient Air Quality Standard
- Center for Biological Diversity Notice of Intent alleging failure to undertake mandatory obligation under the Clean Air Act to address nitrogen oxides National Ambient Air Quality Standard
- California v. EPA challenging agency decision not to revise particulate National Ambient Air Quality Standard
- Earthworks Consent Decree resolving citizen suit addressing general control device requirements for flares under Section 111(b) New Source Performance Standard
- Clean Air Task Force petition to EPA to eliminate startup, shutdown, and malfunction exemption in Section 111 of New Source Performance Standard
- Sierra Club Notice of Intent to Sue EPA for alleged failure to promulgate a Federal Implementation Plan for SO2 for two counties in Texas
- Scope of Title V Petition to Object

- Title V/Clean Air Act: U.S. EPA Grants in Part and Denies in Part Two Petitions Objecting to a Crossett, Arkansas, Papermill Renewal
- Whistleblower Complaint/Safe Drinking Water Act: OSHA Addresses Alleged North Dakota Dept. of Environmental Quality Retaliation Against Staff Environmental Scientist
- Cryptocurrency Mining Facility/Natural Gas-Fired Electric Generating Plant: New York Administrative Law Judge Upholds Denial of Clean Air Act Title V Permit Renewal
- Federally Permitted Releases/CERCLA: Federal Court Addresses Status of Emissions from Shipped Lead-Acid Batteries Covered by Smelter's Clean Air Act Permit
- Oakland Athletics Strike Out: California Appellate Court Rejects Team's Petition Seeking Regulation of Metal-Shredding Operation Under California Hazardous Waste Law
- Clean Air Act Enforcement
- Stationary Engines Enforcement Initiative
- Failure to retrofit existing engines with necessary pollution controls
- Failure to conduct testing in accordance with regulatory requirements on the installed pollution controls
- Examples of types of facilities that have been the subject of enforcement
- Electric utility operating two diesel engines (violation of Subpart ZZZZ)
- Sand and gravel plant using two diesel engines (violation of Subpart ZZZZ)
- Concrete and stone producer using three diesel engines (violation of Subpart ZZZZ)
- Metal shredder utilizing a diesel engine (violation of Subpart ZZZZ)
- Compressor station using a 760 horsepower engine (violation of Subpart JJJJ)
- Other Clean Air Act Enforcement Initiatives:
- Flares (Chevron/petro-chemical plants assessed $3.4 million penalty and perform $118 million for pollution upgrade)
- Cement manufacturing
- Glass manufacturing
- Fertilizer manufacturing
- Explosive manufacturing
- Refineries
- Criminal Enforcement/Clean Air Act – False Statement/Risk Management Program (United States of America v. Terri Settle)
- State Criminal Enforcement
- Unmanned Aerial Vehicle Systems/Landfill Methane Leak Detection: EPA Approves Alternative Test Method (SnifferDRONE)
- Arkansas Air Enforcement Examples (Facilities)
- Arkansas Air Enforcement Examples (Types of Violations)

A copy of the slides can be downloaded here.