

Breaking News

Colorado governor issues statewide mask order as COVID-19 cases rise July 1 3:47 pm

NEWS > ENVIRONMENT

EPA, Colorado reach \$3.6M settlement with oil and gas company over alleged failure to control toxic emissions from storage tanks

Lawsuit against HighPoint targets volatile ozone-forming chemicals, benzene and other hazardous pollutants





Joe Amon, The Denver Post

Colorado Department of Public Health and Environment oil and gas team inspector Ashley Jones giving an overview of air-quality inspection practices to operators from various oil and gas companies and other interested parties at the Troudt battery along Highway 52 in Weld County on April 17, 2019.

By **BRUCE FINLEY** | bfinley@denverpost.com | The Denver Post

PUBLISHED: April 21, 2019 at 8:10 p.m. | UPDATED: April 23, 2019 at 10:43 a.m.

32

Updated April 22, 2019 *This story has been updated to reflect the proposed settlement agreement that was filed in addition to the federal lawsuit.*

The U.S. Environmental Protection Agency and state health officials have reached a \$3.6 million settlement with an oil and gas company that regulators allege has failed to minimize toxic emissions from storage tanks at its operations along Colorado's Front Range.

The EPA and Colorado on Friday filed a lawsuit against HighPoint Operating Corporation and a proposed settlement agreement in U.S. District Court in Denver in which the company agrees to spend \$3 million improving pollution controls and pay civil penalties of \$550,000 — \$220,000 of which would be devoted to project to improve the environment.

"We remain committed to reducing the emissions of volatile organic compounds that contribute to high levels of ground-level ozone and so endanger the public health," Assistant Attorney General Jeffrey Bossert Clark said in a statement from Washington, D.C.

The case arose after air pollution inspectors from the Colorado Department of Public Health and Environment [equipped with infrared cameras](#) detected the emissions at multiple clusters of storage tanks, according to the lawsuit.

The 27-page lawsuit accused HighPoint of failing to control volatile organic compounds (VOCs), precursors of ozone smog, as well as benzene, toluene, xylene and other pollutants identified under the Clean Air Act as hazardous.

Storage tanks at more than a dozen sites north of Denver in Adams and Weld counties — including many that HighPoint's predecessor the Bill Barrett Corporation had certified to the CDPHE as "controlled" — have emitted excessive pollutants since April 2014, according to the lawsuit.

RELATED: *Colorado's unannounced air-pollution inspections at oil and gas sites are showing results — yet emissions are up as production increases*

This happened in a Front Range area where air quality for years has flunked federal air quality health standards, worsening the problem, the EPA and state attorneys said. HighPoint failed to design, run and maintain pollution control systems as required by the state to minimize leakage of the volatile organic and other chemicals to the maximum extent "practicable," the attorneys said.

"HighPoint's failure to comply with these requirements has resulted in excess VOC emissions, a precursor to ground-level ozone. ... HighPoint's unlawful emissions of VOC into the atmosphere contribute to this exceedance of the ozone NAAQS (National Ambient Air Quality Standards) in this area," the lawsuit said.

The EPA and CDPHE asked a federal judge to block HighPoint from further violations of Colorado regulations, order action to fix and offset harm to public health and the environment, and assess civil penalties of up to \$37,500 per day for violations between January 2009 and November 2015 and up to \$97,229 per day for violations after November 2015.

Federal judicial officials on Monday declined to discuss the consent agreement, filed Friday after the lawsuit was filed, proposing to settle the case.

"The settlement is significant," EPA spokeswoman Lisa McClain-Vanderpool said. "Its terms reflect the nature of the alleged violations and the goal of remedying those violations."

HighPoint vice president and general counsel Ken Wonstolen, who signed the proposed settlement, declined to comment.

Colorado's [oil and gas industry inspection program](#), relying on nine CDPHE air pollution control inspectors equipped with infrared cameras, is designed to spur quick compliance. When inspectors detect leaks, they notify companies that same day. Companies are required to initiate fixes within five days, unless they fill out forms justifying delays. But inspections also can reveal violations of state rules and lead eventually to the imposition of penalties.

The inspectors drop in unannounced at about 2,000 sites a year and aim the infrared devices at storage tanks, flares and other equipment to determine whether hydrocarbons are leaking.

They can't get to every site. Oil and gas companies have drilled more than 53,000 wells statewide, producing a record 177 million barrels of oil last year. Colorado rules require controls to minimize pollution. While the EPA provides oversight, state officials also have issued companies permits required under the federal Clean Air Act at roughly 11,000 sites — permits that set limits on pollution.

During the early stages of production — when companies typically drill and conduct hydraulic fracturing to stimulate production — state inspectors let companies produce for 90 days without the required permits and generally do not visit sites unless they receive a specific complaint, relying on [a controversial 27-year-old state exemption](#). However, CDPHE officials — spurred by U.S. Rep. Diana DeGette and the environmental advocacy group WildEarth Guardians — are [reviewing the legality](#) of that exemption.

Gov. Jared Polis has signaled intentions to reduce pollution. Tougher enforcement, including the air pollution inspections, has emerged as an option as he and state lawmakers re-focus state oversight of the industry. The latest CDPHE data show that inspectors in 2013 detected leaks at 28 percent of the sites they visited. In 2018, records show leaks were detected at 13 percent of sites visited.

Join the conversation!

Login with your Denver Post subscription to post or view comments.

[Already a subscriber? Login here.](#)

Get started for 99¢/month

[Policies](#)

[Report an Error](#)

[Contact Us](#)

[Submit a News Tip](#)

 The Trust Project

TAGS: **AIR POLLUTION, AIR QUALITY, CLEAN AIR ACT, COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DIANA DEGETTE, EMISSIONS, ENVIRONMENT, ENVIRONMENTAL PROTECTION AGENCY, EPA, JARED POLIS, LAWSUIT, OIL AND GAS, POLLUTION, REGULATIONS**

Bruce Finley | Environment Reporter — The Denver Post


Bruce Finley covers environment issues, the land air and water struggles shaping Colorado and the West. Finley grew up in Colorado, graduated from Stanford, then earned masters degrees in international relations as a Fulbright scholar in Britain and in journalism at Northwestern. He is also a lawyer and previously handled international news with on-site reporting in 40 countries.

bfinley@denverpost.com

 Follow Bruce Finley [@finleybruce](https://twitter.com/finleybruce)



SPONSORED CONTENT

**Colorado
Launches New
Policy For Cars
Used Less Than
50 Miles/Day** 

By Insurance Hunter

