

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In re:	)	
	)	
Anadarko Uintah Midstream, LLC,	)	Appeal No. NSR 18-01
	)	
Archie Bench Compressor Station, Permit No. SMNSR-UO-000817-2016.001	)	
	)	
Bitter Creek Compressor Station Permit No. SMNSR-UO-000818-2016.001	)	
	)	
East Bench Compressor Station, Permit No. SMNSR-UO-000824-2016.001	)	
	)	
North Compressor Station, Permit No. SMNSR-UO-000071-2016.001	)	
	)	
North East Compressor Station, Permit No. SMNSR-UO-001874-2016.001	)	
	)	
Sage Grouse Compressor Station, Permit No. SMNSR-UO-001875-2016.001	)	
	)	

**MOTION FOR LEAVE TO FILE REPLY**

On July 7, 2018, WildEarth Guardians filed a Petition for Review challenging six virtually identical permitting actions taken by the U.S. Environmental Protection Agency (“EPA”), Region 8. On August 6, 2018, the EPA and the Permittee, Anadarko Uintah Midstream, LLC (hereafter “Anadarko”) filed Responses. WildEarth Guardians hereby moves the Environmental Appeals Board (“EAB”) for leave to file the attached Reply Brief in response to EPA and Anadarko’s Responses. In support of this motion, WildEarth Guardians provides the following justification.

**1. An Initial Matter**

As an initial matter, this motion is filed in accordance with 40 C.F.R. § 124.19(c)(1).

Although this regulation addresses the filing of reply briefs filed in conjunction with appeals of Clean Air Act Prevention of Significant Deterioration (“PSD”) permits, the EAB generally looks to 40 C.F.R. § 124.19 to guide its review of New Source Review permit appeals filed pursuant to 40 C.F.R. § 49.159. *See In re Salt River Project Agric. Improvement & Power Dist. — Navajo Generating Station*, 17 E.A.D. 312, 314-315 (EAB 2016).<sup>1</sup>

Under 40 C.F.R. § 124.19(c)(1), which relates to appeals of Prevention of Significant Deterioration (“PSD”) and other “new source” permits, which are similar to the permits at issue in this appeal, there is a presumption against the filing of replies. Upon motion, however, the EAB may grant a Petitioner’s motion to file a reply, provided that Petitioner specifies “those arguments in the response to which petitioner seeks to reply and the reasons petitioner believes it is necessary to file a reply to those arguments.” 40 C.F.R. § 124.19(c)(1). Accordingly, WildEarth Guardians provides the following basis for seeking leave to file the attached Reply Brief.

**2. Reasons for Reply**

WildEarth Guardians requests the opportunity to reply to the arguments advanced by EPA and Anadarko that it failed to preserve an issue for review by the EAB. Specifically, both EPA and Anadarko argue that WildEarth Guardians failed to preserve for review the argument that the sources at issue in this proceeding were inappropriately deemed to be existing synthetic

---

<sup>1</sup> As a related matter, WildEarth Guardians strongly urges that if the EAB would like appeals filed pursuant to 40 C.F.R. § 49.159 to comply with the procedural requirements of 40 C.F.R. § 124, that the Board issue a standing order stating that appeals filed pursuant to 40 C.F.R. § 49.159 adhere to the procedural requirements of 40 C.F.R. § 124.19. This would provide clarity and guidance to the EAB, appellants, and respondents in future proceedings.

minor sources under 40 C.F.R. § 49.158. *See* EPA Response at 12-14 and Anadarko Response at 7-8.

WildEarth Guardians believes it is necessary to respond EPA and Anadarko's arguments for two reasons. First, Guardians believes it adequately preserved this issue for review and would like a fair opportunity to respond to the argument as both EPA and Anadarko have raised it for the first time in this proceeding. Second, EPA and Anadarko misconstrue the basis for bringing forward this specific issue and have injected unnecessary confusion into this proceeding. WildEarth Guardians would like a fair opportunity to set the record straight that the question of whether the sources at issue in this appeal are or are not existing synthetic minor sources is relevant to assessing whether EPA's determination to forego an air quality impacts analysis was clearly erroneous.

Respectfully submitted this 16<sup>th</sup> day of August 2018



---

Jeremy Nichols  
Climate and Energy Program Director  
WildEarth Guardians  
2590 Walnut St.  
Denver, CO 80205  
(303) 437-7663  
[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)

## CERTIFICATE OF SERVICE

I certify that on August 16, 2018, I served this Motion for Leave electronically via the Environmental Appeals Board's eFiling system. This Motion was also served by e-mail to the following:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
[Clerk\\_EAB@epa.gov](mailto:Clerk_EAB@epa.gov)

Anadarko Uintah Midstream, LLC  
PO Box 173779  
Denver, CO 80202  
[Julia.Jones@anadarko.com](mailto:Julia.Jones@anadarko.com)

EPA Region 8  
1595 Wynkoop  
Denver, CO 80202  
[Boydston.Michael@epa.gov](mailto:Boydston.Michael@epa.gov)  
[Morales.Monica@epa.gov](mailto:Morales.Monica@epa.gov)  
[Starrs.Charles@epa.gov](mailto:Starrs.Charles@epa.gov)



Jeremy Nichols