

COLORADO COURT OF APPEALS 2 East 14th Avenue Denver, Colorado 80203	
Appeal From: Denver District Court District Court Judge: Kandace C. Gerdes District Court Case No: 2023CV32434	
Plaintiff-Appellants: GREENLATINOS, 350 COLORADO, AND EARTHWORKS v. Defendant-Appellee: COLORADO AIR QUALITY CONTROL COMMISSION Intervenor Defendant-Appellee: COLORADO OIL & GAS ASSOCIATION	
<i>Attorneys for Plaintiffs GreenLatinos, 350 Colorado, and Earthworks</i> Ian Coghill, CO Bar No. 58423 Emma Hardy, CO Bar No. 59576 Earthjustice 1125 17th Street, Suite 1010 Denver, CO 80202 Phone Number: (303) 996-4620 FAX Number: (720) 550-5757 icoghill@earthjustice.org ehardy@earthjustice.org	▲ COURT USE ONLY ▲ Case No:
NOTICE OF APPEAL OF PLAINTIFF-APPELLANTS GREENLATINOS, 350 COLORADO, AND EARTHWORKS	

Pursuant to Colorado Appellate Rule (C.A.R.) 3(f), Plaintiff-Appellants GreenLatinos, 350 Colorado, and Earthworks (“Appellants”) submit the following Notice of Appeal.

I. Brief Description of Nature of Case

A. General Statement of Nature of Controversy

Appellants filed the Complaint in the district court challenging the Colorado Air Quality Control Commission’s (“Commission”) adoption of revisions to Regulation 3, 5 C.C.R. § 1001-5, which became effective on July 13, 2023 (“Rule”). Pursuant to the Colorado Air Pollution Prevention and Control Act, C.R.S. § 25-7-120, and the Colorado Administrative Procedure Act (“APA”), *id.* § 24-4-106, Appellants raised five claims, alleging that provisions of the Rule (1) failed to satisfy requirements of the Colorado Environmental Justice Act, *id.* § 25-7-114.4(5); or (2) were arbitrary and capricious, an abuse of discretion, unsupported by or contrary to record evidence, or otherwise contrary to law under the APA, *id.* § 24-4-106(7)(b).

Following briefing and oral argument, on August 28, 2025, the district court entered an order upholding the Rule and rejecting Appellants’ claims (“Order”). The court interpreted Appellants’ claims as asserting that “the Commission did not substantially comply with the rulemaking procedures of the” APA. Order at 10. Relying on the size of the administrative record and the rulemaking hearing proceedings, the court held that Appellants “have not met their burden to show that

the rulemaking procedures with respect to [the Rule] did not substantially comply with the APA,” *id.* at 14. It also held that Appellants “have not established that the Rule violations the [Environmental Justice Act].” *Id.* at 14. Appellants appeal the Order.

B. Judgment Being Appealed and Basis for Appellate Jurisdiction

Appellants are appealing the district court’s August 28, 2025 Order. The Order is a final judgment of the district court, so this Court has jurisdiction pursuant to C.R.S. § 13-4-102(1) and § 24-4-106(9) (district court decision in appeal of an agency action “shall be subject to appellate review”).

C. Whether Judgment Resolved All Issues Pending Before Trial Court

The Order resolved all issues pending before the district court. No issues remain pending before the district court.

D. Whether Judgment Is Final for Purposes of Appeal

The Order is final for purposes of appeal pursuant to Colorado Rule of Civil Procedure 58(a).

E. Date Order Entered and Mailed to Counsel

The Order was entered and mailed (electronically) to the parties in the district court action on August 28, 2025.

F. Extensions of Time to File Motions for Post-Trial Relief

None.

G. Date of Motion for Post-Trial Relief

Not applicable because no motion for post-trial relief was filed.

H. Date Post-Trial Relief Was Denied or Deemed Denied

Not applicable because no post-trial relief was sought.

I. Date Notice of Intent to Seek Appellate Review was Filed with Denver District Court

A Notice of Intent to Seek Appellate Review was filed with the district court on October 16, 2025.

J. Extensions of Time to File Notice of Appeal

None.

II. Advisory Listing of Issues to Be Raised on Appeal

1. Whether the district court erred in applying the “substantial compliance” standard, C.R.S. § 24-4-103(8.2)(a), to all of Appellants’ APA claims raised under various sub-paragraphs of C.R.S. § 24-4-106(7)(b).
2. Whether the Commission’s adoption of community monitoring in place of source-specific monitoring, *see* 5 C.C.R. § 1001-5:B.III.J.3, is unreasonable, arbitrary and capricious, or otherwise violates the Colorado APA.

3. Whether the community monitoring provision, *see id.*, is unreasonably vague, arbitrary and capricious, or otherwise violates the Colorado APA.
4. Whether the Commission's decision to give lesser protections to a subset of disproportionately impacted communities, *see* 5 C.C.R. §§ 1001-5:A.I.B.21; A.I.B.50, violates the Environmental Justice Act, or is unreasonable, arbitrary and capricious, or otherwise violates the Colorado APA.
5. Whether the Rule's definition of "Affected Pollutants," *see* 5 C.C.R. § 1001-5:A.I.B.5, is unreasonable, arbitrary and capricious, or otherwise violates the Colorado APA.
6. Whether the Commission's affected pollutant thresholds for criteria affected pollutants, *see* 5 C.C.R. § 1001-5:A.I.B.4, are unreasonable, arbitrary and capricious, or otherwise violate the Colorado APA.

III. Whether A Transcript of Any Proceeding is Necessary to Resolve Issues Raised on Appeal

The transcript of the November 25, 2025 oral argument is not necessary to resolve the issues raised on appeal. The transcript of the Rulemaking Proceedings before the Commission is necessary to resolve the issues raised on appeal and is included as part of the administrative record.

IV. Parties' Counsel

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V. Appendix Containing Judgment or Order Being Appealed.

A copy of the Denver District Court's Order is attached as Exhibit 1. A copy of the Defendant-Appellee's final Rule is attached as Exhibit 2.

DATED: October 16, 2025

/s/ Ian Coghill
Ian Coghill

CERTIFICATE OF SERVICE

I hereby certify true and correct copy of the above document (with attachments) was served electronically via the Colorado Courts E-Filing System upon the Denver District Court:

Denver District Court
1437 Bannock Street
Denver, CO 80202

Further, I hereby certify that on the above date, a true and correct copy of the above document (with attachments) was served electronically via the Colorado Courts E-Filing System upon counsel of record:

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