

# Haynes and Boone Files Motion to Intervene in EPA Lawsuit On Behalf of Texas Oil & Gas Industry Group, TIPRO

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**PRACTICES** Environmental Litigation, Environmental, Government and Public Policy

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Lawyers with Haynes Boone representing the Texas Independent Producers & Royalty Owners Association (TIPRO) have filed a motion in a Washington, D.C. federal court seeking to intervene in a lawsuit brought by a group of environmental organizations that would force the Environmental Protection Agency (EPA) to adopt stricter oil and gas waste regulations.

Dallas Partner Suzanne Murray's motion argues that the environmental groups are trying to compel the EPA to exceed its authority and that the current Texas programs to manage oil and gas waste disposal are the most robust in the entire country.

"The Texas program has been approved by the EPA 17 times – an average of once every two years," Murray said. "The relief being sought here goes beyond the authority that Congress granted the EPA under Subtitle D, so the court cannot order it to act the way that the plaintiffs are requesting."

By filing the D.C. case (*Background Environmental Integrity Project et al v. McCarthy*) the coalition is asking the EPA to establish rules to ban companies from spreading fracking wastewater on roads or fields and require disposal landfills and ponds to be constructed to prevent pollutants from leaking into groundwater.

The groups argue that under the Resource Conservation and Recovery Act (RCRA), the EPA must review and revise federal regulations for oil and gas waste disposal every three years. In addition, they want the agency to develop regulations on fracking wastewater disposal in underground injection wells, a practice some have attempted to link to earthquakes in some states.

Allen Gilmer, TIPRO chair and CEO of Drillinginfo, said current rules are more than adequate. "The Texas Railroad Commission and the Texas Commission on Environmental Quality require our industry to comply with a comprehensive set of regulations that contain numerous safeguards related to the management of oil and gas waste," he said. "This extensive regulatory framework far exceeds the minimum requirements mandated under the RCRA hazardous waste program."

Meanwhile, TIPRO President Ed Longanecker contended the plaintiffs are likely operating in cooperation with the EPA at the detriment of the industry. "This lawsuit is an example of the sue-and-settle tactics used by anti-oil and natural gas organizations in a larger effort to slow or stop the development of hydrocarbons in our country," he said. "This is yet another attempt to compel the EPA to exceed its regulatory authority with the ultimate goal of reaching a settlement to fuel additional activist campaigns, all at the expense of taxpayers."

Murray and TIPRO believe that the EPA and the plaintiffs will oppose the motion, but that the court will ultimately grant intervention because there are issues of law presented in the case that directly impact oil and gas producers in Texas.