

**Exploration & Production Operator's
Manual**
for
Energy Development Projects
on the
Southern Ute Indian Reservation



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*Southern Ute Indian Tribe Growth Fund Department of Energy
Paper copies are uncontrolled. A Controlled version is available for viewing at <http://www.suitdoe.com>*

Contents

Acronyms and Initialisms	4
Definitions	7
Limitations	9
Introduction	10
Authorizations and Permitting.....	12
5.1 Mineral Leasing	12
5.1.1 Tribal and Agency Jurisdiction	12
5.1.2 Notification and Authorization Process for Mineral Lease Projects.....	12
5.2 ROW and Surface Lease Projects	13
5.2.1 Tribal and Agency Jurisdiction	13
5.2.2 Notification & Authorization Process for ROW and Surface Lease Projects:.....	13
5.3 Authorization Process for Oil and Gas Well Drilling.....	21
5.3.1 Tribal and Agency Jurisdiction	21
5.3.2 Notification & Authorization Process for Oil and Gas Well Drilling	21
5.4 Authorization Process for Maintenance Activities.....	27
5.5 Air Quality Permitting	27
5.5.1 Tribal and Agency Jurisdiction	28
5.5.2 Air-Quality Regulations Applicable to Operators.....	30
5.6 Hydraulic Fracturing	33
Operations	35
6.1 Inspections	35
6.2 Spill Reporting and Response.....	30
6.3 Water Quality, Stormwater, Erosion Control and Interim Reclamation.....	37
6.3.1 Water Quality.....	37
6.3.2 Stormwater and Erosion Control	37
6.3.3 Interim Reclamation.....	38
6.4 Air Quality	39
6.4.1 AQP	39
6.4.2 EPA	39
6.4.3 BLM	39
6.5 Noxious Weeds	39
6.6 Noise	40
6.7 Visual Mitigation	40
6.8 Final Abandonment and Reclamation.....	30
6.8.1 Production Wells.....	31
6.8.2 Compressor Stations	31
6.8.3 Pipeline Rights-of-Way.....	31
6.8.4 Roads.....	31
6.8.5 Final Closure.....	32
References	34
Points of Contact.....	36
Revisions	38
Appendix A Forms/Checklists/Tables.....	39
Appendix B Southern Ute Indian Tribe – Amended and Restated Hydraulic Fracturing and Chemical Disclosure Regulations.....	40
Appendix C West Side Road Reclamation Guidance.....	41

Figures

Figure 1. Southern Ute Indian Reservation.....	10
Figure 2. The Southern Ute Indian Reservation’s exterior boundary.....	28

Tables

Table 1. Air-Quality Jurisdiction and Permitting Authority.....	29
Table 2. Spills for Which the Tribe Requests Notification.....	34
Table 3. Condensed Summary of COGCC Noise Rules.....	40

Flowcharts

Flowchart 1. Tribal Mineral Lease Process.....	15
Flowchart 2. Authorization Process for Rights of Way and Surface Lease Projects.....	17
Flowchart 3. Permission to Survey (PTS) and Proposed Project Notification (PPN).....	18
Flowchart 4. Surface Lease and ROW Easement.....	19
Flowchart 5. Steps for Oil and Gas Mineral Leasing and Drilling.....	23
Flowchart 6. Authorization Process for O&G Well Drilling.....	24
Flowchart 7. Resolution for Off-Lease Operations.....	25
Flowchart 8. Proposed Maintenance Project (PMP).....	26
Flowchart 9. BLM NEPA Air Quality Analysis.....	30
Flowchart 10. US EPA Region 8 & SUIT Air Quality Program.....	31
Flowchart 11. Spill/Release Reporting and Response.....	35
Flowchart 12. Spill Reporting and Response Contacts Based on Land and Mineral Ownership.....	36
Flowchart 13. Plug and Abandon Project Phasing.....	41

Acronyms and Initialisms

APD	Application for Permit to Drill
API	American Petroleum Institute
AQP	Southern Ute Indian Tribe Environmental Programs Division Air Quality Program
BA	Biological Assessment
BIA	U.S. Department of the Interior, Bureau of Indian Affairs
BLM	U.S. Department of the Interior, Bureau of Land Management
BMP	Best Management Practice
CAA	Clean Air Act
CBM	Coal Bed Methane
CDP	Central Delivery Point, including pipelines, compressor stations, water transfer stations, communications towers, and disposal wells
CDPHE	Colorado Department of Public Health and Environment
CFR	Code of Federal Regulations
CE	Categorical Exemption
CERCLA	Comprehensive Emergency Response, Compensation, and Liability Act
CO	Carbon monoxide
COA	Conditions of Approval
COGCC	Colorado Oil & Gas Conservation Commission
DNA	Determination of NEPA Adequacy
E&P	Exploration and Production
EA	Environmental Assessment
EI	Emissions Inventory
EIS	Environmental Impact Statement
EPD	Tribal Environmental Programs Division
EPA	U.S. Environmental Protection Agency
FIP	Federal Implementation Plan

HAPs	Hazardous Air Pollutants
LDAR	Leak Detection and Repair
MNSR	Minor New Source Review
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NESHAP	National Emission Standard for Hazardous Air Pollutants
NO _x , NO ₂	Nitrogen oxides
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NSPS	New Source Performance Standards
O&G	Oil and Gas
OGI	Optical Gas Imaging
PEA	Programmatic Environmental Assessment
PSD	Prevention of Significant Deterioration
PM	Particulate matter, total
PMP	Proposed Maintenance Project
PM ₁₀	Particulate matter less than 10 micrometers in size
PM _{2.5}	Particulate matter less than 2.5 micrometers in size
PPN	Proposed Project Notification
PTE	Potential to Emit
PTS	Permission to Survey
RAPPS	Reasonable and Prudent Practices for Stabilization
ROW	Right-of-Way
SECMG	Safety and Environmental Compliance Management Group
SO ₂	Sulfur dioxide
SPCC	Spill Prevention, Control and Countermeasure
SUIT	Southern Ute Indian Tribe (Tribe)
SUIT DNR	SUIT Department of Natural Resources

SUIT DOE	Southern Ute Indian Tribe Department of Energy
SWD	Salt water disposal well
SWPPP	Stormwater Pollution Prevention Plan
T&E	Threatened and Endangered
TERO	Tribal Employment Rights Office
TMNSR	TMNSR – Tribal Minor New Source Review
TPY	Tons per year
TUA	Temporary Use Area
VOC	Volatile organic compound

Definitions

Allotted land means any tract in which the surface (for rights-of-way and surface leases) or mineral estate (for mineral leases), or an undivided interest in the surface or mineral estate, is owned by one or more individual Indians in trust or has restricted status. Allotted land does not include tribal trust land.

CERCLA Reportable Quantity Spill means any spill at or above quantity for specific chemical, product or waste (hazardous substance) listed under 40 CFR Part 302.

Energy Development Projects means oil and gas (O&G) projects, including pipelines, O&G wells, compressor stations, water transfer stations, central delivery points (CDP), metering stations, and well pad access roads.

Federal Action means federal projects or projects federally funded or approved, including projects on tribal land under NEPA.

Fee Land means land held in fee-simple within the exterior boundaries of the Reservation.

Flowline means, in the case of natural gas, the segment of pipe from the wellhead downstream to the gas metering equipment; in the case of water lines, *flowline* means the segment of pipe from the wellhead downstream to the water loading point, point of discharge to a tank, or injection wellhead.

Grant of Easement for ROW means granting a person, or persons, the non-possessory right to use or cross over the Indian land of another for a specific purpose.

Indian Land means, as defined in the United States Code (18 U.S.C. 1151), (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Interim Reclamation means the minimization of the footprint of surface disturbance for a well site or facility (e.g., CDP, SWD) to the area needed for production operations through temporary reclamation.

Maintenance is any ground disturbing activities, equipment change or equipment replacement that takes place on a ROW, Surface Lease or the Permitted Area of a well pad.

Off-Lease means an energy development project that extends from one lease to another lease. This is becoming more common with horizontal drilling reaching across lease lines.

On-Lease means O&G facilities constructed within the boundaries of a specific lease and serve only the purposes contemplated in that lease.

Pipeline means any segment of pipe that transports natural gas or water.

Reclamation means restoration of the original landform to ensure that the effects of oil and gas development are not permanent on the native ecology.

Southern Ute Indian Reservation (Reservation) means the land located within the exterior boundaries of the Southern Ute Indian Reservation.

Spill means any unintended or unauthorized release or discharge of oil and gas products or waste to the environment.

Split Estates means land surface ownership and mineral rights are held by separate owners.

SUIT DOE Website means the website of the Southern Ute Indian Tribe Department of Energy www.suitdoe.com

Tribal Employee Rights Office (TERO) means the Southern Ute Indian Tribe division that is responsible to implement and enforce the TERO Code, the purpose which is to promote employment of enrolled Native Americans, in accordance with Federal Law; to assist employers, contractors and subcontractors in the fair employment of Indians on or near the Reservation; to provide a contracting preference for Indian owned business; to prevent discrimination against Indians in the employment practices of employers within the jurisdiction of the Tribe; and to establish a Tribal Employment Rights Commission and Office to further these objectives.

Tribe/Tribal means the Southern Ute Indian Tribe.

Tribal Minerals means a mineral estate held in trust for the SUIT.

Tribal trust land means any tract in which any interest (fractional or whole) in the surface (for rights-of-way and surface leases) or mineral estate (for mineral leases), is owned by the Tribe in trust or restricted status.

Temporary Use Area (TUA) is an area provided to the operator for topsoil storage, boring operations, construction/equipment storage etc. for a limited period of time. Site specific stipulations will be included with each TUA as necessary and all TUA's will be reclaimed after use. Also, TUA's are included in acreage computations when the invoice is issued, however, TUA's are not included in the Grant of Easement or Surface Use Agreements because they are Temporary in nature.

Limitations

This manual is not a regulation and is not a substitute for laws and regulations. In the future, regulatory agencies may change their applicable requirements, and the Southern Ute Indian Tribe (Tribe) may modify procedures or change the guidance provided in this manual. Nothing in this guidance document shall be construed to be a contract or guarantee by the Southern Ute Indian Tribe.

This document provides guidance to Exploration and Production (E&P) Operators (Operators) on the processes for obtaining 1) authorization to drill an oil and gas (O&G) well, and 2) right-of-way (ROW) easements and surface leases on the Southern Ute Indian Reservation¹. This document also provides stormwater, air permitting, and spill response compliance guidance for Operators on the Reservation.

Additionally, this document assists Operators in determining whether there is federal, state, or tribal jurisdiction over spills that occur within the exterior boundaries of the Reservation. Operators must know and comply with any applicable rules and regulations of any federal, state, or tribal agency having regulatory authority regarding spill notification, response, and remediation, such as the U.S. Environmental Protection Agency, Bureau of Land Management, Bureau of Indian Affairs, Colorado Oil and Gas Conservation Commission, and Colorado Department of Public Health and Environment, any one of whom, depending on the circumstances, may have regulatory authority and the ability to issue citations for non-compliance and conduct enforcement actions. Compliance with this manual does not constitute a defense to any enforcement action for failure to comply with any applicable requirement. To the extent there may be a dispute as to which agency has regulatory authority over a spill in a certain circumstance, this manual is for assistance purposes only and does not reflect and should not be construed as the Tribe's official legal position.

¹ Additionally, Reservation crossing permits, which are required for contractors to access the Reservation, are not discussed in this document. Please contact the Tribal Department of Natural Resources Lands Division for crossing permits.

Introduction

Welcome to the Southern Ute Indian Reservation (Reservation). The Reservation, shown in Figure 1, contains significant natural resources, including water, wildlife, agricultural lands, forest lands, rangelands and minerals. The Tribe, as a sovereign nation, has assumed responsibility for management, use and development of these resources from a foundation of values that balances resource conservation, environmental protection, cultural/archeological resource conservation and human development activities (NRMP, 2012).

The Southern Ute Indian Tribe Department of Energy (SUIT DOE) oversees the development of tribal energy resources on the Reservation. The purpose of the SUIT DOE is to ensure that the Tribe receives the maximum benefit from the energy and mineral resources located on the Reservation, and to minimize the impacts of the extraction of these resources on the natural and cultural environments. The SUIT DOE manages tribal oil and gas leases and surface-use agreements and provides technical, environmental and contractual oversight on all energy-related matters on the Reservation. The SUIT DOE also administers the Tribe's severance tax ordinance and conducts royalty audits in cooperation with the U.S. Department of the Interior's Office of Natural Resources Revenue.

The SUIT DOE has developed this *Exploration & Production Operator's Manual for Energy Development Projects on the Southern Ute Indian Reservation* to assist Operators planning an O&G development project on the Reservation or currently operating O&G assets within the Reservation. The purpose of this manual is:

- To provide Operators interested in conducting business within the exterior boundaries of the Reservation guidance with the application and approval process.
- To provide Operators with an understanding of the involvement of regulatory agencies in permitting and operating energy development projects; and
- To mitigate and resolve complaints or issues related to energy development on the Reservation.

Due to the complex nature of ownership of the land surface and minerals, and federal agencies' regulations and tribal requirements within the Reservation, an Operator must take all the necessary steps to obtain approval for energy development projects on the Reservation.

It is our hope that this manual will help Operators to plan and schedule projects as well as to understand the nature of doing business on the Reservation.

Inspection forms and checklists referenced in this document are included in [Appendix A](#). Detailed flowcharts are provided in each section to assist Operators in determining which agencies have jurisdiction and the federal and tribal rules and regulations with which to comply, depending on the ownership of the surface and mineral rights. Notwithstanding the guidance provided in this manual, Operators are responsible for determining which rules and regulations apply to their operations and for complying with all applicable requirements.

We encourage safe work practices throughout the Reservation and ask you to respect our culture, our air, our land, and our water and the people and wildlife occupying these resources. We welcome you to our homeland and look forward to doing business with you.

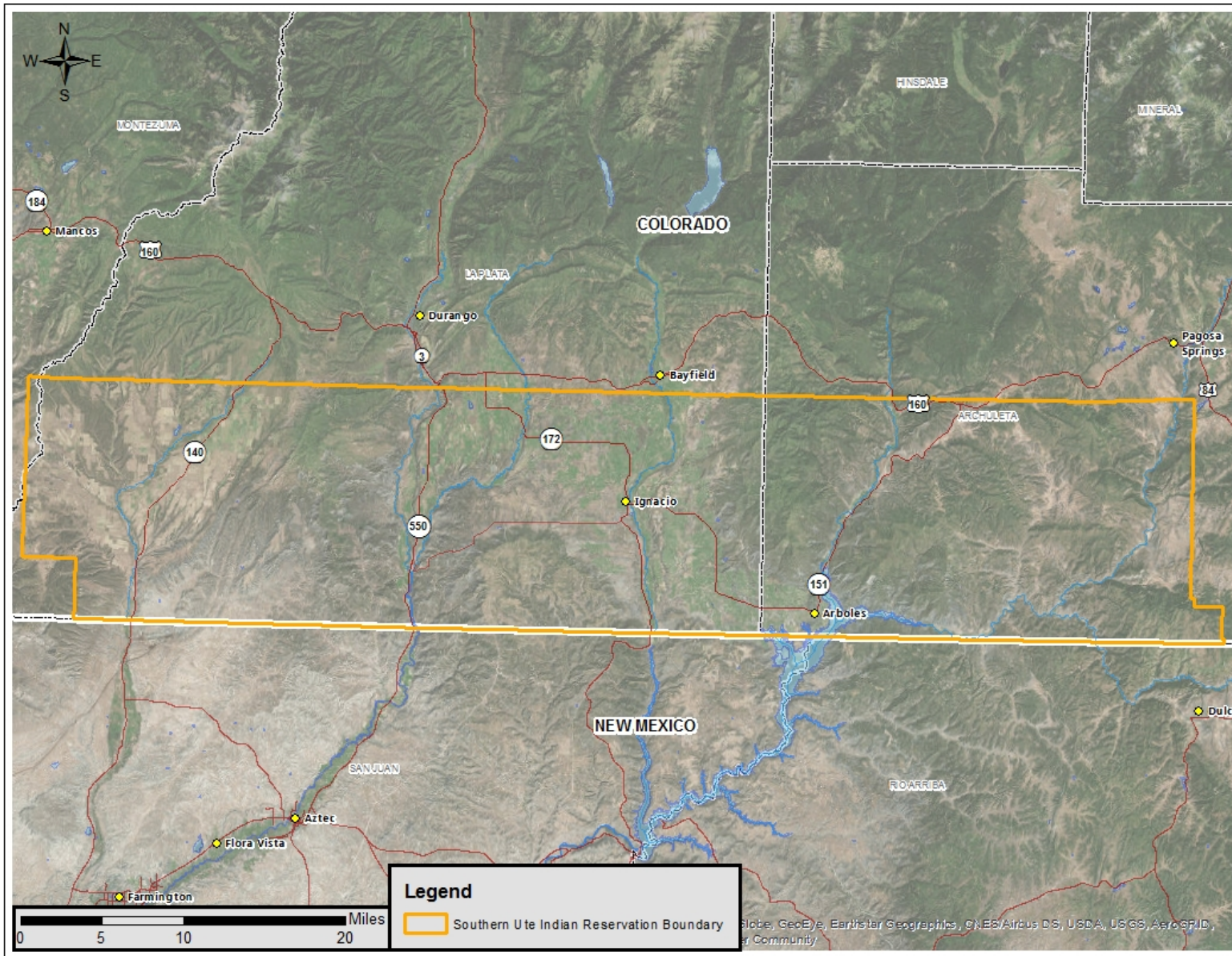


FIGURE 1. SOUTHERN UTE INDIAN RESERVATION.

Authorizations and Permitting

Authorizations and permitting for O&G exploration and operations on the Reservation are unique and should not be assumed to be similar to those for state, federal or other tribal lands. The following sections provide guidance on the process; for further information, please contact the SUIT DOE.

5.1 Mineral Leasing

5.1.1 Tribal and Agency Jurisdiction

The tribal authorization process for mineral lease projects on the Reservation applies only when the Tribe is the mineral owner. This manual does not provide guidance for mineral lease projects where the mineral is fee owned or federally owned (not owned by the Tribe).

Valid mineral leases are required prior to development of resources. Proposed mineral leases require the review and approval of various federal agencies, including the Bureau of Indian Affairs (BIA), and tribal departments.

5.1.2 Notification and Authorization Process for Mineral Lease Projects

Tribal mineral leases on the Reservation are typically negotiated directly with the Tribe via the SUIT DOE and approved by the BIA. The process to obtain a tribal mineral lease is presented in Flowchart 1 and discussed below.

1. A prospective lessee submits to SUIT DOE a Notice of Intent (NOI) to lease and arranges to meet with staff to discuss the proposed project. A document review request to allow the prospective lessee to review existing documents regarding the subject area is typically included in the mineral leasing request. Areas available for leasing include previously unleased areas and terminated lease areas. Leases may be for an entire geologic sequence or just a specific target formation.
2. Items required as a part of a mineral leasing package include:
 - legal description of proposed contract acreage
 - lease-specific National Environmental Policy Act (NEPA) studies or demonstration of inclusion in existing NEPA studies
 - an appropriate bond, as defined under 25 CFR 211.24
3. When terms are agreed upon, SUIT DOE prepares a draft Indian Minerals Development Agreement (IMDA) detailing the lease terms and conditions, including timeframe, payments and environmental considerations, and the Operator signs it.
4. SUIT DOE recommends the IMDA first to the Growth Fund Management Committee and then to Tribal Council for approval.
5. SUIT DOE submits the IMDA to the BIA's Southern Ute Agency Superintendent for review. The IMDA is also reviewed by the Department of Interior (DOI) Solicitor and the BIA's Division of Energy and Mineral Development, Denver (Lakewood) office.
6. The BIA initiates the NEPA compliance process, deciding on the appropriate vehicle for compliance and informing the applicant Operator.
7. The BIA superintendent signs the IMDA, approving it as-is or with any recommended changes. The BIA has 180 days to review the IMDA, or 60 days after NEPA compliance—whichever comes later (25 CFR 225.22).

5.2 ROW and Surface Lease Projects

ROW projects include, but are not limited to, pipelines, access roads, communication lines and electrical lines. Surface lease projects include, but are not limited to; central delivery points (CDPs), compressor facilities, disposal wells, water transfer facilities, communication towers and off-lease well pads.

5.2.1 Tribal and Agency Jurisdiction

The tribal authorization process for ROW and surface lease projects on the Reservation applies only when the Tribe is the surface land owner². This manual does not provide guidance for ROW or surface lease projects where the surface is fee owned (i.e., not owned by the Tribe).

Proposed ROW and surface lease projects require the review and approval of various federal agencies and tribal departments.

In some cases, O&G facilities are constructed within the boundaries of a specific lease and serve only the purposes contemplated in that lease. These projects are considered “on-lease” and require limited federal involvement. An example of an on-lease ROW is a pipeline, installed and operated by the Operator of the associated lease that gathers natural gas from wells located within one lease only.

In other cases, O&G facilities serve multiple leases and/or are constructed outside of the boundaries of the lease served. These projects are considered “off-lease” and require BIA approval of a Grant of Easement for ROW or surface lease projects. An example of an off-lease ROW is a pipeline that traverses and gathers gas from wells located on multiple leases.

5.2.2 Notification & Authorization Process for ROW and Surface Lease Projects:

The process to obtain authorization to proceed with a ROW or surface lease project on the Reservation is presented in Flowcharts 2 & 3 and discussed below. The authorization process is detailed and requires coordination among the parties involved.

Where the authorization process for an on-lease ROW is different than the process for an off-lease ROW (Section 5.2.1 describes on-lease and off-lease ROWs), these instructions note the difference.

1. Permission to Survey (PTS) A PTS is required for ROW and surface lease projects on the Reservation where the Tribe is the surface land owner. An Operator cannot perform survey until they receive PTS approval.

To obtain PTS approval, the Operator submits to SUIT DOE the *Application for Permission to Survey*, which is available on the SUIT DOE website (www.suitdoe.com). If the application is acceptable, SUIT DOE signs the application to indicate tribal consent to the surveying activities and, for on-lease situations, returns the consented application to the Operator and to BIA and to SUIT Department of Natural Resources (DNR) Lands Division. For off-lease situations, SUIT DOE submits the PTS to BIA to obtain its approval as well; upon approval, BIA returns the consented PTS to the Operator and to SUIT DNR Lands Division (Lands Division), with a copy back to SUIT DOE. An approved PTS application is valid for two years from the date the application is signed.

² However, notification of measurement of natural gas is required if any contribution of gas is tribally owned, even if the land is fee owned. Please see *Section 5.2.2 (5) - Notification of Measurement of Gas (Royalties)* for details.

2. **Survey** As stated in the PTS application, the Operator must contact Lands Division ten days prior to conducting surveying activities; after survey, the Operator provides the survey plats to SUIT DOE. Surveys must be conducted to include, at a minimum, the following information:
 - well location: scale >1:24,000; two 200-foot directional reference stakes; the exterior pad dimensions (flat pad); pits, cuts, fills, edge of disturbance, referenced catch points and off-location facilities, including temporary-use areas (TUAs).
 - Temporary Use Area (TUA) is an area provided to the operator for topsoil storage, boring operations, construction/equipment storage etc. for a limited period of time. Site specific stipulations will be included with each TUA as necessary and all TUA's will be reclaimed after use. Also, TUA's are included in acreage computations when the invoice is issued, however, TUA's are not included in the Grant of Easement or Surface Use Agreements because they are Temporary in nature.
 - Roads and pipelines: center-line flagging with reference points; stakes must be visible from one to the next; slope staking may be required in uneven terrain.

Additional survey requirements are included in the *SUIT Standard Operating Procedures for Field On-Sites and Survey Plats*, which can be downloaded from the [SUIT DOE website](#). Rights-of-way on Indian Land is detailed in 25 CFR 169 (April 21, 2016).

3. **Proposed Project Notification (PPN)** The PPN is an internal scoping mechanism for recognizing potential issues, saving the Operator time and money. Lands Division begins the PPN review process when it receives the PTS package. The PPN process routes project information through all relevant groups in SUIT, including SUIT DOE, Justice and Regulatory Department's Environmental Programs Division, Department of Natural Resources, Tribal Planning, and Culture. This tribal review period is 10 business days. BIA provides comment as well. Lands Division compiles comments into the PPN form and provides copies to SUIT DOE and BIA. The PPN also requires that SUIT DOE conduct an onsite, as explained in the next step.
4. **Onsite** An onsite is required for any project located on tribal trust or tribally owned fee lands. SUIT DOE coordinates and schedules the onsite once the Operator surveys the project area and provides the survey plats to SUIT DOE. The onsite is attended by personnel representing various federal and tribal entities, including the BIA, the Tribes Safety and Environmental Compliance Management Group (SECMG) and SUIT DNR. There is a one-time onsite fee of \$1,000.00 that will be paid to SUIT DOE. SUIT DOE will submit the invoice to the operator after to the onsite takes place. Multiple onsites per day will be invoiced individually.

The Operator must contract an archaeologist and biologist who meet the Tribe's non-disturbing archaeology policy³ and Tribal Employment Rights Office⁴ (TERO) requirements. The archaeologist and biologist attend the onsite, and they conduct a cultural resource survey and a threatened and endangered (T&E) species survey, respectively; in addition, SUIT DNR Range Division performs an environmental review.

- The archaeologist provides a Cultural Resource Report to Lands Division for review. Lands Division reviews the report and forwards it to the BIA regional archeologist. The BIA regional archaeologist reviews the report and then conducts National Historic Preservation Act Section 106 Consultation. After that process is complete, they send a National Historic Preservation Act clearance letter to the

³ Contact SUIT DNR Lands Division for further details on the policy.

⁴ TERO requirements are managed by the SUIT TERO Department under the Tribal Employment Rights Code.

Operator, SUI DOE, Lands Division, and the Southern Ute Agency, which may contain project specific mitigation measures.

- The Operator forwards the biological assessment (BA) for review to SUI DNR Wildlife Resource Management (Wildlife), in consultation with the U.S. Fish and Wildlife Service if necessary, to develop site-specific stipulations that address any T&E species issues associated with the project. The Operator provides a copy of the BA to SUI DOE and BIA. If approved, Wildlife sends a clearance letter to the Operator, SUI DOE, Lands Division, and BIA.
- Finally, the SUI DNR Range Division generates a Range Report, which includes site-specific stipulations, to SUI DOE, BIA, Lands Division, and the contract NEPA specialist, if applicable, within 10 days of the on-site.

5. National Environmental Policy Act (NEPA)

Compliance with NEPA is required for all projects with a federal nexus, i.e., whenever a federal agency funds, authorizes or carries out a program or project. If an operator needs a surface lease or right-of-way for a pipeline, road, or other ancillary oil and gas facilities from the BIA on tribal land, NEPA compliance is required. The Tribe, BIA and Bureau of Land Management (BLM) have completed several large programmatic NEPA documents (found on the [SUI DOE website](#)), which govern the O&G development program on the Reservation. Most projects require site-specific NEPA, which tier to the larger analysis (depending on location). Operators are encouraged to consult with SUI DOE early in the planning process to determine whether the project is on or off lease, which federal agencies have jurisdiction, and the level of NEPA compliance required (a Categorical Exclusion, Environmental Assessment (EA), or an Environmental Impact Statement (EIS)).

Most projects require a site-specific EA. Operators may hire a third party to write the EA; alternatively, Operators may ask the applicable agency to complete the analysis. For development of surface lease and off-lease ROW projects within the Reservation, Operators must complete a site-specific EA, BA, and cultural resource survey. For on-lease ROW projects, Operators must complete a BA and cultural resource survey. Operators should coordinate NEPA compliance with the appropriate federal agencies *early in the planning process* to understand what is required.

6. Tribal Resolution for Surface Lease and ROW Easement

A Tribal Resolution is required for all surface leases and off-lease ROW easements involving tribal trust land. A surface lease or off-lease ROW also requires BIA approval. The resolution process is provided in Flowchart 4.

For on-lease ROW situations, an *On-lease Facilities Form* approved by the SUI DOE is required, but a Grant of Easement for ROW approved by the BIA is not required. The *On-lease Facilities Form* is available on the [SUI DOE website](#).

7. Notification of Construction Activities

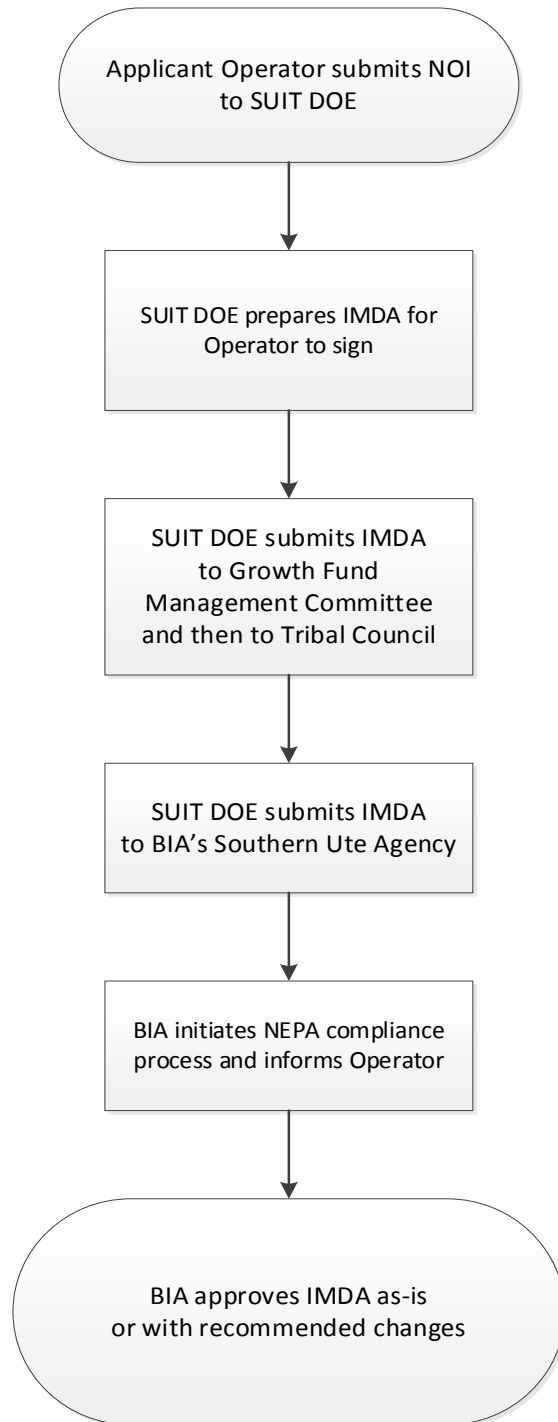
The Operator must provide notification via email to SUI DOE, SECMG and SUI DNR Range Division five (5) days prior to any earth-disturbing activities.

8. Notification of Measurement of Gas (Royalties)

Per 43 CFR 3160 Onshore Oil and Gas Operations and BLM Onshore Order Number 5, Operators must notify the accounting department of SUI DOE if any contribution of the natural gas compressed at the proposed facility is tribally owned. This requirement applies even if the land surface is fee owned. Operators must measure and report natural gas, including lease-use (fuel) gas.

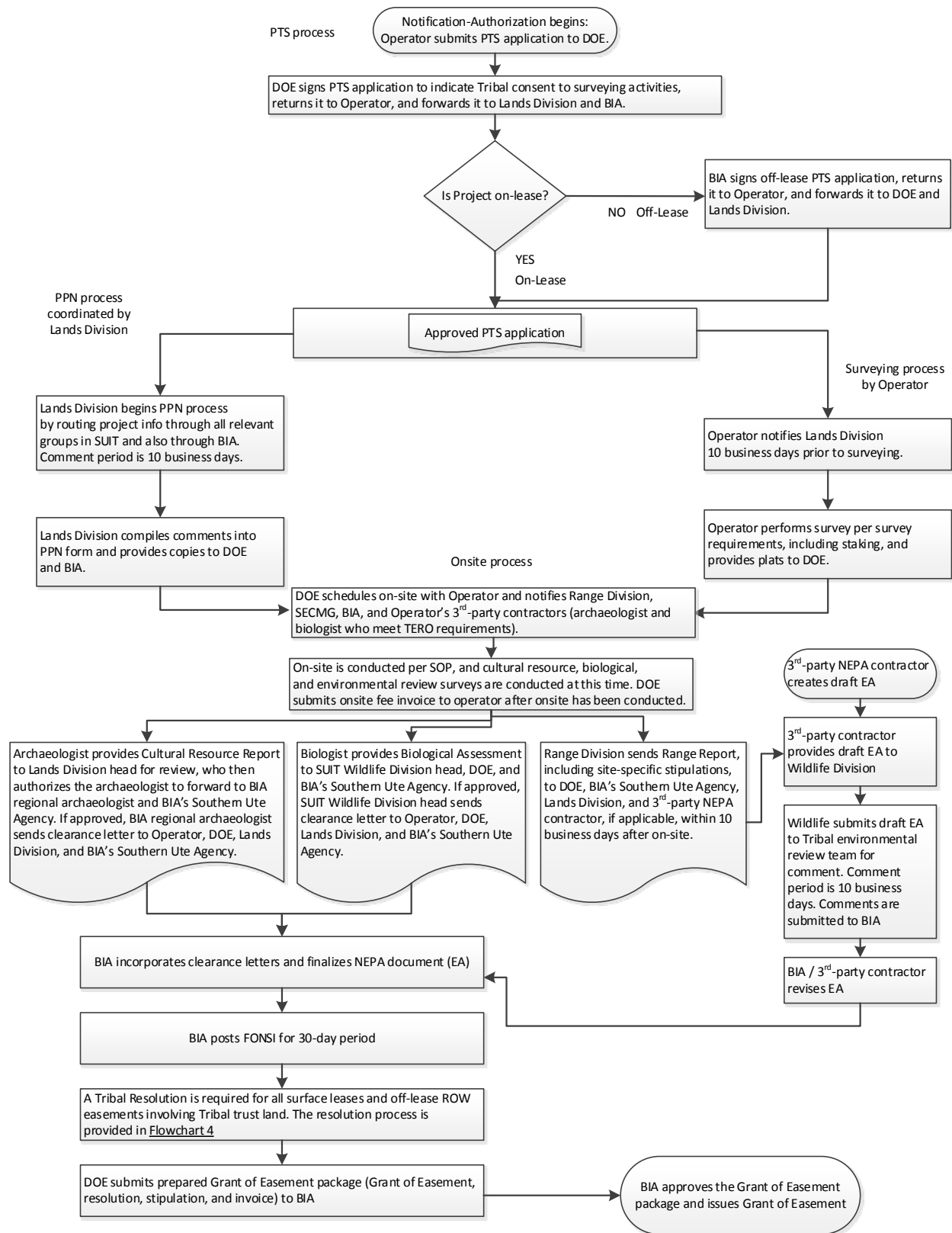
Flowchart 1 – Notification and Authorization Process for Mineral Lease Projects

Note: This process applies only when the Tribe is the mineral owner.

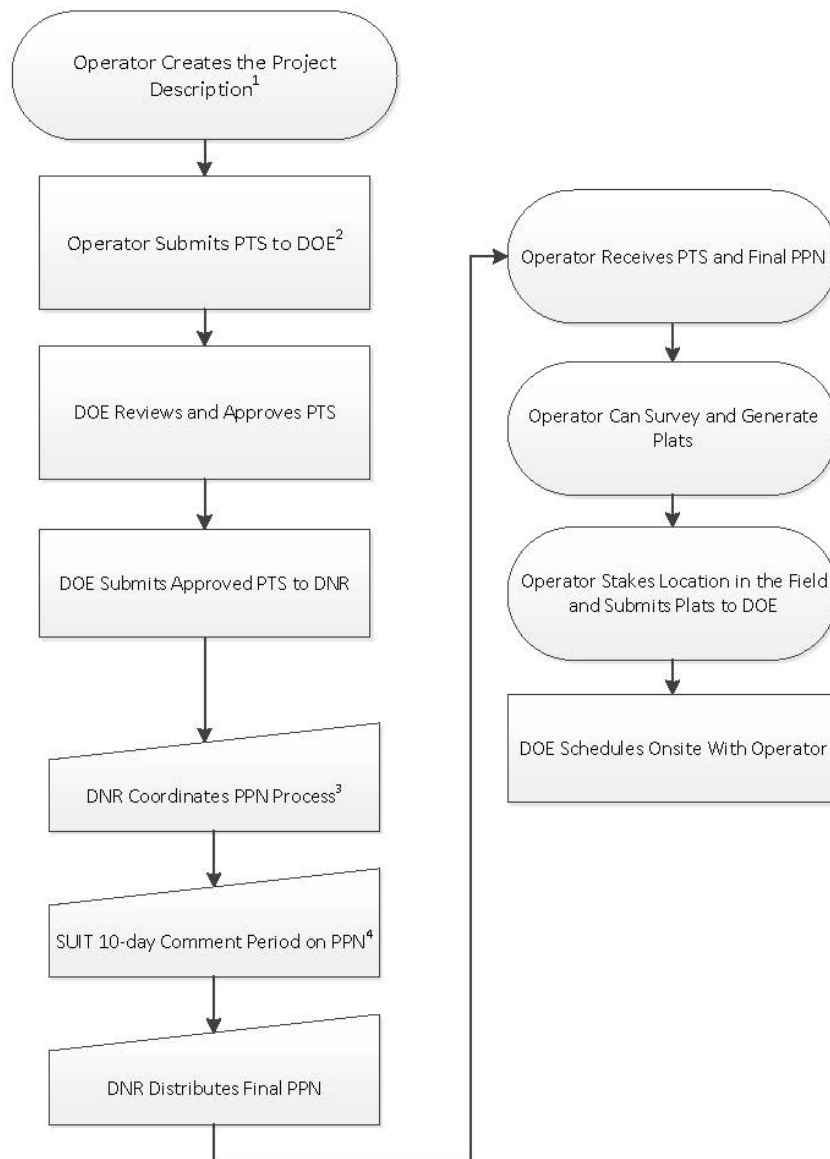


Flowchart 2: Notification and Authorization Process for ROW and Surface Lease Projects

Note: This process applies only when the Tribe is the surface land owner.



Flowchart 3 – Permission to Survey (PTS) and Proposed Project Notification (PPN) Process for Tribal Trust and Tribal Fee Surface, and or Tribal Minerals



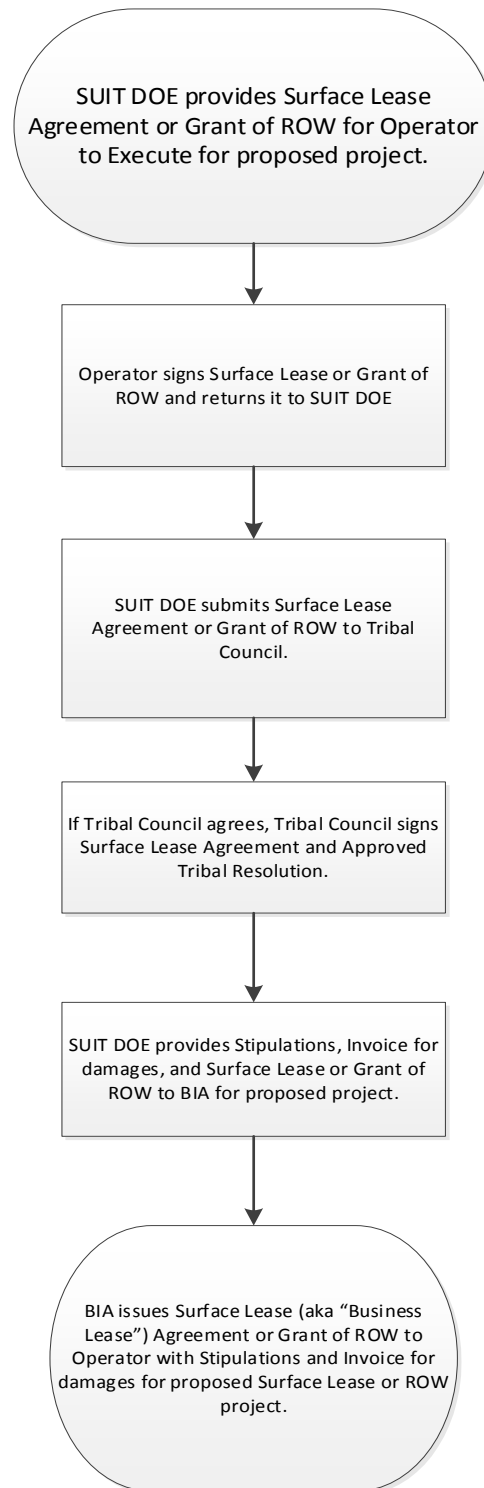
1 Acronyms: Department of Energy (DOE), Department of Natural Resources (DNR), Permission to Survey (PTS), Proposed Project Notification (PPN).

2 The Permission to Survey form is available on the DOE website. For projects on fee surface, tribal minerals, there is no PTS process. Contact the BLM to coordinate the Notice of Staking, and onsite.

3 DNR notifies tribal assignees of the project.

4 All groups in the SUIT review and comment on the PPN, including: Department of Natural Resources, Culture Department, Planning Department, Environmental Programs Division, and Department of Energy. This is an internal scoping mechanism for the project, to recognize potential issues, saving the operator time and money in the future.

Flowchart 4 – Tribal Resolution for Surface Lease and ROW Easement



5.3 Authorization Process for Oil and Gas Well Drilling

5.3.1 Tribal and Agency Jurisdiction

The drilling of an O&G well requires the review and approval of various federal agencies and tribal departments. The tribal and federal jurisdiction depends on the ownership of minerals rights and land surface for the subject property or lease. Flowchart 5 shows the tribal and regulatory agencies that have jurisdiction under the four types of estate ownership, including split estates. Flowchart 5 also provides applicable tribal and federal regulatory requirements required to obtain authorization to drill an O&G well on the Reservation, depending on the type of estate ownership. These requirements are discussed below.

The tribal authorization process for drilling an O&G well on the Reservation applies only where the Tribe is the surface land owner. This document does not provide guidance for drilling an O&G well where the land surface is non-Indian fee owned⁵ (not owned by the Tribe) or allotted land⁶.

5.3.2 Notification & Authorization Process for Oil and Gas Well Drilling

The process required to obtain authorization to drill an O&G well on the Reservation is detailed and involves various tribal departments as well as federal regulatory agencies. As such, Flowchart 6 is provided to assist the Operator in understanding the authorization process and the coordination amongst parties involved.

In some cases, facilities associated with an O&G well serve only the purpose contemplated by the underlying lease. These situations are considered "on-lease" and require limited federal involvement. In other cases, facilities associated with an O&G well serve a purpose not contemplated by the underlying lease; these situations are considered off-lease and require additional steps associated with federal approval. An example of an off-lease situation is an O&G well, located on tribal trust land that is directionally drilled into a neighboring fee minerals lease and produces only from that fee minerals lease. Where the differences in process between on-lease and off-lease situations exist, the differences are noted below.

Compliance steps required for O&G well drilling on the Reservation typically include the following:

1. Permission to Survey (PTS) A Permission to Survey (PTS) is required for O&G well drilling on the Reservation where the Tribe is the surface land owner. An Operator cannot perform survey until they receive PTS approval.

To obtain PTS approval, the Operator submits to SUIT DOE the *Application for Permission to Survey*, which is available on the SUIT DOE website (www.suitdoe.com). If the application is acceptable, SUIT DOE signs the application to indicate tribal consent to the surveying activities and, for on-lease situations, returns the consented application to the Operator and to BIA and to SUIT Department of Natural Resources (DNR) Lands Division. For off-lease situations, SUIT DOE submits the PTS to BIA to obtain its approval as well; upon approval, BIA returns the consented PTS to the Operator and to SUIT DNR Lands

⁵ For property that is fee-owed surface with tribal-owned minerals, please contact the BLM.

⁶ For allotted land, contact BIA.

Division (Lands Division), with a copy back to SUIT DOE. An approved PTS application is valid for two years from the date the application is signed.

2. **Survey** As stated in the PTS application, the Operator must contact Lands Division ten days prior to conducting surveying activities; after survey, the Operator provides the survey plats to SUIT DOE. Surveys must be conducted to include, at a minimum, the following information:
 - well location: scale >1:24,000; two 200-foot directional reference stakes; the exterior pad dimensions (flat pad); pits, cuts, fills, edge of disturbance, referenced catch points and off-location facilities, including temporary-use areas (TUAs).
 - Temporary Use Area (TUA) is an area provided to the operator for topsoil storage, boring operations, construction/equipment storage etc. for a limited period of time. Site specific stipulations will be included with each TUA as necessary and all TUA's will be reclaimed after use. Also, TUA's are included in acreage computations when the invoice is issued, however, TUA's are not included in the Grant of Easement or Surface Use Agreements because they are Temporary in nature.
 - roads and pipelines: center-line flagging with reference points; stakes must be visible from one to the next; slope staking may be required in uneven terrain.

Additional survey requirements are included in the *SUIT Standard Operating Procedures for Field On-Sites and Survey Plats*, which can be downloaded from the [SUIT DOE website](#). Rights-of-way on Indian Land is detailed in 25 CFR 169 (April 21, 2016).

3. **Proposed Project Notification (PPN)** The PPN is an internal scoping mechanism for recognizing potential issues, saving the Operator time and money. Lands Division begins the PPN review process when it receives the PTS package. The PPN process routes project information through all relevant groups in SUIT, including SUIT DOE, Justice and Regulatory Department's Environmental Programs Division, Tribal Planning, and Culture. This tribal review period is 10 business days. BIA provides comment as well. Lands Division compiles comments into the PPN form and provides copies to SUIT DOE and BIA. The PPN also requires that SUIT DOE conduct an onsite, as explained in the next step.
4. **Onsite** An onsite is required for any project located on tribal trust or tribally owned fee lands. SUIT DOE coordinates and schedules the onsite once the Operator surveys the project area and provides the survey plats to SUIT DOE. The onsite is attended by personnel representing various federal and tribal entities, including the BIA, BLM, SECMG and SUIT DNR. There is a one-time onsite fee of \$1,000.00 that will be paid to SUIT DOE. DOE will submit the invoice to the operator after to the onsite takes place. Multiple onsites per day will be invoiced individually.

The Operator must contract an archaeologist and biologist who meet the Tribe's non-disturbing archaeology policy⁷ and Tribal Employment Rights Office⁸ (TERO) requirements. The archaeologist and biologist attend the onsite, and they conduct a cultural resource survey and a threatened and endangered (T&E) species survey, respectively; in addition, SUIT DNR Range Division performs an environmental review. The archaeologist provides a Cultural Resource Report to Lands Division for review. Lands Division authorizes the report to be forwarded by either the archaeologist or the Operator to the BIA regional archaeologist to obtain clearance to proceed with the project, with a copy to the BIA's

⁷ Contact SUIT DNR Lands Division for further details on the policy.

⁸ TERO requirements are managed by the SUIT TERO Department under the Tribal Employment Rights Code.

Southern Ute Agency. If approved, the BIA regional archaeologist sends a clearance letter to the Operator, SUI DOE, Lands Division, and the Southern Ute Agency.

- The Operator forwards the biological assessment (BA) for review to SUI DNR Wildlife Resource Management (Wildlife), in consultation with the U.S. Fish and Wildlife Service if necessary, to develop site-specific stipulations that address any T&E species issues associated with the project. The Operator provides a copy of the BA to SUI DOE, BLM and BIA. If approved, Wildlife sends a clearance letter to the Operator, SUI DOE, Lands Division, BLM and BIA.
- Finally, the SUI DNR Range Division generates a Range Report, which includes site-specific stipulations, to SUI DOE, BLM, BIA, Lands Division, and the contract NEPA specialist, if applicable, within 10 days of the on-site.

5. Application for Permit to Drill (APD)

Per BLM requirement, the operator must obtain a federal APD for each O&G well that is completed in and produces from tribal trust or allotted minerals. In addition, the operator must obtain an American Petroleum Institute (API) number from the Colorado Oil and Gas Conservation Commission (COGCC) for each O&G well-drilling activity on the Reservation (see Flowchart 5). DOE requires submittal of a Well Site Equipment Worksheet, as found in Appendix A, during this process.

6. National Environmental Policy Act (NEPA)

Compliance with NEPA is required for all projects with a federal nexus, i.e., whenever a federal agency funds, authorizes or carries out a program or project. If an operator needs approval of an APD from the BLM to drill a well, NEPA compliance is required. The Tribe, BIA and BLM have completed several large programmatic NEPA documents (found on the [SUI DOE website](#)), which govern O&G development on the Reservation. Most well projects require site-specific NEPA, which tier to the larger analysis (depending on location). Operators are encouraged to consult with SUI DOE early in the planning process, to determine whether the project is on or off lease, which federal agencies have jurisdiction, and the level of NEPA compliance required (a Categorical Exclusion, Determination of NEPA Adequacy, Environmental EA, or EIS).

Most single-well projects require a site-specific EA. Operators may hire a third party to write the EA; alternatively, Operators may ask the applicable agency to complete the analysis. Operators should coordinate NEPA compliance with the appropriate federal agencies *early in the planning process* to understand what is required.

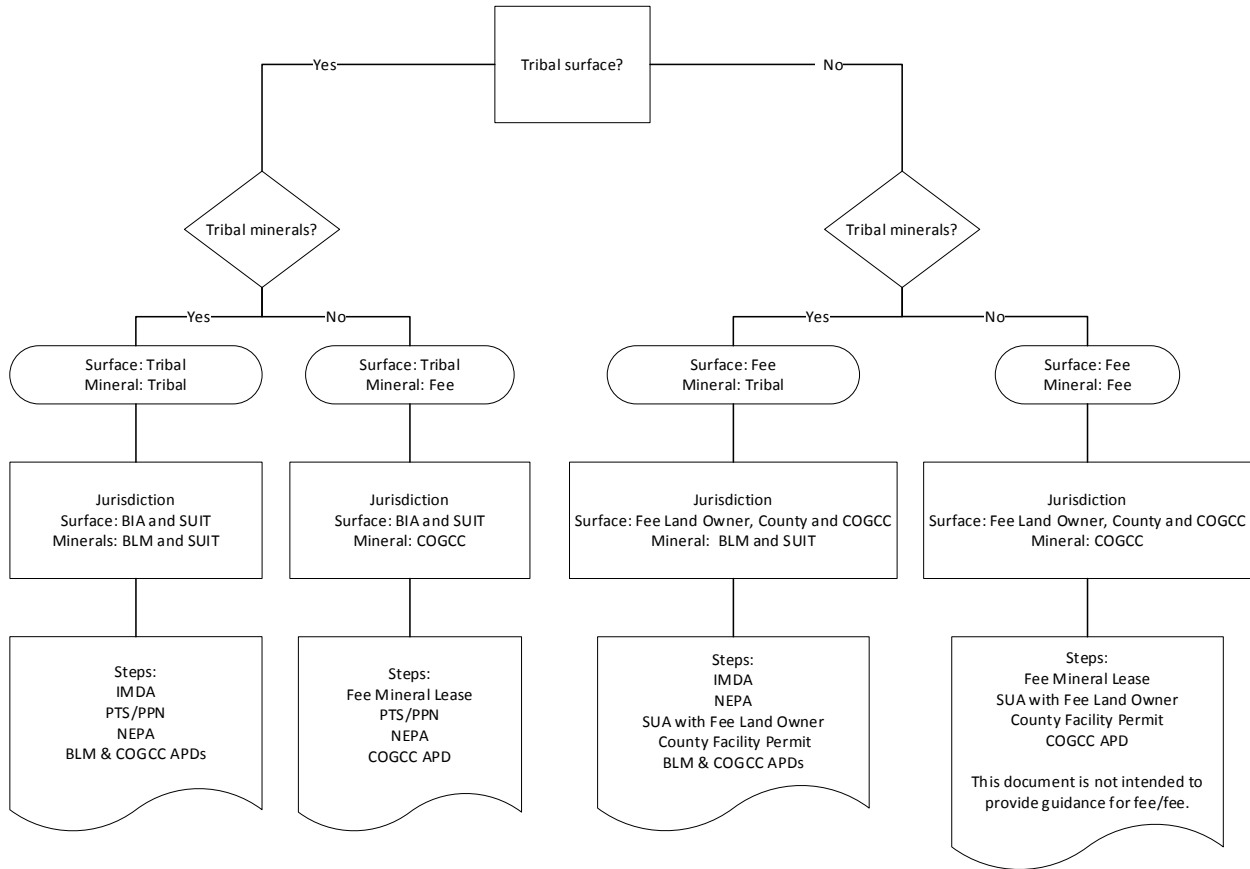
7. Notification of Construction Activities

The Operator must provide notification via email to SUI DOE, SECMG and SUI DNR Range Division five (5) days prior to any earth-disturbing activities. The operator should provide a courtesy copy to BLM.

8. Off-Lease Operations

A surface lease and Tribal Resolution is required for all off-lease operations involving tribal trust land, including split estates and situations where the tribal minerals and land surface are separate leases (e.g., when directional drilling is being performed). This process is described in detail in Section 6 of this document and in Flowchart 7.

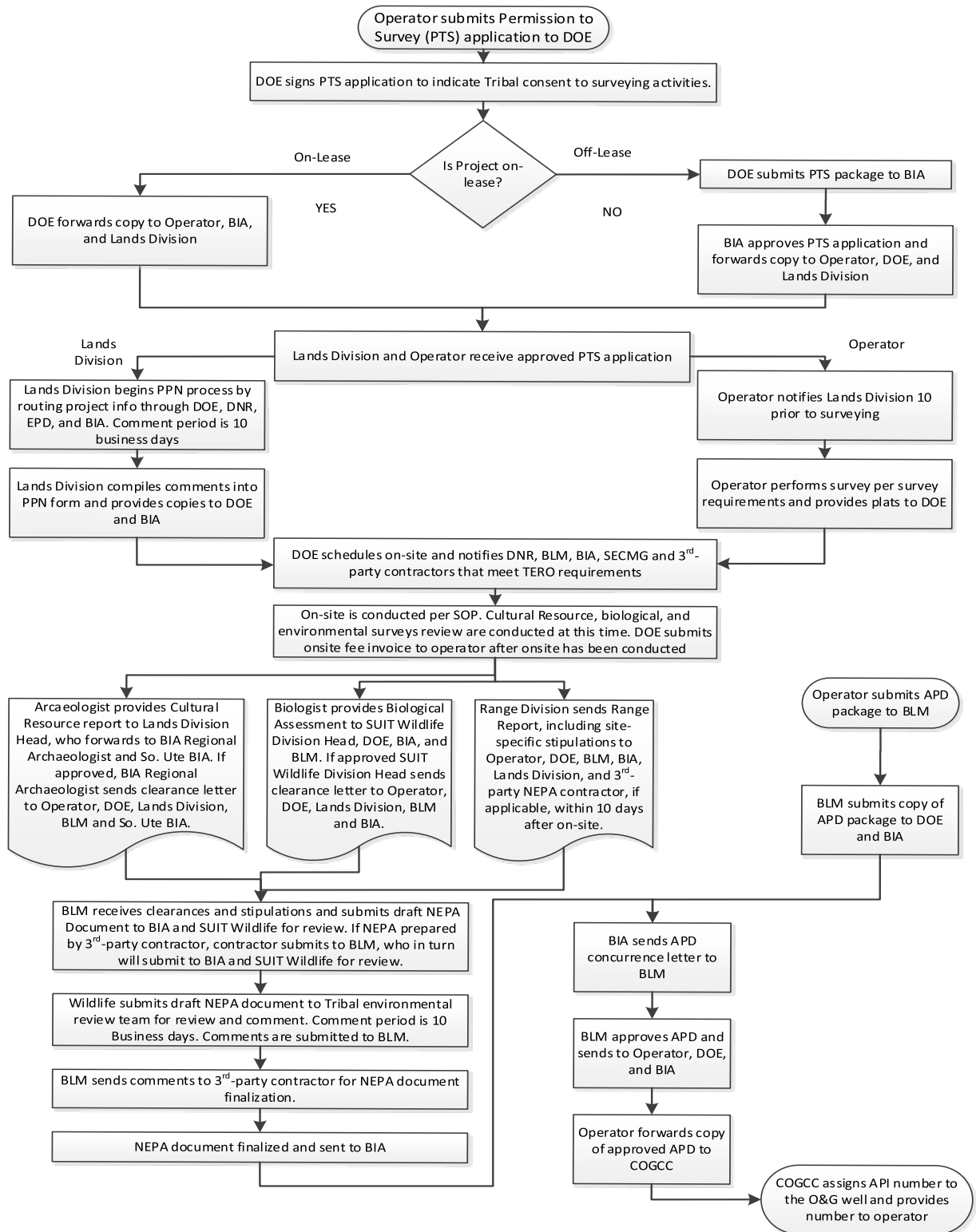
**Flowchart 5 – Steps for Oil and Gas Mineral Leasing and Drilling
on the Southern Ute Indian Reservation**



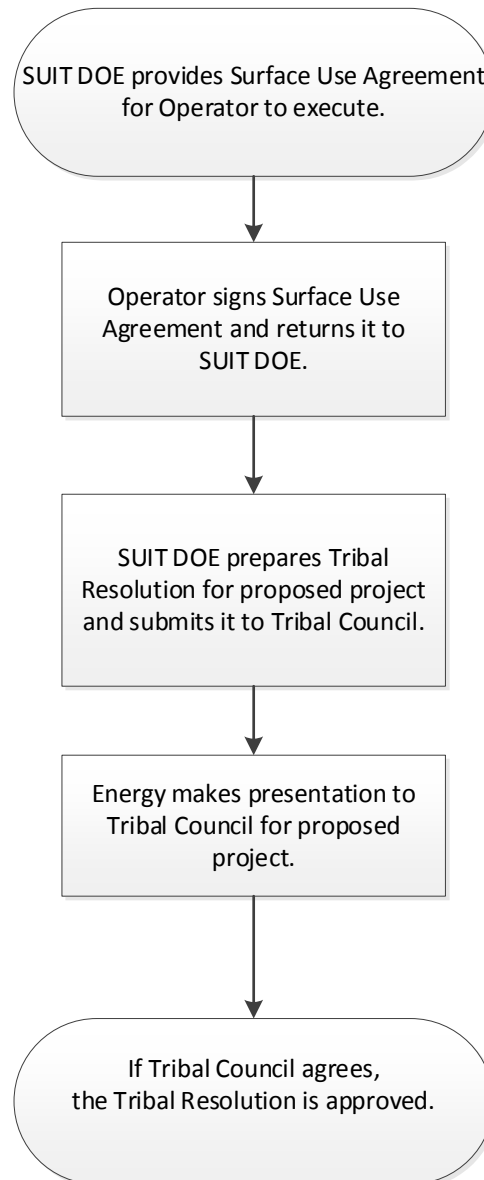
Notes

- This flow chart does not address on vs. off-lease details or ancillary facilities such as compressor stations, access roads and pipelines. Contact SUIIT DOE for further information.
- This flow chart does not address allotted trust land or allotted trust minerals. Contact BIA for further information.
- Fee is another term for private.
- Acronyms: Application for Permit to Drill (APD), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Colorado Oil and Gas Commission (COGCC), Indian Minerals Development Agreement (IMDA), National Environmental Policy Act (NEPA), Proposed Project Notification (PPN), Permission to Survey (PTS), Surface Use Agreement (SUA), Southern Ute Indian Tribe (SUIIT).
- SUIIT includes the SUIIT Department of Energy (DOE), Department of Natural Resources (DNR), Environmental Programs Division (EPD), Planning and Culture Departments.
- Where SUIIT has subsurface jurisdiction, the SUIIT Hydraulic Fracturing Rules supersede the BLM rules.

Flowchart 6: Authorization Process for O&G Well Drilling on Southern Ute Reservation



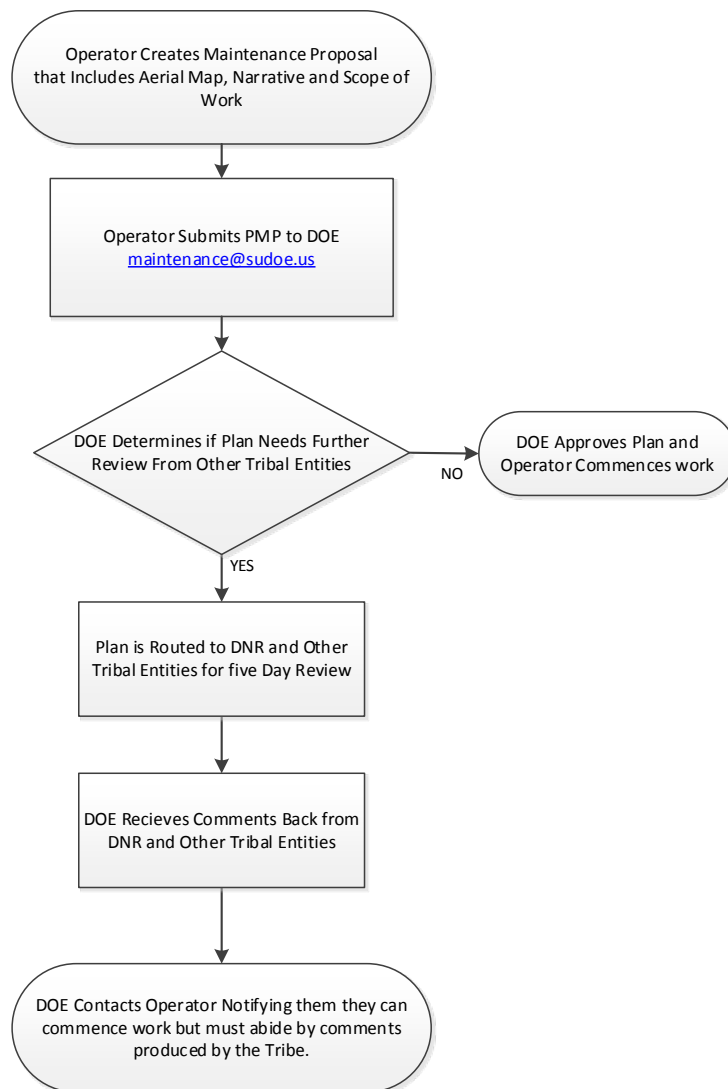
Flowchart 7 – Resolution Flowchart for Off-Lease Operations on the Reservation



5.4 Authorization Process for Maintenance Activities

The Proposed Maintenance Project (PMP) is a process that allows the Tribe to evaluate maintenance work done inside the permitted area of a Well Pad, ROW or Surface Lease on tribal lands. The Tribe requests that operators notify SUI DOE prior to conducting any ground disturbing activities in these areas. The PMP that is submitted to SUI DOE needs to include an aerial map, narrative and scope of work. DOE will determine if the project needs additional review and comment from other tribal entities. There is a potential five day comment period involved with this process that will allow SUI DOE to compile the comments and send them back to the operator notifying them that they can commence work and shall abide by the comments produced by the Tribe. Any ground disturbing work that is outside of a ROW, Surface Lease or the Permitted Area PA of a Well Pad is not considered maintenance and will have to go through the PPN process. Please submit all PMP's to maintenance@sudoe.us for review.

Flowchart 8 – Proposed Project Maintenance Project (PMP) Process for Tribal Trust Land



5.5 Air Quality Permitting

5.5.1 Tribal and Agency Jurisdiction

Jurisdiction over air quality on the Reservation is unique. Unlike the other topics discussed in this manual, it does not depend on surface or mineral ownership. Air quality inside the exterior boundary of the reservation comes under the jurisdiction of two agencies: the United States Environmental Protection Agency's (EPA) Region 8 for all air-quality regulations and the Tribe's Environmental Programs Division's (EPD) Air Quality Program (AQP) for Title V operating permits. Air-quality jurisdiction applies to all facilities within the exterior boundaries of the Reservation, even if such facilities are located or constructed on fee lands within the exterior boundary.

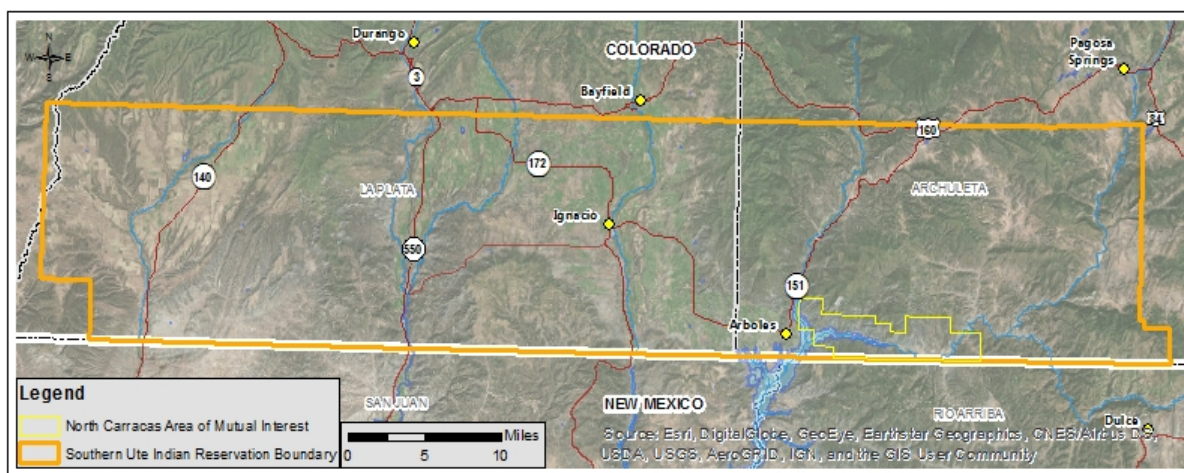


FIGURE 2. THE SOUTHERN UTE INDIAN RESERVATION'S EXTERIOR BOUNDARY.

Although BLM does not have regulatory authority over air quality, they do collect air-quality information on O&G activities where tribal surface or minerals are involved. This information is collected to comply with the NEPA by quantifying and disclosing the impacts of individual projects on local and regional air quality. BLM is also empowered to add air quality-related conditions of approval to each APD.

How To Determine Which Agency has Jurisdiction over a Project?

As shown in Table 1, the amount of air pollution your project is projected to emit determines which agency has jurisdiction for permitting and enforcement of air-quality regulations. The first step in determining which agency has jurisdiction over any new O&G related project is to complete an inventory of the amount and type of air pollutants expected to be released by the project's activities. This emission inventory (EI) should include total particulate matter (PM), particulate matter less than 10 micrometers in size (PM10), particulate matter less than 2.5 micrometers in size (PM2.5), carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen oxides (NO_x/NO₂), volatile organic compounds (VOC), hydrogen sulfide (H₂S), and hazardous air pollutants (HAPs). EIs completed for permitting purposes must be PTE (potential to emit)⁹ estimates.

⁹ For the definition of PTE, see 40 CFR 70.2.

These thresholds apply in areas designated as in attainment or unclassified for criteria pollutants. More information on each jurisdiction or requirement is provided on Flowchart 8 and Flowchart 9.

TABLE 1. AIR-QUALITY JURISDICTION AND PERMITTING AUTHORITY

Emissions Thresholds for Oil and Gas sector sources	Submit EI to BLM for NEPA assessment [†]	Comply with U.S. EPA Region 8 Preconstruction Tribal Minor New Source Review (TMNSR) permitting requirements [†]	Comply with U.S. EPA Region 8 Prevention of Significant Deterioration (PSD) preconstruction permitting requirements [†]	Comply with SUIT AQP Part 70 Operating Permit Program
>2 tons per year (tpy) of any one criteria pollutant	✓			
New or modified sources that have potential to emit: 10 tpy ≥ CO < 250 tpy 10 tpy ≥ NO _x , SO ₂ < 250 tpy 10 tpy ≥ PM 5 tpy ≥ VOC < 250 tpy 5 tpy ≥ PM ₁₀ < 250 tpy 3 tpy ≥ PM _{2.5} < 250 tpy 2 tpy ≥ H ₂ S	✓	✓		
New sources or any project at an existing major stationary source that have potential to emit: CO > 250 tpy NO _x > 250 tpy SO ₂ > 250 tpy VOC > 250 tpy PM ₁₀ > 250 tpy PM _{2.5} > 250 tpy	✓		✓	
Any <u>operating</u> source with the potential to emit: ≥ 100 tpy of any criteria air pollutant ≥ 10 tpy of any single HAP ≥ 25 tpy of any combination of HAPs				✓

† Operators should copy the SUIT AQP on all submittals to BLM and EPA Region 8.

[†] Prior to completing an EI, the Operator should consult with BLM regarding the availability of their online emission inventory tool, expected to be available in the spring of 2018

5.5.2 Air-Quality Regulations Applicable to Operators

All new and modified sources located within the external boundaries of the Reservation, regardless of their permitting status, should assess which New Source Performance Standards (NSPS) are applicable at their facilities. It is important that Operators review these regulations to ensure they are familiar with the requirements of these standards. Listed below are some of the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations that commonly apply to onshore oil and gas operations.

Federal NSPS 40 CFR Part 60 (more information on EPA's NSPS OOOOa webpage)

All sources subject to the US EPA's Federal Implementation Plan (FIP) must comply with NSPS for

- Stationary Compression Ignition Internal Combustion Engines, Subpart IIII,
- Stationary Spark Ignition Internal Combustion Engines, Subpart JJJJ,
- Stationary Combustion Turbines, Subpart KKKK
- Volatile Organic Liquid Storage Vessels, Subpart Kb
- Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced after September 18, 2015, Subpart OOOOa¹⁰. This subpart requires emissions controls and recordkeeping for activities including, but not limited to:
 - a single well conducting a well-completion operation following hydraulic fracturing or refracturing
 - centrifugal and reciprocating compressors
 - pneumatic controllers
 - storage vessels
 - pneumatic pumps
 - leak detection and repair (LDAR) requirements at well sites and compressor stations
 - glycol dehydration units

NESHAP 40 CFR Part 63

- New, modified and existing oil and gas-related sources located within the external boundaries of the Reservation should assess which NESHAP are applicable at their facilities.
- All sources subject to the U.S. EPA's FIP must comply with NESHAP for:
 - Industrial, Commercial and Institutional Boilers and Process Heaters at Major Sources, Subpart DDDDD
 - Stationary Reciprocating Internal Combustion Engines, Subpart ZZZZ
 - Glycol dehydrators, Subpart HH

NEPA-Specific Requirements

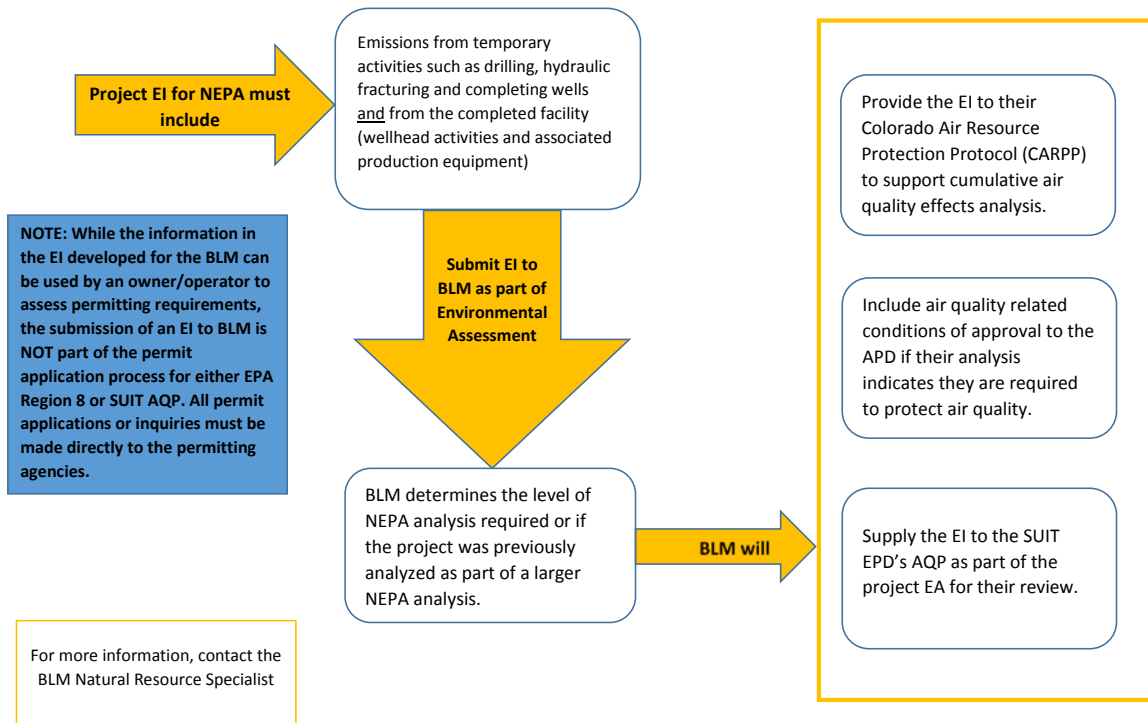
- All new and replacement internal combustion gas field engines must meet, at minimum, NSPS Subpart JJJJ emission standards.
- All non-road engines and vehicles must meet the federal exhaust emission standards as appropriate for the year, model and engine size and ignition type (compression ignition and spark ignition).

¹⁰ Portions of NSPS OOOOa were placed on a two-year stay in June 2017. Check the [EPA's Oil and Natural Gas Standards Home page, Actions & Notices section](#) for current information prior to starting your project.

However, there is an additional requirement within the Reservation for all prime mover diesel drilling rig engines to meet Tier 2 (or better) emission standards.¹¹

- For the North Carracas area only (Figure 2, above):
 - Compressors must be ultra-lean-burn engines, each fitted with two oxidation catalysts to meet NSPS, and
 - Green completion technology will be used for natural gas well completions where sufficient infrastructure exists.
- Based on the findings of BLM's annual Comprehensive Air Resource Protection Protocol (CARPP) report, BLM or SUIT AQP may require additional control measures for Operators with facilities within the Reservation boundary to minimize impacts to air quality.

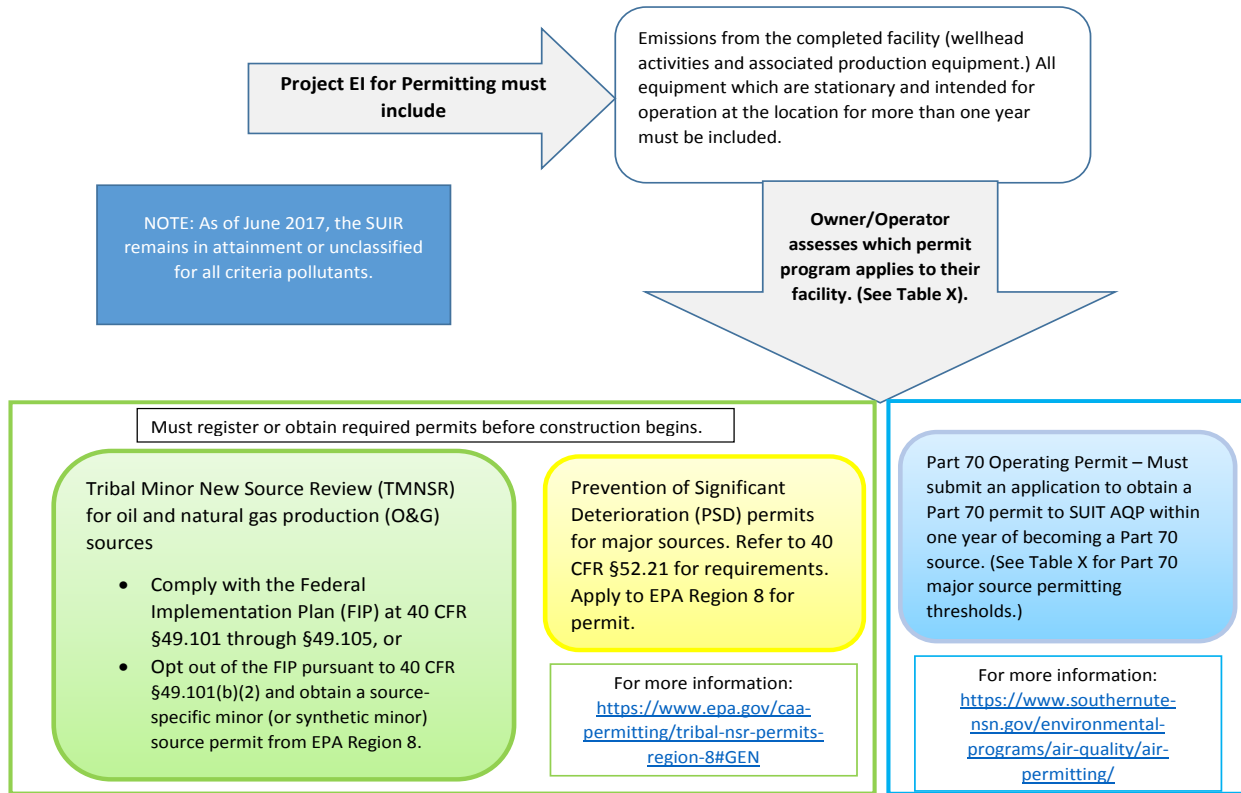
Flowchart 9 - BLM NEPA Air Quality Analysis Flowchart



¹¹ Visit EPA's webpage for [Emission Standards for Nonroad Engines and Vehicles](#) for more information.

Flowchart 10 - US EPA Region 8 and SUIR Air Quality Program Permitting

These permitting requirements apply to new sources, existing sources undergoing modification or operating sources.



5.6 Hydraulic Fracturing

The Tribe adopted the *Hydraulic Fracturing and Chemical Disclosure Regulations* for tribal trust lands on June 16, 2015 (Resolution No. 2015-98). The Southern Ute Tribal Council passed Resolution No. 2016-41, approving the Tribe's *Amended and Restated Southern Ute Indian Tribe - Hydraulic Fracturing and Chemical Disclosure Regulations* on April 5, 2016. A Memorandum of Agreement (MOA) between the BLM and the Tribe was signed on November 4, 2016, recognizing the SUI DOE's lead role in managing hydraulic fracturing and chemical disclosure on tribal trust lands. These regulations, associated documentation and required forms can be found both in Appendix B and on the SUI DOE webpage (www.suitdoe.com). General requirements are included below; however, all Operators should read the entire regulation for specifics.

Notice of Intent

Operators shall submit to the SUI DOE, at least 20 business days in advance of treatment, a NOI to conduct hydraulic fracturing, *Form HF* (Attachment HF 1), to include information in the Southern Ute Indian Reservation Hydraulic Fracturing Checklist (Attachment HF 2). Notification and supporting documentation shall be submitted via email to hf_notice@sugf.com.

Fresh Water Protection

Operators must isolate all fresh water aquifers and other mineral-bearing formations and protect them from contamination.

Cement Operations – for newly permitted and drilled wells

- All surface and intermediate casing shall be cemented with a continuous column from the bottom of the casing to the surface.
- After thorough cement circulation of the wellbore, cement shall be pumped behind the production casing at least 50 feet above the bottom of the intermediate casing. If the well does not have intermediate casing, the production casing shall be cemented with a continuous column from the bottom of the casing to the surface. This requirement does not apply to portions of the production casing located within the target formation.
- Installed production casing and intermediate casings shall be adequately pressure tested for conditions anticipated to be encountered during completion and production. The Operator shall promptly notify the SUI DOE if a mechanical integrity test pressure loss exceeds ten percent.

Offset Well Evaluation

An Operator will perform an offset well evaluation of all offset wellbores within 1,500 feet of a proposed well to determine if those wells have adequate zonal isolation in the formation to be stimulated. The evaluation shall include producing, shut in, temporarily abandoned, plugged and abandoned and dry and abandoned wells.

Fracture Stimulation Setback

No portion of a proposed wellbore's treated interval shall be located within 150 feet of an existing or permitted O&G wellbore's treated interval belonging to another Operator without the signed written consent of the SUIIT DOE.

Bradenhead Monitoring During Stimulation

- During stimulation operations, bradenhead annulus pressure shall be continuously monitored and recorded on all wells being stimulated.
- Any time the bradenhead annulus pressure increases more than 200 psig (pounds per square inch, gauge), the Operator shall undertake appropriate corrective actions and verbally notify the SUIIT DOE as soon as practicable, but no later than 24 hours following the incident.

Recovered Fluids Management

- Use of tanks for fluid management is required. Tanks cannot exceed 500 barrel (bbl) capacity unless approved by the SUIIT DOE.
- Lined pits are allowed only upon approval by the SUIIT DOE in specific circumstances.

Post-Completion Required Disclosures

- Operator must post specific hydraulic fracturing data to FracFocus within 30 days following the conclusion of treatment.
- A Final Drilling Completion Report shall be submitted within 30 days of rig release after drilling, sidetracking or deepening a well to total depth. In the case of continuous, sequential drilling of multiple wells on a pad, the Final Drilling Completion Report shall be submitted for all the wells within 60 days of rig release for the last well drilled on the pad.
- Within 30 days after hydraulic fracturing is completed, the Operator shall submit a certification to the SUIIT DOE that the Operator complied with the requirements of these regulations.
- A Completed Interval Report shall be submitted within 30 days after a formation is completed, successful or not.

Operations

Regulatory Oversight

BIA, BLM, EPA, SUI Air Quality and SUI EPD Water Quality are some of the regulatory agencies that an Operator may come into contact with on the Reservation. These agencies and others regulate and provide guidelines for oil and gas development and operations. DOE works closely with regulatory agencies to ensure that all oil and gas development and operations on the Reservation satisfy compliance and regulatory standards. DOE provides opinions and recommendations on deficiency and compliance issues that the regulatory bodies may use to enforce these standards. If there is a question of which regulatory agency oversees specific development or operating requirements for oil and gas, please contact SUI DOE.

6.1 Inspections

Well pads, pipelines and other facilities are subject to inspection during construction, drilling, before and/or after interim reclamation is established, during day-to-day operations and during abandonment and final reclamation. Inspections may be completed by BLM, BIA, SECMG or the SUI DNR Range Division, depending on jurisdiction. SECMG has implemented an Environmental Compliance Program to inspect sites on tribal trust lands across the Reservation to assist Operators in the recognition of compliance issues that may exist on their well pads and facilities. SECMG conducts the following inspections:

- Drilling/Construction Inspection (see below)
- Surface Compliance Inspection (see below)
- Plug & Abandon Inspection (see Section 6.9.5)
- Final Reclamation Inspection (see Section 6.9.5)

Drilling/Construction

Operators are notified by SECMG prior to any drilling inspection conducted by SECMG. All correspondence pertaining to any deficiencies identified during the inspection is done via email. The following items provide general inspection areas, but this list is not exhaustive, i.e., additional areas may be inspected during drilling and construction inspections:

- good housekeeping
- drilling and fracturing tanks/pits (if approved)
 - hydraulic fracturing tanks or pits are free of leaks or failures
 - pit in cut
 - pit has appropriate amount of freeboard
 - leak detection system
 - pits and tanks adequately fenced or netted
- containment structures are adequately sized
- erosion and stormwater control Best Management Practices (BMPs) in place and functioning
- equipment free of spills and leaks
- all equipment and storage tanks that handle high saline drilling muds over

- 25,000 mg/L total dissolved solids (TDS) are placed on liner
- closed loop system on a liner if stated in the Conditions of Approval (COA), including the immediate area around and under the cuttings bin
- chemical and non-freshwater tanks/containers must be placed within appropriate lined secondary containment structures
- all soil on pad that contains drill cuttings, coal fines, hydrocarbons or saline fluids needs to be removed after drilling or completion operations
- all other site-specific COAs are being followed

Surface Compliance Inspections

After SECMG inspects any well, the Operator receives an emailed *Surface Compliance Inspection* form that notes the inspection and identifies observed deficiencies that may be present on well pads, pipelines and other facilities. Operators should contact the SECMG within 10 business days to discuss potential corrective actions. There are no strict or specific timelines required for corrective action; however, it is our expectation that a timeframe be provided by the Operator. The Operator receives closure documentation for compliance inspection-related items once identified deficiencies are remedied. Our mission is to help Operators stay in compliance and work in a manner that benefits tribal resources as well as companies working on the Reservation.

Surface compliance inspections may involve the following areas:

- well sign posted and accurate
- fencing or paneling in place (if necessary or in COAs)
- stormwater system on location and access road
- reserve pit reclaimed or has avian cover
- equipment free of leaks and well site free of spills
- trash/discarded equipment
- functional and maintained BMPs
- noise mitigation
- interim reclamation
- weed infestation
- site-specific COAs followed
- leak detection (OGI/FLIR Camera)

6.2 Spill Reporting and Response

The Tribe requests that Operators comply with applicable regulatory requirements including taking measures to prevent, control and clean up spills, developing and implementing a Spill Prevention, Control, and Countermeasure (SPCC) Plan, installing appropriate BMPs to prevent releases, and promptly responding during emergency situations as required by applicable regulations (e.g., EPA regulations contained in 40 C.F.R. § 112).

The Tribe requests that, in addition to complying with applicable regulatory requirements regarding reporting spills to the requisite federal and state agencies, Operators report to the Tribe a spill of any kind (produced water, condensate, chemicals, etc.) under the following circumstances:

- if the spill exceeds or is equal to one barrel (42 gallons) outside of secondary containment or five barrels (210 gallons) within secondary containment
- if the spill threatens to impact a residence or occupied structure, livestock, or a public byway

- if the spill flows into or threatens live water, an irrigation ditch, or a dry arroyo (waters of the U.S.)
- if the spill has the potential to reach groundwater
- if the spill meets a hazardous substance Reportable Quantity under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Table 2 is provided to assist in determining the need for reporting a spill on the Reservation.

TABLE 2. SPILLS FOR WHICH THE TRIBE REQUESTS NOTIFICATION.

Description/Criteria			Notifications
	No	Yes	
Is the spill greater than or equal to one barrel (42 gallons) outside of secondary containment or five barrels (210 gallons) within secondary containment?	No report	▶	To SECMG Prompt verbal notification to SECMG Doug Krueger 970-769-3017 SECMG Brendan Cusick 970-764-6488 or SUIT DOE 970-563-5550 as soon as practicable, followed by a written report within 24 hours to spill@sudoe.us . SECMG then notifies the following SUIT agencies, as necessary: <ul style="list-style-type: none"> • DNR Lands Division and Range Division • EPD • Office of Risk Management
Does the spill threaten to impact a residence or occupied structure, livestock, or a public byway ?	No report	▶	
Did the spill reach or threaten surface water, a dry arroyo, irrigation ditch, or a storm sewer that leads to surface water?	No report	▶	
Does the spill have the potential to reach groundwater ?	No report	▶	
Did the spill meet the reporting criteria of any federal agency (i.e., EPA’s CERCLA reportable quantity, U.S. Department of Transportation’s pipeline release reporting criteria, BLM’s spill reporting criteria)?	No Report	▶	

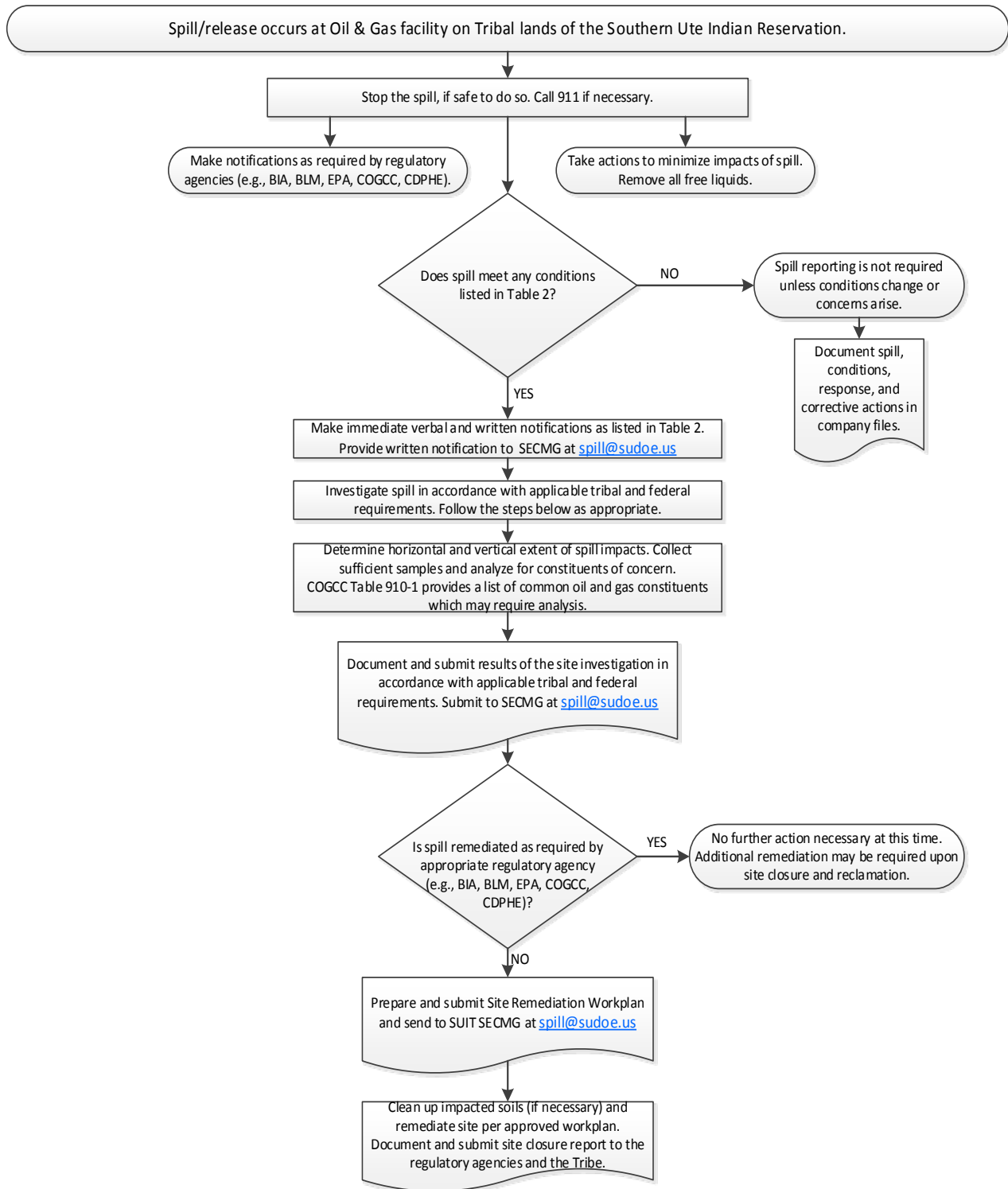
Tribal notification should be made to the SUIT DOE in accordance with this manual, any APD stipulations, and any other lease stipulations and conditions outlined in the lease agreement. Use the [Southern Ute Indian Tribe Department of Energy Exploration & Production Spill/Release Report](#) form to report a spill that took place on the Reservation. The spill report must be accompanied by a topographic or aerial map showing the release location and extent.

The Operator is solely responsible for making non-tribal notifications that might be required, including notifications to the BIA, BLM, the National Response Center, EPA, COGCC, and Colorado Department of Public Health and Environment (CDPHE). Flowcharts 10 and 11 are provided on the following pages to assist Operators with determining whom to contact and any other required next steps in the event of a spill or

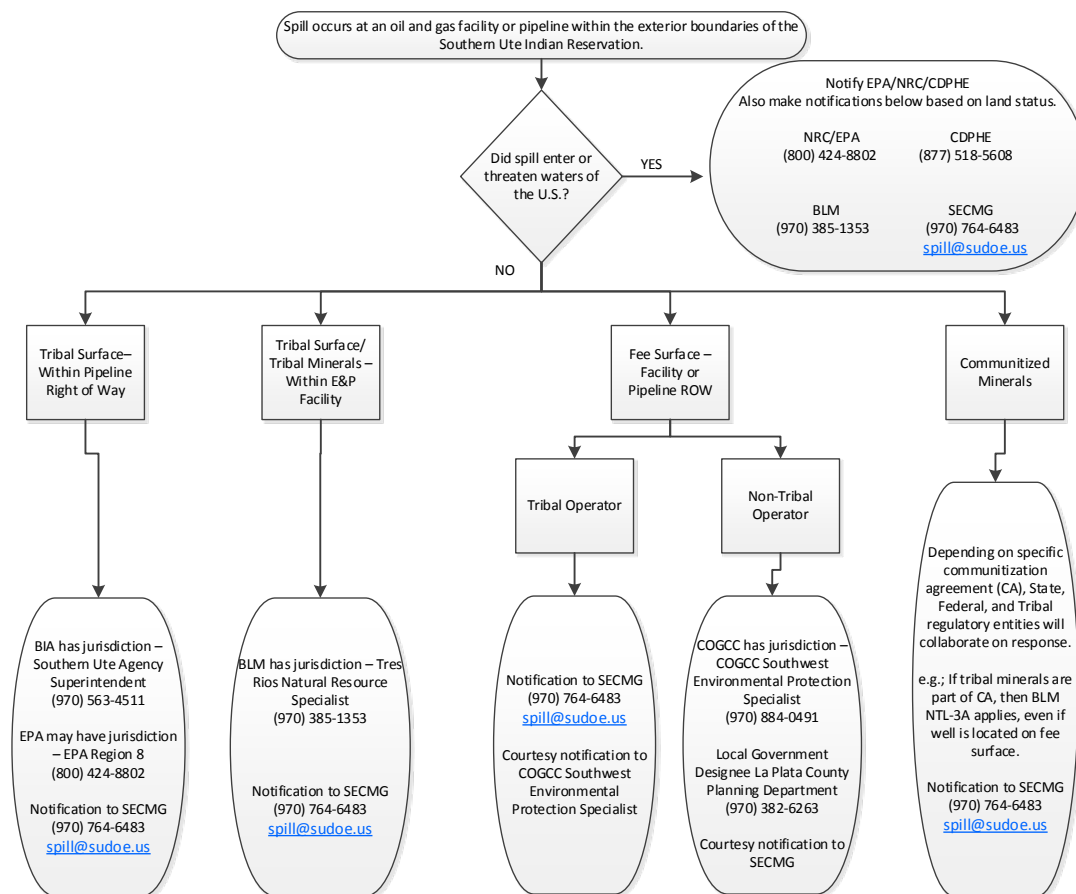
release. While some spills may not meet the reporting criteria detailed above, all spills require removal of free liquids and cleanup of impacted soils.

Spill response actions must be approved by the applicable regulatory agency (e.g., BIA, BLM, EPA) with tribal consultation. Once regulatory approval is granted, SECMG provides closure documentation to the Operator.

Flowchart 11 - Spill/Release Reporting and Response



Flowchart 12 – Spill Reporting and Response Contacts Based on Land and Mineral Ownership Status



6.3 Water Quality, Stormwater, Erosion Control and Interim Reclamation

6.3.1 Water Quality

Activities or operations on the Reservation that identify potential impacts to waters of the U.S. as defined by 40 CFR 230.3(s) under the Clean Water Act (CWA) shall obtain the appropriate permits through the U.S. Army Corps of Engineers under §404 of the CWA and U.S. EPA under §401 of the CWA. Potential impacts may include the placement of fill or dredging within a water as a result of pipeline installation or access road, well, or facility site construction.

6.3.2 Stormwater and Erosion Control

O&G construction activities and operations have the potential to contribute pollutants to stormwater. Stormwater runoff from areas disturbed by O&G activities and operations can cause erosion and may be contaminated with sediment. Stormwater pollution can result when stormwater runoff comes into contact with industrial and construction materials, such as production fluids and other chemicals that have been

spilled, improperly disposed of, or stored outdoors. Implementation of BMPs can reduce erosion, sedimentation and stormwater pollution from O&G construction activities and operations. Operators shall follow Reasonable and Prudent Practices for Stabilization (RAPPS) by implementing BMPs and stabilizing non-operational areas of disturbance to reduce erosion.

Under the 2005 Energy Policy Act, O&G construction activities on tribal lands are currently exempt from obtaining a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges associated with construction activities except in very limited instances. Facilities that have a discharge of a CERCLA-reportable-quantity release or that contribute pollutants (other than non-contaminated sediment) that result in a violation of a water-quality standard are required to obtain and maintain NPDES permit coverage for stormwater for the entire operating life of the facility from the EPA.

However, the Tribe is requesting that all Operators conducting business on tribal lands adhere to the *Southern Ute Indian Tribe Stormwater Recommendations* (SUIT Stormwater Recommendations). The SUIT Stormwater Recommendations request that the Operator submit a NOI to the Southern Ute Water Quality Program and prepare a Stormwater Pollution Prevention Plan (SWPPP) prior to any O&G construction project greater than one acre in size.

Operators with construction activities greater than one acre in total earth disturbance on fee lands within the exterior boundaries of the Reservation are regulated under the Colorado Discharge Permit System Regulations (5 CCR 1002-61) and require permit coverage in accordance with that regulation.

Long-term stormwater management is expected to continue for all locations. This management includes monitoring for erosion, spills, leaks or other potential pollutant sources that may contaminate stormwater runoff. Long-term stormwater management guidelines may be found in COGCC Rule 1002.f (3). Operators may be required to develop a post-construction stormwater management plan per this rule if COGCC has regulatory authority of the location.

6.3.3 Interim Reclamation

Upon completion of drilling activities, Operators shall implement measures to reduce the total footprint of a well pad through interim reclamation. This may include the following measures:

- reducing the footprint of the well pad to those areas needed for operations (i.e., the rig anchor footprint)
- grading cut and fill slopes to less than 3:1 to reduce potential erosion
- implementation of long-term stormwater management measures such as diversion ditches, berms, or swales, as applicable
- replacement of salvaged top soil on reclaimed slopes
- seeding and mulching of areas not needed for operations

The intent of interim reclamation is to promote stable facilities during the operational life of the location while reducing potential erosion or offsite sedimentation. Operators should consult their APD and adhere to specific COAs and their Surface Use Plan. The Tribe requests that upon completion of interim reclamation, Operators notify the BLM and SUIT DOE and SECMG.

6.4 Air Quality

Jurisdiction over air quality on the Reservation is unique. Unlike the other topics discussed in this manual, it does not depend on surface or mineral ownership. Air-quality issues related to operation of O&G facilities within the exterior boundary of the Reservation comes under the jurisdiction of two agencies: the EPA's Region 8 for all air-quality regulations, and the SUIT AQP for Title V operating permits. Additionally, BLM has air-quality-related rules for the waste of extracted resources that include loss of natural gas through leakage, venting and flaring.

6.4.1 AQP

Where applicable, the Operator shall comply with the terms of the tribally issued [Part 70 \(Title V\) Operating Permit](#).

6.4.2 EPA

Where applicable, the Operator shall comply with the terms of the TMNSR (either a site-specific permit or under the FIP) or PSD permit and shall comply with all applicable NESHAP and NSPS regulations.

6.4.3 BLM

The BLM promulgated the *Waste Prevention and Resource Conservation Rule*, 43 CFR §3179¹², on November 18, 2016. This rule applies to all onshore wells, tanks, compressors and other equipment located on Indian O&G leases, units and communitized areas. Refer to the [rule](#) for details on applicability and specific requirements.

The following existing equipment types (those not subject to NSPS subparts OOOO or OOOOa) have requirements for replacement or control under this rule:

- pneumatic controllers having continuous bleed rates greater than 6 scf (standard cubic feet) per hour (§3179.201),
- pneumatic pumps (§3179.202), and
- existing storage vessels (§3179.203).

The Operator must minimize vented gas and the need for well venting associated with downhole well maintenance and liquids unloading, consistent with safe operations (§3179.204). Additionally, LDAR requirements for existing well sites and compressor stations (§3179.301 through 305) are addressed in this rule and are the responsibility of the Operator.

6.5 Noxious Weeds

Prior to any herbicide treatment on tribal lands, all commercial applicants must receive an approval letter from the SUIT DNR Water Resources Division. Please contact the Water Resources Division Soil and Water Conservationist to obtain the approval letter. The Operator must also obtain a crossing permit from the SUIT DNR Lands Division. The crossing permit is not issued until the applicant has received the approval letter from the SUIT DNR Water Resources Division.

¹². Visit the BLM's webpage for [Oil and Gas Operations and Production Methane and Waste Prevention Rule](#) for current information.

Applicants must provide copies of current Colorado Qualified Supervisor License(s) and current Colorado Certified Operator License(s) for employees who perform herbicide application. An Herbicide Use Proposal shall include:

- herbicides to be used
- application rates and timing
- method of application
- noxious weed list
- treatment sites
- sensitive aspects/precautions
- list of trucks, tractors and OHVs (off-highway vehicles), with model, body, color and license plate information, to be used for spraying
- certificate of current liability insurance.

This process is standard for all new applicants and needs to be renewed annually for applicants currently working on the Reservation.

6.6 Noise

Oil and gas operations may generate noise that has the potential to affect nearby landowners. Although COGCC Rules do not apply to tribal trust lands, the Tribe refers to these noise regulations, which are found in the 800 Series of the COGCC Rules as a guidance. The noise limits are summarized in **Table 3**, below.

TABLE 3. CONDENSED SUMMARY OF COGCC NOISE RULES.

Zone	7:00 a.m. to 7:00 p.m.	7:00 p.m. to 7:00 a.m.
Residential/Agricultural/Rural	55 dBA	50 dBA
Commercial	60 dBA	55 dBA
Light industrial	70 dBA	65 dBA
Industrial	80 dBA	75 dBA

6.7 Visual Mitigation

The Tribe strives to maintain favorable scenic values on tribal lands. O&G facility locations should be evaluated to promote and maintain these scenic values within the Reservation. The 2002 Final Environmental Impact Statement (FEIS) defines specific facility siting, design and landform-disturbance measures to follow in selecting and constructing a location that will have minimal contrast to the existing view shed. Additionally, Operators shall follow as guidance the *BLM Visual Resource Management for Fluid Minerals and Manual Section 8400 - Visual Resource Management* in an effort to reduce contrasts. In general, Operators should evaluate a proposed location from key observation points to determine the appropriate form, line, color, texture, scale and space of the proposed facility.

The following strategies may be evaluated to assist in addressing visual design:

- color selection
- earthwork
- vegetative manipulation
- reclamation
- linear alignment design considerations

The Tribe believes that the benefits gained by incorporating appropriate design strategies into surface-disturbing activities as well as non-native infrastructure will assist in protecting the scenic values on the Reservation.

6.8 Final Abandonment and Reclamation

The long-term objective of final plugging and abandonment and reclamation is to ensure the protection of groundwater, reconstruct the original landform, and establish desirable perennial vegetative cover in order to restore all naturally occurring ecosystems, visual resources and wildlife habitats. There is a one-time Plug and Abandon onsite fee of \$1,000.00 that will be paid to SUIT DOE. DOE will submit the invoice to the operator after the onsite takes place. Multiple onsites per day will be invoiced individually

Operators should reference the BLM Gold Book reclamation Chapter 6 beginning on page 43.

<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/the-gold-book>

Components of a reclamation plan for P&A, final reclamation of the site, or road reclamation. Additional guidance available under BLM Onshore Order No. 1 Section III.D.4. j. and Chapter 6 of the 2007 BLM Gold Book starting on page 43.

1. Description of the facility -
 - a. Type (Compressor, well pad, pipeline ROW, CDP, water injection well or water transfer site):
 - b. Legal description of location
 - c. Acreage of disturbance for reclamation
2. List of all equipment, tanks and infrastructure to be removed from the site.
3. Description of removal or abandonment in place of below grade piping, concrete etc. Piping above 30" needs to be removed. Piping below 30" can be purged and capped in place. If the pipeline is below 30", but is subject to future exposure (such as a drainage), must be removed.
4. Sampling plan for well pad that is in alignment with the Table 1- Final Reclamation Sampling Guidance ([Appendix A](#)) and the COGCC Table 910-1. If necessary, include a remediation plan for soils impacted by analytes sampled.
 - a. Identify historic spills at the site.
 - b. Copy of soil tests conducted.
 - c. Map showing location where samples were taken.
5. Final grading and re-contouring plan for all areas to be reclaimed (i.e., site, access road, etc.)
 - a. Site map to include:
 - i. Overview of area to be reclaimed
 - ii. Areas of cut and fill required to achieve re-contouring of slopes.

- iii. Describe whether the entire disturbed area will be re-contoured to achieve approximate original topography and grade or not. If not, explain why.
 - iv. Location of erosion control features and best management practices after re-contouring. Identify if features or BMPs are permanent or temporary.
 - v. Identify final slopes that are steeper than 3:1 (H:V) and stabilization measures for these areas.
- b. Reseeding and temporary stabilization.
 - i. Describe how available topsoil will be utilized for reclamation (topsoil could be found in a designated stockpile, if present, or within interim reclamation areas)
 - ii. Seed mixture and mulching practices
6. Monitoring or inspection schedule to achieve final stabilization to include:
- a. Monitor perennial vegetation establishment
 - b. Erosion or off site sedimentation
 - c. Weed management

6.8.1 Production Wells

The plugging and abandonment (P&A) of an oil or gas well is a BLM function, so the BLM is the first point of contact. The BLM notifies any other agencies, typically SECMG, SUIT DNR Range Division, and BIA, need to be involved in the process. BLM directs the Operator, in consultation with the Tribe, as to project phasing. A typical approach to project phasing is provided in Flowchart 12.

6.8.2 Compressor Stations

The decommissioning of a compressor station is typically a BIA function, making them the first point of contact. The BIA notifies any other agencies, typically SECMG, SUIT DNR Range Division, and BLM, need to be involved in the process. Project phasing is similar to the example provided in Flowchart 12.

6.8.3 Pipeline Rights-of-Way

All surface infrastructure associated with the flowline (on or off the well site) must be removed to a depth of 30 inches below final grade. If the flowline or pipeline is owned by a different company, the Operator performing final reclamation coordinates with the pipeline company to remove surface infrastructure on the well site prior to final reclamation earthwork. All pipelines must be purged prior to capping. Jurisdiction and reclamation responsibility of pipeline corridors is discussed at the initial reclamation onsite.

6.8.4 Roads

All roads associated with the access to well pads, CDPs or other facilities are reclaimed in conjunction with reclamation of the location. The timing and extent of the reclamation of any given road is determined based on the length and future use as decided by the Tribe or BIA. In general, all spur access roads for which the sole purpose is facility access are reclaimed to match pre-existing adjacent topography, all culverts are removed, and drainage crossings are reclaimed in a manner that reduce potential long-term erosion or

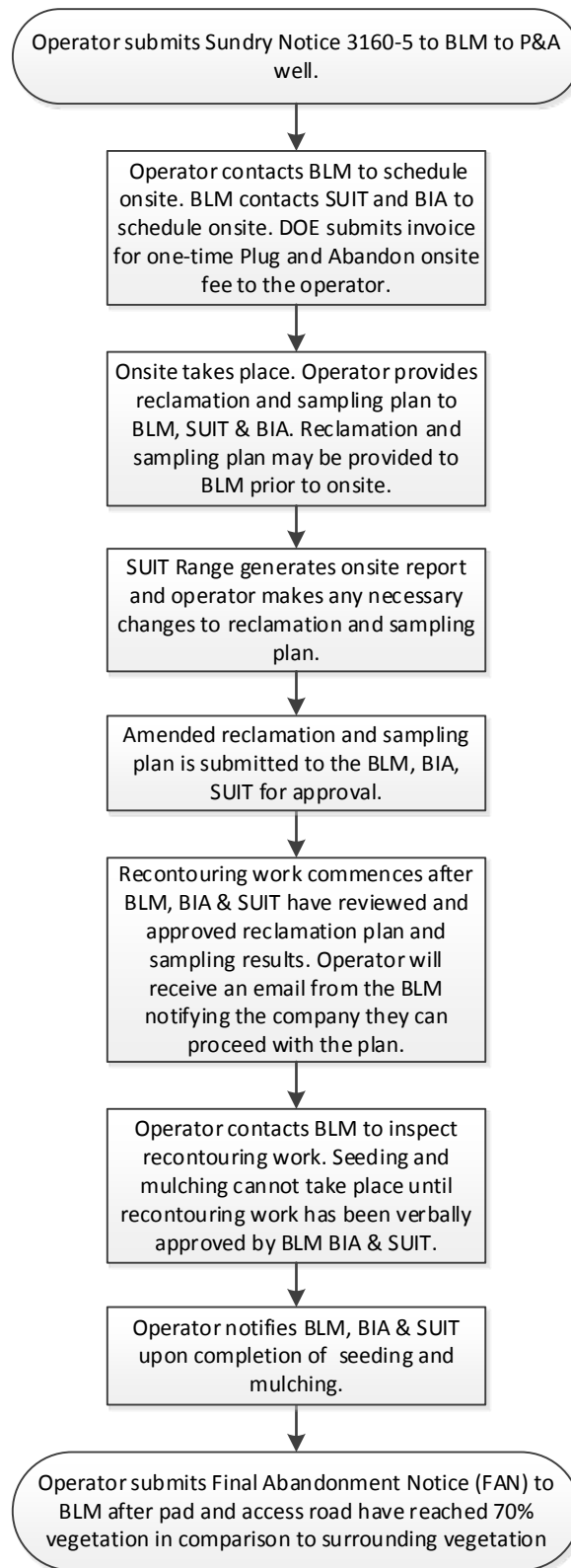
degradation. Roads of greater length, or shared use, may be reclaimed in phases to promote maximum success of vegetative establishment. Cooperation between Operators during reclamation is encouraged.

Roads scheduled for reclamation within a portion of the western side of the Reservation, as identified in the map in Appendix C, are reclaimed or reduced in driving capacity per the road's designation noted in Appendix C.

6.8.5 Final Closure

Final closure of O&G facilities must be approved by the BIA or BLM, depending on the jurisdiction, with input and consultation with the Tribe. A final reclamation inspection is conducted to evaluate the stability of the reclaimed landform and the successful establishment of the vegetative community. Sampling recommendations are based on the BLM Final Reclamation Sampling Table located in Appendix A. In agricultural areas, irrigation infrastructure needs to be reestablished to meet future agricultural production goals. The area needs to have 70 percent desirable perennial vegetative cover relative to the surrounding area in order to receive the Final Abandonment Notice (FAN) approval from the appropriate agency and be released from any bonding.

Flowchart 13 – Example Plug and Abandon (P&A) Project Phasing



References

Reference	Link to Webpage
SUIT Standard Operating Procedures (SOP) for Field On-Sites and Survey Plats	http://www.suitdoe.com/Documents/SUITSOPforFieldOn-sitesandSurveyPlats.pdf
SUIT DNR Permission to Survey (PTS) and Proposed Project Notification (PPN) Presentation	http://www.suitdoe.com/Documents/DNRPPNGermaineSanchez.pdf
SUIT Stormwater Recommendations	http://www.suitdoe.com/Documents/SUITStormwaterRecommendations.pdf
SUIT Department of Energy Exploration & Production Spill/Release Report	http://www.suitdoe.com/Documents/SpillReportTemplate-OnReservation.pdf
SUIT Hydraulic Fracturing and Chemical Disclosure Rule (effective April 5, 2016)	http://suitdoe.com/Documents/AmendedRestatedHydraulicFracturingChemicalDisclosureRegulations.pdf
Southern Ute Indian Reservation Hydraulic Fracturing Checklist	http://suitdoe.com/Documents/SouthernUteIndianReservationHydraulicFracturingChecklist.pdf
SUIT Department of Energy Hydraulic Fracturing Notice	http://www.suitdoe.com/Documents/OnLeaseFacilityForm.pdf
25 CFR 169 – Rights-of-Ways Over Indian Lands	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title25/25cfr169_main_02.tpl
40 CFR 60 – Standards of Performance for New Stationary Sources	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr60_main_02.tpl
SUIT Part 70 – Operating Permit Program	http://www.southernute-nsn.gov/air-quality/part-70
40 CFR 49 – EPA Tribal Minor New Source Review Permitting (EPA R8 website)	http://www.epa.gov/region8/air/permitting/tmnsr.html
40 CFR 49 – Federal Plan for Implementing the Indian Country Minor New Source Review Program for the Oil and Natural Gas Industry	https://www.epa.gov/tribal-air/final-federal-implementation-plan-oil-and-natural-gas-true-minor-sources-and-amendments
BLM Onshore Orders	https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/onshore-orders
BLM Waste Prevention Rule	https://www.federalregister.gov/documents/2016/11/18/2016-27637/waste-prevention-production-subject-to-royalties-and-resource-conservation
State of Colorado Noxious Weed List	https://www.colorado.gov/pacific/agconservation/noxious-weed-species
BLM Gold Book	https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/the-gold-book

Southern Ute Indian Tribe, Natural Resources Management Plan, Planning Period 2012–2032 (August 28, 2012)	Not publicly available

Points of Contact

Agency	Point of Contact	Title	Phone Number(s)
BIA	Priscilla Bancroft	Superintendent	970-563-4511
	Jim Friedley	Forester & BIA NEPA Coordinator	970-563-4571
	Waylon Denny	SW Region Division Chief, Environmental Safety & Cultural Resources Management	505-563-3062
BLM	John Pecor	Petroleum Engineer (Minerals Staff Chief)	970-385-1356
	Tanner Nygren	Natural Resource Specialist	970-385-1353 970-903-9994 (c)
	Rodney Brashear	Supervisory Petroleum Engineer Technician	970-385-1347
SUIT DOE	Missy Bailey	Department Manager	970-563-5571 970-769-7204 (c)
	Andy Wetherell	Land Manager	970-563-5569 970-759-4412 (c)
SECMG	Andy Young	EHS Regulatory Compliance Manager	970-764-6486 970-749-4519 (c)
	Brendan Cusick	Senior Environmental, Health & Safety Specialist	970-764-6488
	Doug Krueger	Environmental Compliance Specialist	970-764-6483 970-769-3017
SUIT DNR	Lena Atencio	Director	970-563-2263
	Germaine Ewing	Lands Division Head	970-563-2228
	Jason Mietchen	Range Division Head	970-563-2912 970-749-8826 (c)
	Jeff Seebach	Range Technician	970-563-2915 970-749-5662 (c)
	Pete Nylander	Water Resources Division Soil and Water Conservationist	(970) 563-2933
	Steve Whiteman	Wildlife Division Head & NEPA Coordinator	970-563-2413 970-749-5089
SUIT J&R Environmental Programs Division	Mark Hutson	Division Head	970-563-2206
	Curtis Hartenstine	Water Quality Program Manager	970-563-2217
	Danny Powers	Air Quality Program Manager	970-563-2265

TERO	Floyd Jameson	Compliance Officer	970-563-2292
U.S. EPA	Region 8 Air Permitting		R8AirPermitting@epa.gov
	Claudia Smith	Tribal NSR Permits Lead	smith.claudia@epa.gov

Revisions

Revision Date	Page(s)	Change(s)
November 2017	All	Full revision of E&P Manual (2 nd edition)
March 2018		Flowcharts 6 and 11, Table 1 – Air Quality Jurisdiction and Permitting Authority, BLM to receive range report and notification of construction activities (pages 20/21), Table 1 – SUIR Final Reclamation Sampling Guidance, Surface Compliance and Final Reclamation Inspection forms updated. General editorial fixes throughout.
June 2018	Pages- 7, 8, 10, 13, 14, 20, 22, 28, 32, 33, 34, 36, 37, 40, 41, 43, 45	Cover, Contents, Acronyms Flowcharts 2, 6, 10, 11, 13 Table 2 SUIT Drilling & Construction Inspection Form SUIT Surface Compliance Inspection Form SUIT Final Abandonment & Reclamation Inspection Form SUIT Spill Reporting Form

Appendix A Forms/Checklists/Tables

SUIT DOE Well Site Equipment Worksheet

SUIT Drilling and Construction Inspection Form

SUIT Surface Compliance Inspection Form

SUIT Final Abandonment and Reclamation Inspection Form

SUIT Hydraulic Fracturing Notification Form

SUIT Hydraulic Fracturing Checklist

SUIT Spill Reporting Form

Final Reclamation Sampling Table 1

SUIT Stormwater Recommendations

SOUTHERN UTE INDIAN TRIBE

Department of Energy

WELL SITE EQUIPMENT WORKSHEET

Applicant:		Permitter (if different than applicant):	
Well Name:		API #:	
Twn:	Rng:	Section:	Quarter/Quarter:
FACILITIES:	NUMBER OF FACILITIES:	HORSEPOWER:	ELECTRIC/GAS DRIVEN:
Wells : _____	_____	_____	_____
Drilling Pits: _____	_____	_____	_____
Pump Jacks: _____	_____	_____	_____
Gas or Diesel Motors: _____	_____	_____	_____
Dehydrator Units: _____	_____	_____	_____
Oil Tanks: _____	_____	_____	_____
Production Pits: _____	_____	_____	_____
Separators: _____	_____	_____	_____
Electric Motors: _____	_____	_____	_____
Vapor Recovery Unit: _____	_____	_____	_____
Condensate Tanks: _____	_____	_____	_____
Special Purpose Pits: _____	_____	_____	_____
Injection Pumps: _____	_____	_____	_____
Electric Generators: _____	_____	_____	_____
VOC Combustor: _____	_____	_____	_____
Water Tanks: _____	_____	_____	_____
Multi-Well Pits: _____	_____	_____	_____
Cavity Pumps: _____	_____	_____	_____
Fuel Tanks: _____	_____	_____	_____
Flare: _____	_____	_____	_____
Buried Produced Water Vaults: _____	_____	_____	_____
Modular Large Volume Tanks: _____	_____	_____	_____
Gas Compressors: _____	_____	_____	_____
LACT Unit: _____	_____	_____	_____
Pigging Station: _____	_____	_____	_____
Southern Ute Tribal Well Pad Requirements:			
1) Notification to DOE is required, if any equipment is removed or added to the wellsite – mbailey@sudoe.us			
2) Any venting or flaring of a well shall be reported to SUIT-DOE as soon as it is known that venting or flaring will be utilized. SUIT-DOE will provide instructions to the company for notification to homeowners, if necessary – mbailey@suedoe.us			
3) Sound emission will be in accordance with COGCC Rule 800 Series and Southern Ute Tribal requirements;			
4) No construction shall take place if there is inclement weather conditions that would create more than 3-inch ruts, such as, snow on the ground, raining or wet conditions, etc. (SEE General Well Pad Stipulations)			
5) Operator shall electrify any production equipment which is located within ¼-mile of a 3-phase electric line;			
6) Outdoor lighting fixtures with an initial output of more than 2,000 lumens shall have a full cutoff fixture & designed to shield the source of illumination from view;			
7) Operator/Contractor shall remove chains from heavy equipment before entering a public road; mud or debris tracked onto a public road shall be removed;			
8) All access roads and well pads will be constructed and maintained in accordance with generally accepted standards for repair, orderliness, neatness, sanitation, and safety. (SEE General Well Pad Stipulations)			
COMMENTS:			



Southern Ute Indian Tribe Drilling/Construction Inspection

Inspector: Doug Krueger, SUIT SECMG Environmental Compliance Specialist dkrueger@sugf.com 970 764-6483 # Cell- 970-769-3017		Date Inspected: Assigned # 2017-0000DCI	Operator:
Lease #:		API #:	
Site Name:		Legal Description: NMPM La Plata County Colorado	

Item #	Inspection Item	Acceptable	Deficient	Condition	Requires remediation See Narrative
	Drilling Inspection Items				
1	Location of Pit (if allowed)				
2	Pit Freeboard (>2 feet)				
3	Pit Adequately Fenced and Netted				
4	Closed Loop System: Leaks, Spills, Liner if Drilling muds over 25,000 mg/L TDS				
5	All Liners Free of Cracks, Leaks and Failures				
6	Containment Structures Appropriately Sized				
7	Chemical and Non-Freshwater Containers placed within appropriate lined secondary containment.				
8	Tanks-Number, Type, Capacity, Contents				
9	Tanks/containers appropriately labeled				
	Well Site, Access Road and Corridors				
10	Erosion controlled adequately				
11	Functional and maintained erosion and sediment control BMP's in place				
12	Stormwater System in Place and Functioning				
13	Access road drivability				
14	Access road and culverts				
15	Topsoil Salvage and Storage: Volumes, Segregation, Stockpile Dimensions and Location.				
16	Weed infestation				
17	Offsite tracking				
18	Well site free of trash				
19	Well Signage Posted and Accurate				
20	Emergency Contact Number Present and Accurate				
21	Fencing type and location				
22	Site specific COA's followed				
23	Other				

If you receive this Drilling/Construction Inspection Report with any "Deficient" items, please contact the Southern Ute Indian Tribes Safety and Environmental Compliance Management Group (SECMG) Environmental Compliance Specialist as soon as possible and provide a remediation plan that addresses all identified issues.

Please notify the SUIT SECMG Environmental Compliance Specialist Doug Krueger by email at dkrueger@sugf.com when you have completed the remediation. Your notification must contain photographic and written documentation of the remediation.



Southern Ute Indian Tribe Drilling/Construction Inspection

Narrative:



Southern Ute Indian Tribe Surface Compliance Inspection

Inspector: Doug Krueger, SUIT SECMG Environmental Compliance Specialist dkrueger@sugf.com 970 764-6483 # Cell- 970-769-3017	Date Inspected: 12:00:00 PM Assigned #: 2017-000SCI	Operator:
------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------	------------------

Lease #:	API #:
-----------------	---------------

Site Name:	Legal Description:
-------------------	---------------------------

Item #	Inspection Item	Acceptable/Deficient?	Condition	Requires Action/ See Narrative
1	Well Signage posted and accurate			
2	Fence Around well site facilities (Permitted area for livestock, below grade tank.)			
3	Well site storm water drainage system in place			
4	Reserve pit area reclaimed			
5	Condition of secondary containment and appropriately sized			
6	Erosion controlled adequately			
7	Catchment basins fitted with avian cover			
8	Well site free of spills			
9	Well site equipment free of leaks			
10	Well site free of trash			
11	Well site free of Discarded/ Unused equipment on site			
12	Functional and maintained BMP's in place			
13	Meter house/out buildings require maintenance			
14	Noise mitigation in place			
15	Interim reclamation			
16	Weed infestation			
17	Facilities painted to blend with environmental surroundings			
18	Unauthorized disturbance			
19	Access road drivability			
20	Access road culverts			
21	Offsite tracking			
22	Erosion controlled adequately-Road			
23	Site specific COA's followed			
24a	FLIR Camera Survey			
24a	Leakage reported			
25	Other:			

Within 10 business days of receiving this Surface Compliance Inspection report, please contact the Southern Ute Indian Tribes Safety and Environmental Compliance Management Group (SECMG) with a reasonable deadline to complete remediation of identified issues or (if requested by SECMG Environmental Compliance Specialist) a timeframe to provide a formal work plan that includes a proposed completion date.

Please notify the SUIT SECMG Environmental Compliance Specialist Doug Krueger by email at dkrueger@sugf.com when you have completed the remediation. Your notification must contain photographic and written documentation of the remediation.



Southern Ute Indian Tribe Final Reclamation Inspection

Inspector: Doug Krueger, SUIT SECMG Environmental Compliance Specialist dkrueger@sugf.com 970 764-6483 # Cell- 970-769-3017		Date Inspected: 12:00:00 PM Assigned #: 2017-0000Final		Agency Jurisdiction: Attendees:		Operator:	
Lease #:		Well site API #/Pipeline/CDP Facility/Other:					
Site Name:		Legal Description:					
Item #	Inspection Item	Acceptable	Deficient	Condition	Requires Action/ See Narrative		
P&A Onsite Inspection Items							
1	Original landform restored or site graded to match adjacent topography and drainage.						
2	Proper erosion control methods implemented. Structural BMP's need to implement in order to gain site stability with desirable vegetation.						
3	Adequate topsoil replaced and properly distributed						
4	Adequate seeding and mulching.						
5	Adequate surface roughness and soil properly compacted in order to create optimal conditions for seed bed.						
6	Surface material from pad and road has been removed or if acceptable placed under a 30" or < of soil in cut slope.						
7	All road, facilities and pipeline infrastructure removed or pipelines abandoned at 30" below grade.						
8	Soil sampling plan submitted and samples below acceptable levels.						
9	Dry hole marker/Present and appropriately marked						
10	Other:						
Final Abandonment Inspection Items							
11	Overall site stability						
12	Undesirable vegetation/Noxious weeds controlled						
13	Site has reached 70% desirable perennial vegetation when compared to surrounding area.						
14	Permitted areas absent of barren areas of concern that possibly require additional soil sampling						
15	All road, facilities and pipeline infrastructure removed or abandoned at proper depth.						
16	Other:						
<p>If you receive this Final Inspection Report with any "Deficient" items, please contact the Southern Ute Indian Tribes Safety and Environmental Compliance Management Group (SECMG) Environmental Compliance Specialist as soon as possible and provide a plan that addresses all identified issues</p> <p>Please notify the SUIT SECMG Environmental Compliance Specialist Doug Krueger by email at dkrueger@sugf.com when you have completed the remediation. Your notification must contain photographic and written documentation of the remediation.</p>							

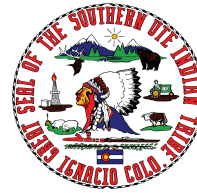


Southern Ute Indian Tribe Final Reclamation Inspection

Narrative:

FORM
HF
Rev
02/17

Southern Ute Indian Tribe
Department of Energy
14929 Highway 172, PO Box 1500
Ignacio, Colorado 81137
970-563-5550



DOE RECEPTION

Receive Date: _____

Document Number:
HF- _____

HYDRAULIC FRACTURING (HF) NOTICE

The Form HF shall be submitted as required by Southern Ute Indian Tribe Amended and Restated Hydraulic Fracturing and Chemical Disclosure Regulations (HFCDR) adopted April 5, 2016. A Form HF Update shall be submitted to revise the scheduled date or time on a previous Form HF. A Form HF Update must be for the same well, location, or facility and for the same Hydraulic Fracturing Operation as a previous Form HF. NOTE: Operator's Contact for Hydraulic Fracturing Notices should be available 24 hours a day, 7 days a week and should have the most current scheduling information for the operation.

Update of a previous Form HF Notice _____

Entity Information

OGCC Operator Number: _____ Contact Person: _____
Company Name: _____ Phone: () _____
Address: _____ Fax: () _____
City: _____ State: _____ Zip: _____ Email: _____

API #: 05 - - - Facility ID: _____ Location ID: _____
Facility Name: _____ Submit By Other Operator
Sec: _____ Twp: _____ Range: _____ QtrQtr: _____ Lat: _____ Long: _____

NOTICE OF HYDRAULIC FRACTURING TREATMENT – 20 business days notice required

Date of Treatment: _____ Time: _____ (HH:MM) Anticipated Date of Flowback: _____

SUIR Hydraulic Fracturing Checklist is completed and attached (required)

Offset Borehole Evaluation within 1,500 feet of proposed well is completed and attached (required)

TREATED INTERVAL ASSESSMENT

This wells treated interval will be located within 150 feet of an existing (producing, shut-in, or temporarily abandoned) or permitted oil and gas wellbore's treated interval belonging to another operator.

DOE Manager Approval (attached or signature here): _____

NOTICE TO RUN AND CEMENT CASING – 24-hour notice

Start Date: _____ Time: _____ (HH:MM) String: _____

NOTICE OF MECHANICAL INTEGRITY TEST PRESSURE LOSS - Report ASAP loss > 10%

Test Date: _____ Maximum Pressure: _____ Pressure Loss: _____

Casing: _____ Remedy: _____

NOTICE OF MATERIAL DEVIATION FROM CEMENTING STANDARDS – Notify within 24 hours when standards set forth under Section VI (B),(C) or (E) are not met or of other indication of inadequate cementing

Cement Level Falls Below Surface

Casing String:

Date of Cement Deviation: _____

Time: _____ (HH:MM)

Depth Below Surface: _____ (feet)

OR:

Material Deviation from SUIT HFCDR Standards or Other Indication of Inadequate Cementing

Describe Deviation: _____

Corrective Action Taken: _____

Date of Corrective Action: _____

NOTICE OF HIGH BRADENHEAD PRESSURE DURING STIMULATION – Notify within 24 hours when bradenhead pressure increases more than 200 psig during stimulation. Submit a follow-up Notificaton Form within 15 days.

Date of High Bradenhead Pressure: _____

Time: _____ (HH:MM)

Starting BrHd pressure: _____ psig

Highest BrHd pressure: _____ psig

Was this well being stimulated?

Probable Cause of High BrHd pressure: _____

Corrective Measures Taken: _____

OTHER

Describe: _____

Date: _____

Time: _____ (HH:MM)

I hereby certify all statements made in this form are, to the best of my knowledge, true, correct and complete.

Print Name: _____

Email: _____

Signature: _____

Title: _____

Date: _____



Southern Ute Indian Reservation Hydraulic Fracturing Checklist

Please submit information requested on this checklist with a Notification of Hydraulic Fracture (HF) for wells located within the Southern Ute Indian Reservation (SUIR) subject to SUIR jurisdiction. Documentation must be submitted at least 20 business days prior to planned HF activities.

Well Name: _____

API: _____

Location: _____

Date HF Scheduled: _____

1. Geology

- a. Target formation
- b. Estimated target depths (measured and true vertical) to top and bottom of HF zone
- c. Estimated depth and thickness of overlying confining zone
- d. Description of any known vicinity structures, faults or fractures
- e. Wellbore diagram

2. Water Supply

- a. Source of water supply
- b. Method of transport of water

3. HF Plan

- a. Estimated total volume of fluid to be used
- b. Maximum anticipated surface pressure during HF
- c. Documentation of pressure testing to anticipated surface pressure during HF
- d. Number of planned HF stages and stage length(s)
- e. Horizontal offset well evaluation for all wells w/in 1,500 feet of proposed well
- f. Estimated volume of flowback
- g. Disposal and transport method for flowback

4. Cement

- a. Depth and placement method of cement
- b. Documentation of cement adequacy

Field/Unit: _____

Spill #: _____
Spill Name: _____

ABOVE FIELDS FOR AGENCY USE ONLY



Southern Ute Indian Tribe Spill/Release Form

14929 Highway 172, P.O. Box 1500, Ignacio, CO 81137
(970) 563-5550

This form is to be completed and submitted to the Southern Ute Indian Tribe Department of Energy by the operator responsible for the spill or release within 24 hours of spill discovery. Any release which threatens or reaches waters of the U.S. must be reported as soon as practicable. This form can be submitted by emailing the completed form to spill@sudoe.us. This form must be accompanied by a topographic or aerial map showing the release location and extent.

OPERATOR INFORMATION

Name of Operator: _____	Operator No.: _____
Address: _____	Phone: _____
City: _____ State: _____ Zip: _____	Mobile: _____
Contact Person: _____	Email: _____

INITIAL SPILL/RELEASE REPORT

Initial Report Date: _____	Date/Time of Occurance: _____	Spill Type: _____
Spill/Release Point Location:		
Legal Description of Release Location: _____	QTRQTR _____	SECTION _____ TWP _____
Latitude: _____	RANGE _____	MERIDIAN _____
Longitude: _____ <small>(decimal degrees)</small>	Municipality/County: _____	
A location map <u>MUST</u> be provided with this spill report		
Reference Location: (Well, ROW, CDP, Disposal Well, etc.) _____	Lease #: _____	
Facility Type: _____	Facility Name/API #: _____	
Spill/Release Details:		
Was one (1) barrel or more spilled outside of berms or secondary containment? _____		
Were five (5) barrels or more spilled? _____		
<i>**Secondary containment must be sufficiently impervious to contain any discharge from primary containment until cleanup occurs**</i>		
Any injuries associated with release? _____		
Estimated Total Spill Volumes		
Estimated Oil Spill Volume (bbl): _____	Estimated Condensate Spill Volume (bbl): _____	
Estimated Flowback Fluid Spill Volume (bbl): _____	Estimated Produced Water Spill Volume (bbl): _____	
Estimated Other E&P Spill Volume (bbl): _____	Estimated Drilling Fluid Spill Volume (bbl): _____	
Amount Recovered (bbl): _____	Amount Lost (bbl): _____	
Cause and description of release, environmental impacts, actions taken to control release, and cleanup and response:		

What actions will be taken to prevent a recurrence or similar event?		

Land Use:		
Current Land Use: _____	Other (Specify): _____	
Weather Conditions: _____		
Surface Owner: _____	Other (Specify): _____	
Check if impacted or threatened by spill/release (Check all that apply):		
Waters of the U.S. _____	Residence/Occupied Structure _____	Livestock _____
Surface Water Supply Area _____		Public Byway _____

NOTIFICATIONS

Date/Time	Agency	Contact Person	Phone	Response

OPERATOR CERTIFICATION STATEMENT

I hereby certify that all statements made in this form are to the best of my knowledge true, correct, and complete.

Signed: _____ Print Name: _____
Title: _____ Date: _____ Email: _____

ATTACHMENTS

Document Name	Description

Additional Comments/Information

FINAL CLOSURE CERTIFICATION

Instructions: Operator must resubmit this form along with documentation of closure activities within 30 days of completion of closure activities. Do not complete this portion until closure activities are complete.

I hereby certify that the spill detailed above has been remediated in accordance with regulatory requirements and tribal requests, and all information submitted in connection with this spill and closure activities is true, accurate, and complete to the best of my knowledge.

Signature: _____ Title: _____
Name: _____ Date: _____
Email: _____

BLM/BLM Concurrence

Attached

Date: _____

Comments:

Table 1 – SUIR Final Reclamation Sampling Guidance

Area to Sample	Where to Sample	How to Sample	What to Sample ⁴
CBM Produced Water Tank ^{1,2}	Underneath	Composite sample from 2-3 discrete samples	SAR, EC, pH
Other than CBM Produced Water Tank ^{1,2}	Underneath	Composite sample from 2-3 discrete samples	SAR, EC, pH, BTEX, TPH
Condensate or Oil Tank ¹	Underneath	Composite sample from 2-3 discrete samples	Full Table 910-1
CBM Separator ^{1,2}	Underneath	Composite sample from 2-3 discrete samples	SAR, EC, pH
Compressor	Underneath	Composite sample from 2-3 discrete samples	SAR, EC, pH, All Organic Compounds in Table 910-1
Meter House ³	Underneath	Composite sample from 2-3 discrete samples	Mercury
Wellhead	Within 24"	Composite sample from 2-3 discrete samples	SAR, EC, pH, BTEX, TPH
Previously Buried Reserve Pit ⁵ (in cut or fill)	Low Point or Center	Discrete sample	Full Table 910-1

¹May be waived if documentation is provided showing previous testing during equipment removal for historic tank locations.

²May be waived if area will be buried under at least three feet of clean soil from recontouring and not at risk of exposure from erosion

³May be waived if documentation provided that only non-mercury meters used onsite

⁴Samples must be compared to Colorado Oil and Gas Conservation Commission’s Table 910-1

⁵ May be waived if pit was closed in accordance with regulations applicable at the time of closure, is not going to be disturbed by reclamation work, and is not at risk of exposure to erosion.

Note: Please provide a map of sample locations. Additional sampling may be required depending upon analytical results, depth to groundwater, and location of nearby receptors. A background sample is also recommended. Operators are will be allowed to collect and transport their own lab samples as long as the appropriate collection methods and equipment are used.

Acronym(s):

CBM – Coalbed Methane

SAR – Sodium Absorption Ratio

EC – Electrical Conductivity

BTEX – Benzene, Toluene, Ethylbenzene, Xylenes (total)

TPH – Total volatile and extractable petroleum hydrocarbons

This document is provided to operators as a guidance tool. If all areas are sampled in the manner provided on this document the operator will be in full compliance with all involved agencies.



SOUTHERN UTE INDIAN TRIBE

June 5, 2007

Re: NPDES Phase II Storm Water Compliance Request

To Whom It May Concern:

The Southern Ute Indian Tribe acknowledges the permanent exemption from Federal storm water regulations that was granted to oil and gas operators by the United States Environmental Protection Agency (USEPA) pursuant to Phase II of the National Pollution Discharge Elimination Systems (NPDES). As a result of the exemption, oil and gas operators no longer need to submit a Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), or any other documentation of storm water monitoring to the U.S. EPA.

In order to ensure protection of the Southern Ute Indian Reservation and its resources, the Southern Ute Indian Tribe is requesting that all oil and gas operators conducting business on lands subject to the Tribe's jurisdiction adhere to the attached Southern Ute Indian Tribe Storm Water Recommendations ("Recommendations").

The Recommendations follow the NPDES Phase II regulations in many respects, but the Southern Ute Water Quality Program has attempted to streamline the paperwork for companies that operate on the Reservation. The Recommendations require that a one page NOI form and separate SWPPP be submitted to the Southern Ute Water Quality Program prior to project activity.

The Recommendations can assist you in developing a SWPPP for the Southern Ute Indian Tribe Water Quality Program for any of your projects that disturb one acre or greater. The State of Colorado's Storm Water requirements may also be referenced as a guideline. If the Water Quality Program has questions or concerns, they will contact your project manager to address those concerns.

The Southern Ute Indian Tribe Water Quality Program is available to assist you in preparing and submitting the documents required by the Recommendations. The Water Quality Program can be reached at 970.563.0135.

Thank you for your cooperation in this matter. Together we can ensure continued protection of the environment and economic development on the Southern Ute Indian Reservation.

Sincerely,

A handwritten signature in cursive script that reads "Clement J. Frost".

Clement J. Frost
Chairman, Southern Ute Indian Tribe

STORM WATER RECOMMENDATIONS FOR OPERATIONS ON TRIBAL LANDS WITHIN THE SOUTHERN UTE INDIAN RESERVATION

Southern Ute Indian Tribe Water Quality Program requests that any oil & gas exploration and production (E&P) companies submit the Notice of Intent (NOI) form and a Storm Water Pollution Prevention Plan (SWPPP) when proposing any ground disturbing activities of one (1) acre or greater.

Oil & gas construction operations on Tribal lands are currently required to install proper BMPs and control sedimentation and erosion according to the BIA and Tribal right-of-way agreements. These recommendations will aid the operator, BIA, and the Tribe with documenting the storm water controls that are being implemented.

The SWPPP will include the following:

Identification of Potential Sources of Pollution: All potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with construction activity from the site must be identified; and the practices to be used to reduce the pollutants in storm water discharges associated with construction activity at the facility must be described. The SWPPP must ensure the practices are selected, installed, implemented and maintained in accordance with good engineering practices.

At a minimum, each of the following shall be evaluated for the potential for contributing pollutants to runoff:

- Vehicle and equipment maintenance and fueling areas
- Concrete truck/equipment washing
- Areas for unloading/loading materials
- Above-ground tanks of liquid storage
- On-site waste management areas (waste piles, liquid wastes, dumpsters, etc)
- Management
- Outside storage areas for chemicals and building materials
- Sanitation areas (port-a-potties)

Site Narrative (should be included): a site narrative must describe the phases of construction and the implementation and maintenance of BMPs for each phase as well as BMP removal once 70% vegetative groundcover has been established. The site narrative must describe the re-vegetation efforts that will be performed including seedbed preparation, seeding methods and seed mixtures and straw mulching and crimping. The Southern Ute Tribe strongly encourages native grass, shrub and forest species be utilized for re-vegetation purposes.

Site Map (should be included): The map must provide all information noted on the Notice of Intent form

- construction site boundaries;
- all areas of ground surface disturbance;
- areas of cut and fill;

- areas used for storage of building materials, equipment, soil, or waste ;
- location of major structural and non-structural BMPs identified in the SWMP;
- location(s) where storm water discharges offsite
- location of any springs,
- locations of all potential receiving waters. **Receiving waters include ditches, ephemeral and intermittent streams, arroyos, creeks, rivers, lakes, and wetlands as well as tributaries to these waters.**

Soil Type; Please indicate the predominant soil type in the area of the project.

Site Photos: Color photos of the site prior to ground disturbing activities will be used to determine when 70% re-vegetation has been achieved.

Drainage Patterns: This submittal should describe the natural drainages and any new drainages that will be anticipated after site grading.

Pollution Prevention Team list: Included in this list will be the names of the team members, their contact numbers, and responsibilities.

Materials Handling and Spill Prevention: The SWPPP shall clearly describe and locate all practices implemented at the site to minimize impacts from procedures or potential pollutant sources that could contribute pollutants to runoff. Areas or procedures where potential spills can occur shall have spill prevention and response procedures identified in the SWPPP.

THE SOUTHERN UTE INDIAN TRIBE RESERVES THE RIGHT TO REVIEW AND INSPECT THE FOLLOWING:

Best Management Practices (BMP): Prior to project construction, installation of BMPs must be completed and detailed in the SWPP. The selection of BMP installation is up to the O&G exploration company and or its contractors. An inspection report will include the following:

Photographic Documentation: In addition to initial photos, O&G E&P will maintain photo points and photographic records of on-going progress of revegetation to be included in any required or requested monitoring reports. The photographic documentation will be submitted for final stabilization and termination determinations.

Inspection and Maintenance: A schedule of routine BMP inspections and inspection reports should be kept on site and completed every 30 days or following a greater than 0.5 inch rain event. The inspection report should be signed by the project manager. Inspection of the site will continue until 70% revegetation is attained for the project site as detailed above.

Upon termination, O&G E&P operator will submit copies of all inspection reports and photo documentation of site re-vegetation. The Southern Ute Indian Tribe will review the submitted records and will issue a Notice of Termination.

If there are any questions please contact the Southern Ute Indian Tribe's Water Quality Program at (970) 563-0135.

Southern Ute Indian Tribe
OIL & GAS STORM WATER

NOTICE OF INTENT (N01)

Southern Ute Indian Tribe requests that any oil and gas companies submit the following information when proposing any ground disturbing activities of **one (1) acre or greater**.

Project Name: _____ **Location Legal Description:** _____

Company: _____ **Project Contact Person:** _____

Office Phone #: _____ **Cell Phone #:** _____

Total Disturbance Area: _____ **acres Predominate Soil Type:** _____

Purpose of Project: _____

Required Documents and Plans:

1. Site Map D Included D Not Included - Reason:.

A detailed and legible site map must be submitted that includes the following:

- Detailed footprint of the site and the anticipated size of the project area including any infrastructure(s).
- All drainages, outfalls, and receiving waters (receiving waters include ephemeral and intermittent streams, arroyos, creeks, tributaries and the primary water sources).

- Location and type of all BMPs that will be installed.
- Topography of site and surrounding area.
- Location of all exposed significant materials and high-risk waste-generating areas and activities associated

with the project - i.e. fueling stations, washing & maintenance area (including concrete washout areas), above ground storage tanks, industrial waste management areas, outside storage for chemicals, secondary containment areas, sanitation areas, etc.

- Mud control locations (ingress/egress areas). 2. **Site Photos** D Included D Not included -

Reason: _____

Companies will submit color photos of proposed site prior to ground disturbing activity. The photographs will be used to determine when 70% of pre-existing re-vegetation has been achieved.

The Southern Ute Indian Tribe requests the right to review and inspect all BMPS and monitoring reports until 70% revegetation has been achieved and a Notice of Termination has been issued.

Appendix B Southern Ute Indian Tribe – Amended and Restated Hydraulic Fracturing and Chemical Disclosure Regulations

**RESOLUTION
OF THE
SOUTHERN UTE INDIAN TRIBAL COUNCIL
April 5, 2016**

WHEREAS, authority is vested in the Southern Ute Indian Tribal Council by the Constitution adopted by the Southern Ute Indian Tribe, and approved November 4, 1936, and amended October 1, 1975, and August 27, 1991, to act for the Southern Ute Indian Tribe; and

WHEREAS, pursuant to Article VII, Section 1(c) of the Constitution, the Tribal Council is empowered to manage any portion of the Southern Ute Indian Reservation, including the granting of rights to use the natural resources of the Tribe; and

WHEREAS, pursuant to Article VII, Section 1(n) of the Constitution, the Tribal Council has the power “[t]o protect and preserve the property, wildlife and natural resources of the tribe, and to regulate the conduct of trade and the use and disposition of tribal property upon the reservation”; and

WHEREAS, the Tribe has a significant interest in the regulation of hydraulic fracturing operations on the Reservation based on the Tribe’s interest in both oil and gas development and environmental protection; and

WHEREAS, the historic well stimulation practice of hydraulic fracturing, in which rock is fractured by a hydraulically pressurized liquid made of water, sand, and chemicals, has been conducted on the vast majority of wells on the Reservation and is necessary for the continued development of oil and gas resources including potential development of low permeability shale formations on the Reservation; and

WHEREAS, on March 26, 2015, the Secretary of the Interior, acting by and through her Assistant Secretary – Land and Minerals Management and the Bureau of Land Management (“BLM”), published in the Federal Register a final rule regulating hydraulic fracturing, entitled “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands” (“BLM’s Hydraulic Fracturing Rule” or “Rule”) 80 Fed. Reg. 16128 (Mar. 26, 2015) (codified at 43 C.F.R. Part 3160); and

WHEREAS, throughout the Secretary’s rulemaking process, the Tribe expressed concerns about and opposition to aspects of the Rule, including concerns about certain technical requirements and opposition to inevitable delays to the already slow-moving energy development process caused by requiring operators to file and obtain additional approvals before engaging in oil and gas operations; and

WHEREAS, the Tribal Council has determined that establishing hydraulic fracturing regulations is important to ensure that wells are properly constructed to protect water supplies, to make certain that the fluids flowing back to the surface as a result of hydraulic fracturing operations are managed in an environmentally responsible way, and to provide public disclosure of the

RESOLUTION NO. 2016-41

Page 2

April 5, 2016

chemicals used in hydraulic fracturing fluids; and

WHEREAS, in recognition of the Tribe's significant governmental interests and in furtherance of its powers, on June 16, 2015, the Tribal Council adopted Resolution No. 2015-98 approving the initial Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations ("Initial Regulations"), which purported to supersede the BLM's Hydraulic Fracturing Rule on Reservation lands subject to the Tribe's jurisdiction, including lands leased by the Tribe under the Indian Mineral Leasing Act of 1938 and the Indian Mineral Development Act of 1982; and

WHEREAS, on June 18, 2015, the Tribe petitioned the United States District Court for the District of Colorado to set aside the BLM Rule under the Administrative Procedure Act, 5 U.S.C. §§ 701-706 (*Southern Ute Indian Tribe v. United States Dep't of Interior*, Case 1:15-cv-01303 (D. Colo.) ("Pending Litigation")); and

WHEREAS, the Tribe and representatives of the United States Government thereafter engaged in settlement negotiations regarding the Pending Litigation and the Initial Regulations, and the potential adoption by the Tribal Council of amendments to the Initial Regulations; and

WHEREAS, the Tribe's Department of Energy, General Counsel and Legal Department have recommended approval of certain amendments to the Tribe's Initial Regulations set forth in the attached Amended and Restated Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations ("Amended and Restated Regulations"); and

WHEREAS, the Manager of the Department of Energy has determined that the adoption of the Amended and Restated Regulations will not adversely affect the rights of any party who has conducted or is in the process of conducting hydraulic fracturing operations in reliance on the provisions of the Initial Regulations; and

WHEREAS, the Tribal Council has determined that the Tribal Council's adoption of the recommended amendments to the Initial Regulations, as included in the attached Amended and Restated Regulations, is in the best interests of the Tribe.

NOW, THEREFORE, BE IT RESOLVED, that the Southern Ute Indian Tribal Council hereby approves the attached Amended and Restated Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations, which regulations are incorporated herein by reference and supersede the Initial Regulations approved in Resolution No. 2015-98.

BE IT FURTHER RESOLVED, that the Tribe's Department of Energy is directed to notify Reservation oil and gas operators of this Resolution and is authorized and designated to act as the entity within the Tribe's governmental organization that is primarily responsible for monitoring and ensuring compliance with the Amended and Restated Regulations.

RESOLUTION NO. 2016-41

Page 3

April 5, 2016

BE IT FURTHER RESOLVED, that the requirements of the Amended and Restated Regulations shall constitute “applicable regulations governing lease operations,” the violations of which may result in, among other available legal remedies, lease forfeiture under Tribal Ordinance No. 86-01 adopted by the Tribal Council on November 5, 1985.

BE IT FURTHER RESOLVED, that the Chairman of the Southern Ute Indian Tribal Council or, in his absence, the Vice Chairman, or, in the absence of both the Chairman and the Vice Chairman, a duly appointed Acting Chairman is hereby authorized to sign the necessary documents and take all necessary actions to carry out the intentions of this resolution.

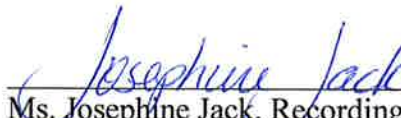
This resolution was duly adopted on the 5th day of April, 2016.



Ms. Lorelei Cloud, Vice Chairman
Southern Ute Indian Tribal Council

C E R T I F I C A T I O N

This is to certify that there were (6) of the regularly elected Southern Ute Indian Tribal Council members present at the above meeting, at which (5) voted for, and (0) against, it being a quorum and the above resolution was passed, the Chairman not being permitted to vote in this instance due to a Constitutional provision.



Ms. Josephine Jack, Recording Secretary
Southern Ute Indian Tribal Council



Southern Ute Indian Reservation Hydraulic Fracturing Checklist

Please submit information requested on this checklist with a Notification of Hydraulic Fracture (HF) for wells located within the Southern Ute Indian Reservation (SUIR) subject to SUIR jurisdiction. Documentation must be submitted at least 20 business days prior to planned HF activities.

Well Name: _____

API: _____

Location: _____

Date HF Scheduled: _____

1. Geology

- a. Target formation
- b. Estimated target depths (measured and true vertical) to top and bottom of HF zone
- c. Estimated depth and thickness of overlying confining zone
- d. Description of any known vicinity structures, faults or fractures
- e. Wellbore diagram

2. Water Supply

- a. Source of water supply
- b. Method of transport of water

3. HF Plan

- a. Estimated total volume of fluid to be used
- b. Maximum anticipated surface pressure during HF
- c. Documentation of pressure testing to anticipated surface pressure during HF
- d. Number of planned HF stages and stage length(s)
- e. Horizontal offset well evaluation for all wells w/in 1,500 feet of proposed well
- f. Estimated volume of flowback
- g. Disposal and transport method for flowback

4. Cement

- a. Depth and placement method of cement
- b. Documentation of cement adequacy

SOUTHERN UTE INDIAN TRIBE

AMENDED AND RESTATED HYDRAULIC FRACTURING AND CHEMICAL DISCLOSURE REGULATIONS

(Approved June 16, 2015 by the Southern Ute Indian Tribal Council,
Resolution No. 2015-98, as amended and supplemented by Tribal Council Resolution No.
2016-41, adopted April 5, 2016)

I. Applicability. These regulations apply to hydraulic fracturing treatments performed on or after June 23, 2015 on lands subject to the Tribe's regulatory authority.

II. Definitions. For these regulations, the identified terms shall have the following meanings:

Business Day means any day that is not a Saturday, Sunday or a day that is recognized as a holiday by the Tribe. Unless designated as a business day, "day" means calendar day.

Department means the Tribe's Department of Energy.

Isolate means using cement to protect, separate, or segregate fresh water aquifers and mineral resources.

Manager means the Department Manager or an authorized delegate of the Department Manager.

Operator means the individual, company, trust, or other entity designated as responsible for the exploration, development, and production of an oil or gas well or lease on the Southern Ute Indian Reservation.

Fresh water aquifers means generally those aquifers with waters containing up to 5,000 parts per million of total dissolved solids or, if specifically designated as fresh water aquifers by the Southern Ute Indian Tribal Council, geologic water bearing zones containing water with total dissolved solids in excess of 5,000 parts per million. Fresh water aquifers include, but are not limited to: (i) Underground water that supplies any public water system and (ii) an aquifer which contains a sufficient quantity of groundwater to supply a public water system and currently supplies drinking water for human consumption. The following geologic zones are deemed not to contain fresh water aquifers: (i) zones from which an operator is authorized to produce hydrocarbons; (ii) aquifers exempted under 40 CFR 144.7; (iii) and zones containing total dissolved solids in excess of 5,000 parts per million unless designated as fresh water aquifers by the Southern Ute Indian Tribal Council.

III. Notice of Intent to Conduct Hydraulic Fracturing Treatment. Operators shall give at least 20 business days advance written notice to the Department of their intent to conduct a

hydraulic fracturing treatment at any well located on lands subject to a tribal oil and gas lease, tribal mineral development agreement, communitization agreement that includes any lands of the Tribe, a tribal direct development resolution, or otherwise subject to the jurisdiction of the Tribe within the exterior boundaries of the Southern Ute Indian Reservation. Such notice shall be provided on a form approved by the Tribe's Department of Energy and shall include information identified in the attached checklist. After providing notice in conformity with these regulations, the operator may proceed with such activity unless otherwise directed by the Department.

IV. Information Sharing and Opportunity to Comment.

A. Sharing Notices of Intent to Conduct Hydraulic Fracturing. The Department shall provide prompt electronic notice to other interested governmental entities, including but not limited to the United States Bureau of Land Management ("BLM"), of any notice of an operator's intent to conduct hydraulic fracturing received by the Department. Prior to an operator's commencement of hydraulic fracturing activities, such interested governmental entities may provide comments to the Department of concerns related to such activity and may request an opportunity to consult with the Department about those concerns. Provided that comments and concerns are provided to the Department in a timely manner, the Department will make reasonable efforts to consult with commenting governmental entities prior to the operator's commencement of such activities.

B. Additional Sharing of Reports. Promptly following receipt by the Department, the Department shall transmit to the BLM copies of the operator's post-completion disclosures required in Section IX, Final Drilling Completion Report required in Section X, and Completed Interval Report required in Section XII of these regulations, as well as any notice of undesirable event submitted by an operator to the Department arising from activities associated with these regulations. Additionally, the Department may share other reports and records submitted by the operator to the Department under these regulations upon request from other interested governmental entities.

V. Protection of Fresh Water Aquifers and Other Minerals. In conducting hydraulic fracturing treatments, operators must isolate all fresh water aquifers and other mineral-bearing formations and protect them from contamination. Neither the existence of these Hydraulic Fracturing and Chemical Disclosure Regulations nor an operator's compliance with them is intended to limit the remedies available under applicable law to adversely affected parties against operators or lessees arising from damage to fresh water aquifers, contamination, or inadequate zonal isolation resulting from hydraulic fracturing activities.

VI. Cement Operations.

A. Casing and cement program to protect hydrocarbon formations and groundwater. The casing and cement program for each well must prevent oil, gas, and water from migrating from one formation to another behind the casing. Groundwater bearing zones penetrated during drilling must be protected from the infiltration of hydrocarbons or water from other formations penetrated by the well.

B. Surface and intermediate casing cementing. The operator shall ensure that all surface and intermediate casing cement required under these regulations shall be of adequate quality to achieve a minimum compressive strength of 300 psi after 24 hours and 800 psi after 72 hours measured at ninety-five degrees Fahrenheit (95 °F) and at eight hundred 800 psi confining pressure. All surface and intermediate casing shall be cemented with a continuous column from the bottom of the casing to the surface. Cement placed behind the surface and intermediate casing shall be allowed to set a minimum of 8 hours, or until 300 psi calculated compressive strength is developed, whichever occurs first, prior to commencing drilling operations.

C. Production casing cementing. The operator shall ensure that all cement required under these regulations placed behind production casing shall be of adequate quality to achieve a minimum compressive strength of at least 300 psi after 24 hours and of at least 800 psi after 72 hours both measured at 800 psi at either ninety-five degrees Fahrenheit (95 °F) or at the minimum expected downhole temperature. After thorough circulation of a wellbore, cement shall be pumped behind the production casing at least 50 feet above the bottom of the intermediate casing. If the well does not have intermediate casing, the production casing shall be cemented with a continuous column from the bottom of the casing to the surface. This requirement does not apply to portions of production casing located within the target formation. Cement placed behind the production casing shall be allowed to set 72 hours, or until 800 psi calculated compressive strength is developed, whichever occurs first, prior to the undertaking of any completion operation.

D. Production and intermediate casing pressure testing. The installed production casing or, in the case of a production liner, the intermediate casing, shall be adequately pressure tested for the conditions anticipated to be encountered during completion and production operations. The operator must keep a record of the pressure testing and mechanical integrity testing performed sufficient to verify compliance with the requirements of this section. A mechanical integrity test will be considered successful if the pressure applied holds for 30 minutes with no more than a 10 percent pressure loss. Operators shall promptly notify the Manager if a mechanical integrity test pressure loss exceeds 10 percent.

E. Remedial cementing for surface, intermediate or production casing.

(1) Within 24 hours of discovering that (a) the surface or intermediate casing cement level falls below the surface, (b) there is a material deviation from the cementing standards set forth above in subsections B or C of this Section VI, or (c) there is another indication of inadequate cementing, the operator shall notify the Manager and advise the Manager of the remedial steps, if any, that the operator has taken or intends to take, including the means by which the operator will verify that the remedial action is successful. The operator shall perform remedial cementing operations upon discovering any of the conditions (a), (b), or (c) set forth above unless the operator reasonably determines and is able to demonstrate to the Manager that any such event will not compromise either safety or aquifer protection. If the Manager determines that the remedial action taken or planned to be taken by the operator is inadequate with respect to safety or aquifer protection, the Manager will direct the operator to take additional remedial action.

(2) Upon completion of remedial cementing operations, the operator will certify in writing to the Manager that the inadequate cementing has been corrected.

F. Protection of aquifers and production stratum and suspension of drilling operations before or after running production casing. If drilling operations are suspended before production string is run, the Manager shall be notified immediately and the operator shall take adequate and proper precautions to assure that no alien water enters oil or gas strata, nor potential fresh water aquifers during such suspension period or periods. If alien water is found to be entering the production stratum or to be causing significant adverse environmental impact to fresh water aquifers during completion testing or after the well has been put on production, the condition shall be promptly remedied by the operator.

G. Remedial cementing during recompletion. The Manager may request that a condition of BLM approval for an Application for Permit-to-Drill or Sundry Notice, as applicable, be added to require remedial cementing during recompletion operations consistent with the provisions for protecting aquifers and hydrocarbon bearing zones in these regulations.

H. Horizontal offset well evaluation. An operator will perform an offset well evaluation of all offset wellbores within 1500 feet of a proposed well to determine if those wells have adequate zonal isolation in the formation to be stimulated. The offset well evaluation shall include producing, shut in, temporarily abandoned, plugged and abandoned, and dry and abandoned wells. The offset well evaluation area shall be a 1500 feet lateral distance around the proposed wellbore path, projected to surface in plan view; provided, however, the Manager may require the operator to expand the area of evaluation in the event that specific circumstances justify such expansion. If inadequate zonal isolation is identified in an offset well, then, prior to undertaking stimulation activities, the operator shall provide to the Manager, and the Manager shall have approved, a monitoring plan, or, if applicable, a monitoring and mitigation plan, designed to assess or control potential cross-communication (e.g. monitoring offset well bradenhead pressure during stimulation). The operator shall immediately report to the Manager any indication of cross-communication with offset wells during stimulation, and, in the event of cross communication, the operator will cease stimulation activities in a safe and prudent manner.

I. Fracture stimulation setback.

(1) No portion of a proposed wellbore's treated interval shall be located within 150 feet of an existing (producing, shut-in, or temporarily abandoned) or permitted oil and gas wellbore's treated interval belonging to another operator without the signed written consent of the Manager. The signed written consent shall be attached to either the Application for Permit-to-Drill for the proposed wellbore or the Notice of Intent to Conduct Hydraulic Fracturing Treatment required to be filed under Section III of these regulations.

(2) The measurement of distance between wellbores shall be based upon the directional survey for drilled wellbores and the deviated drilling plan for permitted wellbores, or as otherwise reflected in the well records of the Department, the BLM, or the Colorado Oil and Gas Conservation Commission. The distance shall be measured from the perforation or mechanical isolation device.

VII. Bradenhead Monitoring During Well Stimulation Operations.

The placement of all stimulation fluids shall be confined to the objective formations during treatment to the extent practicable.

During stimulation operations, bradenhead annulus pressure shall be continuously monitored and recorded on all wells being stimulated.

If at any time during stimulation operations the bradenhead annulus pressure increases more than 200 psig, the operator shall undertake appropriate corrective actions and shall verbally notify the Manager as soon as practicable, but no later than 24 hours following the incident. Upon the Manager's request, the operator shall undertake corrective actions not already undertaken. A form Field Operations Notice—Notice of High Bradenhead Pressure During Stimulation shall be submitted by the end of the first business day following the event. Within 15 days after the occurrence, the operator shall submit a Sundry Notice, giving all details, including corrective actions taken.

If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded.

The operator shall keep all well stimulation records and pressure charts on file and available for inspection by the Tribe for a period of at least five (5) years. An operator may seek a variance from these bradenhead monitoring, recording, and reporting requirements, which variance must be approved in writing by the Manager based on appropriate circumstances.

VIII. Recovered Fluids Management.

A. Use of tanks required. Except as provided below, all fluids recovered between commencement of hydraulic fracturing operations and approval of a produced water disposal plan must be stored in rigid enclosed, covered, or netted and screened above-ground tanks. The tanks may be vented unless applicable regulations require vapor recovery or closed-loop systems. The tanks must not exceed a 500 barrel (bbl) capacity unless approved in advance by the Manager.

B. Lined pits allowed only upon approval in specific circumstances. The Manager may approve an application to use lined pits only if the applicant demonstrates that use of a tank as described above is infeasible for environmental, public health or safety reasons and only if, at a minimum, all of the following conditions apply:

- (1) The distance between the lined pit and intermittent or ephemeral water sources is at least 300 feet.
- (2) The distance between the lined pit and perennial water sources is at least 500 feet.
- (3) No usable groundwater is present within 50 feet of the lined pit.

(4) The distance between the lined pit and the location expected to be publicly occupied is greater than 300 feet.

(5) The lined pit is not constructed in fill or an unstable area.

(6) The construction of the lined pit would not adversely impact the hydrologic functions of a 100-year floodplain.

(7) The lined pit's use and construction complies with all other applicable laws.

(8) The lined pit is constructed with a durable, leak-proof synthetic material and equipped with a leak detection system.

(9) The lined pit is regularly inspected and maintained to ensure there is no fluid leakage into the environment. The operator must document all inspections.

IX. Post-Completion Required Disclosures.

A. Vendor and service provider disclosures. A service provider who performs any part of a hydraulic fracturing treatment and a vendor who provides hydraulic fracturing additives directly to the operator for a hydraulic fracturing treatment shall, except for information claimed to be a trade secret, furnish the operator with the information needed for the operator to comply with its disclosure requirements under these regulations. Such information shall be provided as soon as possible within 30 days following the conclusion of the hydraulic fracturing treatment.

B. Operator disclosures.

(1) Within 30 days following the conclusion of a hydraulic fracturing treatment, the operator of the well must complete the chemical disclosure registry form and post the form on the *FracFocus* chemical disclosure registry, including the following categories of information:

- (a) the operator name;
- (b) the date of the hydraulic fracturing treatment;
- (c) the county in which the well is located;
- (d) the API number for the well;
- (e) the well name and number;
- (f) the longitude and latitude of the wellhead;
- (g) the true vertical depth of the well;

(h) the total volume of water used in the hydraulic fracturing treatment of the well or the type and total volume of the base fluid used in the hydraulic fracturing treatment, if something other than water;

(i) each hydraulic fracturing additive used in the hydraulic fracturing fluid and the trade name, vendor, and a brief descriptor of the intended use or function of each hydraulic fracturing additive in the hydraulic fracturing fluid;

(j) each chemical intentionally added to the base fluid;

(k) the maximum concentration, in percent by mass, of each chemical intentionally added to the base fluid; and

(l) the chemical abstract service number for each chemical intentionally added to the base fluid, if applicable.

C. Information Claimed to be Exempt from Public Disclosure. Information required above may only be withheld when required to avoid substantial competitive harm to the owner of the information. Information required above may not be withheld from the Tribe, and no privilege against disclosure shall be recognized, if such category of information has been previously disclosed to the public or to any federal, state or local governmental entity, or if such category of information is otherwise required to be disclosed to the public under any other applicable tribal, state, local, or federal law. For information required above that the owner of the information claims to be exempt from public disclosure and is withheld from the Tribe, a corporate officer, managing partner, or sole proprietor of the operator must sign, and the operator must submit to the Manager, an affidavit that:

(1) Identifies the owner of the withheld information and provides the name, address and contact information for a corporate officer, managing partner, or sole proprietor of the owner of the information;

(2) Affirms that the operator has been provided the withheld information from the owner of the information and is maintaining records of the withheld information, or that the operator has access and will maintain access to the withheld information held by the owner of the information;

(3) Affirms that the operator, when requested by the Department, will make arrangements for the prompt disclosure of the information to Department, and, in an emergency situation, directly to health care professionals; and

(4) Affirms that the owner of the withheld information has informed the operator in writing that such category of information has not been previously disclosed by the owner to the public or to any federal, state or local governmental entity and is not otherwise required to be disclosed to the public under any other applicable tribal, state, local, or federal law.

X. Drilling Completion Report.

A. Final Drilling Completion Report. A Final Drilling Completion Report shall be submitted within 30 days of rig release after drilling, sidetracking, or deepening a well to total depth. In the case of continuous, sequential drilling of multiple wells on a pad, the Final Drilling Completion Report shall be submitted for all the wells within 60 days of rig release for the last well drilled on the pad.

B. Information Requirements. The Final Drilling Completion Report shall include the following information:

(1) A cement job summary for every casing string set, except for those with verification by a cement bond log as required by permit conditions or otherwise, shall be attached to the form.

(2) All logs run, open-hole and cased-hole, electric, mechanical, mud, or other, shall be reported and copies submitted as specified here:

(a) A digital image file (PDF, TIFF, PDS, or other format approved by the Manager of the Tribe's Department of Energy) of every log run shall be attached to the form. A paper copy may be submitted in lieu of the digital image file and shall be so noted on the report.

(b) A digital data file (LAS, DLIS, or other format approved by the Manager) of every log run, except for mud logs and cement bond logs, shall be attached to the report.

(3) All drill stem tests shall be reported and test results shall be attached to the report.

(4) All cores shall be reported and the core analyses attached to the report. If core analyses are not yet available, the operator shall note this on the report and provide a copy of the analyses as soon as it is available, via a Sundry Notice.

(5) Any directional survey shall be attached to the report.

(6) The latitude and longitude coordinates of the "as drilled" well location shall be reported on the report. The latitude and longitude coordinates shall be in decimal degrees to an accuracy and precision of five decimals of a degree using the North American Datum (NAD) of 1983 (e.g.; latitude 37.12345, longitude -104.45632). If GPS technology is utilized to determine the latitude and longitude, all GPS data shall meet the necessary requirements and the Position Dilution of Precision (PDOP) reading, the GPS instrument operator's name and the date of the GPS measurement shall also be reported on the report.

XI. Certification. Within 30 days after hydraulic fracturing is completed, the operator shall submit a certification to the Department that the operator complied with the requirements of these regulations and the hydraulic fracturing fluid constituents, once they arrived on the lease, complied with all applicable permitting and notice requirements as well as all applicable federal and tribal

laws, rules, and regulations. The Manager may require the operator to provide documentation substantiating any information submitted under these regulations.

XII. Completed Interval Report. A Completed Interval Report shall be submitted within 30 days after a formation is completed (successful or not); after a formation is temporarily abandoned or permanently abandoned; after a formation is recompleted, re-perforated or re-stimulated; and after a formation is commingled. The details of fracturing, acidizing, or other similar treatment, including the volumes of all fluids involved, shall be reported to the Department.

XIII. Enforcement.

A. Investigations and Information Requests. For the purpose of (i) developing or assisting in the development of any changes to these regulations, (ii) determining whether any operator is in violation of any requirement of these regulations, or (iii) carrying out any provision of these regulations –

(1) the Department may require any operator, on a one-time, periodic or continuous basis, who the Department believes may have information related to the purposes set forth in these regulations, or who is subject to any requirement of these regulations to—

(a) establish and maintain records and reports; install, use, and maintain monitoring equipment; use audit procedures or methods; or keep records as determined by the Department;

(b) monitor fluids, pressure, and other information (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department shall prescribe);

(c) submit compliance certifications in accordance with section XI. above; and

(d) provide such other information as the Department may reasonably require relating to the operator's hydraulic fracturing operations or to any investigation authorized by these regulations;

(2) the Tribe, through its authorized representatives, upon presentation of credentials, has the power to enter and inspect any property, premises, or place for the purpose of investigating any actual, suspected, or potential hydraulic fracturing operation or ascertaining compliance with any requirement of these regulations; and the Tribe may, at reasonable times, have access to and copy any record, inspect any monitoring equipment or method, or sample any fluids used by the operator. Any information relating to secret processes or methods of manufacture or production obtained in the course of the inspection or investigation may be kept confidential in accordance with Section IX.C. above.

B. Emergency Action. Whenever the Tribe determines, after investigation, that any operator is either engaging in any activity involving a significant risk of adverse impacts to fresh water aquifers or the environment and such activity either (x) constitutes a clear, present, and

immediate danger to the environment or to the health of the public, or that any such activity, if permitted to continue unabated, will result in a condition of clear, present, and immediate danger to the health of the public, or (y) does not constitute a clear, present, and immediate danger to the health of the public, but is of such a nature as to cause extreme discomfort or that it is an immediate danger to the welfare of the public because such impact makes habitation of residences or the conduct of businesses subjected to the impact unhealthy or disruptive, the Department shall:

(1) Issue a written cease-and-desist order to the operator requiring immediate discontinuance of such activity, and, upon receipt of such order, such person shall immediately discontinue such activity; or

(2) Apply to a court of competent jurisdiction for a temporary restraining order, temporary injunction, or permanent injunction; or

(3) Both issue such a cease-and-desist order and apply for any such restraining order or injunction.

C. Other Incidental Powers. The Department may exercise all incidental powers necessary to carry out the purposes of these regulations.

D. Enforcement Authority. The Department has the following authority to prevent and address violations of these regulations by operators:

(1) Civil Penalties and Damages. To assess or sue to recover in court civil penalties or recover civil damages according to the following:

(a) Civil penalties or damages assessed, sought, or agreed upon by the Department under this section shall be appropriate to the violation;

(b) These penalties or damages shall be separately recoverable in an amount not to exceed \$10,000.00 per day per violation;

(c) Civil penalties or damages shall be recoverable for the violation of any applicable requirement; any filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or orders issued by the Department. Mental state shall not be included as an element of proof for civil violations.

(d) In determining the amount of any civil penalty, the following factors shall be considered:

(i) The violator's compliance history;

(ii) Good-faith efforts on behalf of the violator to comply;

(iii) Payment by the violator of penalties previously assessed for

the same violation;

(iv) Duration of the violation;

(v) Economic benefit of noncompliance to the violator;

(vi) Impact on, or threat to, the public health or welfare or the environment as a result of the violation;

(vii) Malfeasance; and

(viii) Whether legal and factual theories were advanced for purposes of delay.

(e) In addition to the factors set forth above, the following circumstances shall be considered as grounds for reducing or eliminating civil penalties:

(i) The voluntary and complete disclosure by the violator of such violation in a timely fashion after discovery of the noncompliance;

(ii) Full and prompt cooperation by the violator following disclosure of the violation including, when appropriate, entering into a legally enforceable commitment to undertake compliance and remedial efforts;

(iii) The existence and scope of a regularized and comprehensive environmental compliance program or an environmental audit program;

(iv) Substantial economic impact of a penalty on the violator;

(v) Nonfeasance; and

(vi) Other mitigating factors.

(f) The imposition of civil penalties may be deferred or suspended where appropriate based on consideration of the factors set forth above.

(2) Civil Action. To bring a civil action for declaratory or injunctive relief against any operator who fails to comply with terms of these regulations or a Department order, or is presenting an imminent and substantial endangerment to the public health or welfare, or the environment.

(3) These regulations constitute "applicable regulations governing lease operations," the violation of which can result in, among other available legal remedies, lease forfeiture under Tribal Ordinance No. 86-01 adopted by the Tribal Council on November 5, 1985. The Tribe

shall enforce compliance with these regulations including, if necessary, through the procedures under Tribal Ordinance No. 86-01, a civil action in a court of competent jurisdiction, or both.

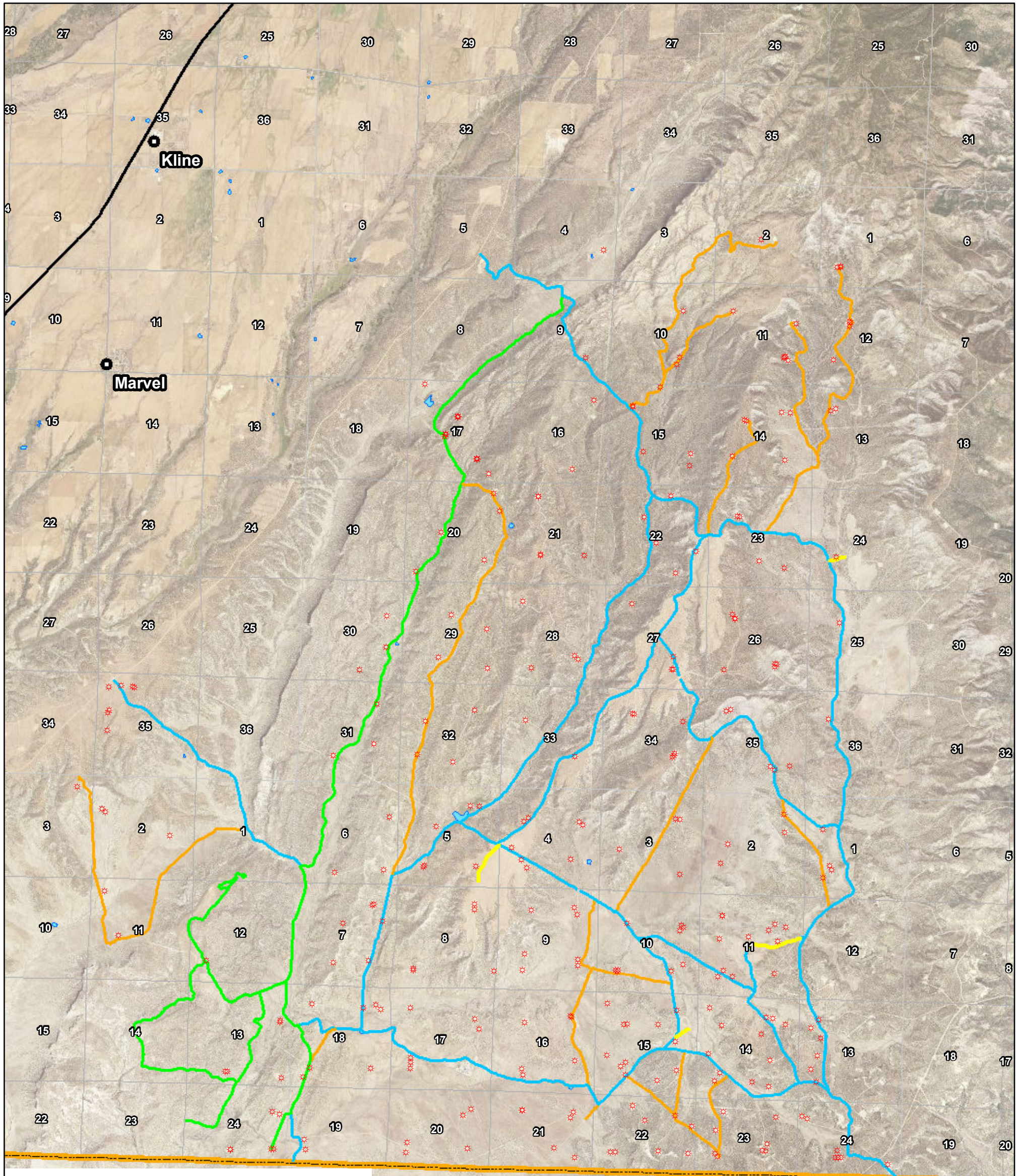
(4) Referral for Federal Enforcement. The Department may refer any violations to the BLM, Bureau of Indian Affairs, United States Environmental Protection Agency, or other federal agency with enforcement jurisdiction.

E. Administrative Appeal. An operator who is aggrieved by a final action or inaction by the Department under these regulations may, within 30 days following the date of the action or inaction, appeal to the Administrative Appeals and Hearings Office. An operator who appeals shall be entitled to a hearing before the Administrative Appeals and Hearings Office within 90 days the date of the appeal, at which time the operator shall present its reasons and arguments for the appeal and the Department shall be permitted to present the reasons and arguments supporting the Department's decision. Should the operator fail to appear on the date appointed for the hearing before the Administrative Appeals and Hearings Office, the appeal may, in the absence of a showing of unforeseeable circumstances, be summarily dismissed and the appeal denied. The Administrative Appeals and Hearings Office shall render a decision on any appeal within 60 days following the date of the hearing. The rationale supporting a decision regarding a specific appeal may be relied upon in deciding other appeals filed for identical reasons.

F. Judicial Review. Within 30 days of a final Administrative Appeals and Hearings Office decision, an operator who is adversely affected by the decision may file a petition for judicial review in the Southern Ute Indian Tribal Court, and the Tribe hereby consents to such a suit. The review shall be on the record without taking additional evidence. If the court finds that the Administrative Appeals and Hearings Office or the Department exceeded its constitutional or statutory authority, made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is unsupported by the evidence in the record, the court may reverse the Administrative Appeals and Hearings Office's decision. Otherwise, the Administrative Appeals and Hearings Office's decision shall be affirmed. The decision of the Tribal Court may be appealed to the Tribe's appellate court in accordance with the rules and procedures governing practice before that court. Provided a jurisdictional basis exists, the final decision of the Tribe's courts issued, after exhaustion of all tribal judicial remedies, may be appealed to the United States District Court for the District of Colorado, and the Tribe hereby consents to such federal appellate review. The Tribe does not consent to be sued in the state courts of Colorado.

XIV. Amendment. The Southern Ute Indian Tribal Council may amend these regulations by resolution, ordinance, or other enactment, which amendments shall become effective upon the date of enactment unless otherwise specified by the Tribal Council.

Appendix C West Side Road Reclamation Guidance



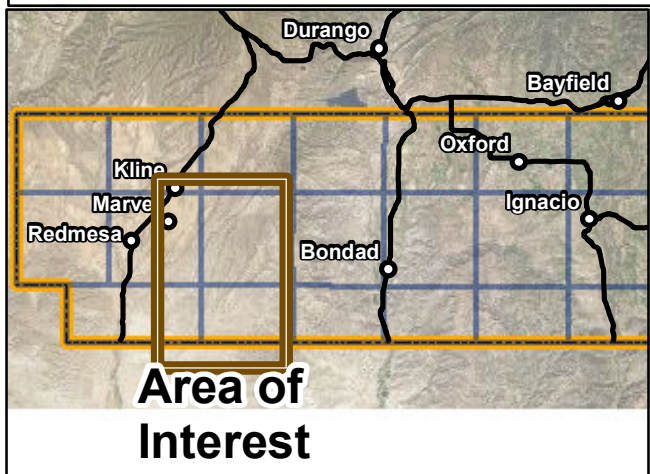
Southern Ute Indian Reservation
Oil and Gas Road Designations for Reclamation

Tier 1 – Recommend to remain open. Heavy year-round usage. Main thoroughfares that can include major canyon, access, and/or County Roads. Heavy seasonal usage by Tribal Members for hunting.

Tier 2 – Recommend site specific reclamation. Medium year-round usage. Secondary thoroughfares or longer well spur roads. Medium to light seasonal usage for hunting by Tribal Members.

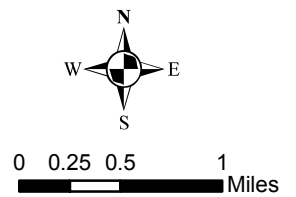
Tier 3 – Recommend to close and reclaim. Light year-round usage. Dead end roads and short well spur roads. Limited traffic and little to no use by Tribal Member hunters.

Special Use – Roads associated with the Southern Ute Department of Energy (SUDO) Picket Fence Mitigation Vent Well Project and/or Coal fires. The SUDO will continue to use these roads to monitor ongoing project areas.



Southern Ute Department of Energy
Road Classification for Westside Plugged and Abandoned Well Reclamation

- LEGEND**
- Wells within reclamation area
 - Range Resource Roads
 - Road Classification**
 - Special Use - Remain Active
 - Tier 1 - Remain Active
 - Tier 2 - Site Specific Reclaim
 - Reservation Boundary
 - Townships
 - Sections
 - Tribal Trust



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