**Southern Ute Indian Tribe**
**Environmental Programs Division**
**Air Quality Program**
**71 Mike Frost Way**
**Ignacio, Colorado 81137**

**AIR POLLUTION CONTROL**
**TITLE V PERMIT TO OPERATE**

In accordance with the provisions of Title V of the Clean Air Act (42 U.S.C. 7661-7661f) and Part 1, Article II of the Southern Ute Indian Tribe/State of Colorado Environmental Commission's Reservation Air Code (RAC) and applicable rules and regulations,

**Elm Ridge Exploration Company**
**Ignacio Gas Treating Plant**

is authorized to operate air emission units and to conduct other air pollutant emitting activities in accordance with the conditions listed in this permit.

This source is authorized to operate at the following location:

**Southern Ute Indian Reservation**
**Section 13, T33N R9W**
**La Plata County, Colorado**

Terms not otherwise defined in this permit have the meaning assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable by the Tribe and citizens under the Clean Air Act.

Mark Hutson, Air Quality Program Manager
Environmental Programs Division
Southern Ute Indian Tribe

**AIR POLLUTION CONTROL**
**TITLE V PERMIT TO OPERATE**
**Elm Ridge Exploration Company**
**Ignacio Gas Treating Plant**

Permit Number: V-SUIT-0052-2014.00
[Replaces Permit No.: V-SUIT-0052-2014.00]

Issue Date: November 2, 2015
Effective Date: November 2, 2015
Expiration Date: October 7, 2019

The permit number cited above should be referenced in future correspondence regarding this facility.

**Permit Issuance History**

| DATE | TYPE OF ACTION | SECTION NUMBER AND TITLE | DESCRIPTION OF ACTION |
|---|---|---|---|
| August 28, 2014 | Initial Part 70 Permit Issued | | # V-SUIT-0052-2014.00 |
| November 2, 2015 | Minor Revision | | # V-SUIT-0052-2014.01 |

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# Abbreviations and Acronyms

| | |
|---|---|
| 4SLB | Four-Stroke Lean-Burn |
| 4SRB | Four-Stroke Rich-Burn |
| AFS | Air Facility System database |
| AQP | Southern Ute Indian Tribe's Air Quality Program |
| bbl | Barrels |
| BACT | Best Available Control Technology |
| CAA | Clean Air Act [42 U.S.C. Section 7401 et seq.] |
| CAM | Compliance Assurance Monitoring |
| CEMS | Continuous Emission Monitoring System |
| CFR | Code of Federal Regulations |
| CMS | Continuous Monitoring System (includes COMS, CEMS and diluent monitoring) |
| COMS | Continuous Opacity Monitoring System |
| CO | Carbon monoxide |
| $CO_2$ | Carbon dioxide |
| dscf | Dry standard cubic foot |
| dscm | Dry standard cubic meter |
| EPA | United States Environmental Protection Agency |
| gal | Gallon |
| GPM | Gallons per minute |
| $H_2S$ | Hydrogen sulfide |
| HAP | Hazardous Air Pollutant |
| hr | Hour |
| ID | Identification Number |
| kg | Kilogram |
| lbs | Pounds |
| MACT | Maximum Achievable Control Technology |
| Mg | Megagram |
| MMBtu | Million British Thermal Units |
| MMSCFD | Million standard cubic feet per day |
| mo | Month |
| NESHAP | National Emission Standards for Hazardous Air Pollutants |
| NMHC | Non-methane hydrocarbons |
| $NO_x$ | Nitrogen Oxides |
| NSPS | New Source Performance Standard |
| NSR | New Source Review |
| pH | Negative logarithm of effective hydrogen ion concentration (acidity) |
| PM | Particulate Matter |
| $PM_{10}$ | Particulate matter less than 10 microns in diameter |
| ppbvd | Parts per billion by volume, dry |
| ppm | Parts per million |
| ppmvd | Parts per million by volume, dry |
| PSD | Prevention of Significant Deterioration |
| PTE | Potential to Emit |
| psi | Pounds per square inch |
| psia | Pounds per square inch absolute |
| RAC | Southern Ute Indian Tribe/State of Colorado Environmental Commission's Reservation Air Code |
| RICE | Reciprocating Internal Combustion Engine |
| RMP | Risk Management Plan |
| scf | Standard cubic feet |
| scfm | Standard cubic feet per minute |
| SI | Spark Ignition |
| $SO_2$ | Sulfur Dioxide |
| SUIT | Southern Ute Indian Tribe |
| tpy | Ton(s) Per Year |
| Tribe | Southern Ute Indian Tribe |
| US EPA | United States Environmental Protection Agency |
| VOC | Volatile Organic Compounds |

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# I. Source Information and Emission Unit Identification

## I.A. Source Information

**Parent Company Name:** Elm Ridge Exploration Company

**Plant Name:** Ignacio Gas Treating Plant

**Plant Location:** Section 13, T33N R9W
Latitude: N 37.10
Longitude: W 107.77

**State:** Colorado

**Reservation:** Southern Ute Indian Reservation

**County:** La Plata County

**Responsible Official:** Vice President

**SIC Code:** 1311

**AFS Plant Identification Number:** 08-067-U0045

**Other Clean Air Act Permits:** There are no other Clean Air Act permits issued to the facility.

**Description of Process:**

The Ignacio Gas Treating Plant compresses and then dehydrates natural gas for transmission. The plant can process up to 25 MMscf/day of natural gas and began initial operation in 1999. The plant includes eight (8) natural gas-fired compressor engines.

The plant also includes three 1.042 MMscf/hr TEG dehydrators with flash tanks. Unit 12b is a standby for unit 12a. The two vents do not operate simultaneously. The facility also includes a membrane unit with a line heater to separate carbon dioxide gas from the natural gas stream. This unit is an insignificant emission unit and is not a regulated source of emissions. Two streams exit the membrane unit: a residue gas stream with a low concentration of carbon dioxide and a permeate gas stream that contains methane and the recovered carbon dioxide. The permeate gas is sent to market via pipeline for downstream processing and treating. The Ignacio Gas Treating Plant also includes a combination of heaters and reboilers that are considered insignificant emission units

## I.B. Source Emission Points

**Table 1 – Emission Units**
**Elm Ridge Exploration Company, Ignacio Gas Treating Plant**

| Emission Unit ID | Description | Control Equipment |
|---|---|---|
| E1<br>E2<br>E3<br>E4 | 4– Caterpillar G3516B (4SLB SI) natural gas-fired Compressor Engine 1,366 nameplate rated HP<br><br>Serial No.:4EK03639 Installed: TBD<br>Serial No.:4EK03640 Installed: 2/18/2015<br>Serial No.:4EK00226 Installed: 10/30/2013<br>Serial No.:4EK01868 Installed: 12/18/2013 | Miratech Oxidation Catalyst |
| E5<br>E6 | 2 – Caterpillar G3516LE (4SLB SI) natural gas-fired Compressor Engine 1,265 nameplate rated HP<br><br>Serial No.:4EK03639 Installed: 01/31/2004<br>Serial No.:4EK03640 Installed: 01/31/2004 | Oxidation Catalyst |
| E7<br>E8 | 2 – Caterpillar G3516LE (4SLB SI) natural gas-fired Compressor Engine 1,340 nameplate rated HP<br><br>Serial No.:WPW01911 Installed: 05/31/2009<br>Serial No.:WPW01828 Installed: 05/31/2009 | Miratech Oxidation Catalyst |
| 12a | 1 – PBP Fabrication High Pressure TEG Dehydrator Still Vent with flash tanks, 25 MMscf/day<br><br>Serial No.: 125001 Installed: 01/07/2001 | Flash Tank Combustion Device |
| 12b | 1 – New Point High Pressure TEG Dehydrator Still Vent with flash tanks, 25 MMscf/day<br><br>Serial No.: 508774 Installed: 01/01/2006 | Flash Tank Combustion Device |
| 14 | 1 – Valerus Low Pressure TEG Dehydrator Still Vent With Flash Tanks, 12 MMscf/day<br><br>Serial No.: P2162 Installed: 01/04/2008 | Flash Tank Combustion Device |
| 15 | Fugitive Emissions-Estimated 8,941 components | None |

**Table 2 – Insignificant Emission Units**
**Elm Ridge Exploration Company, Ignacio Gas Treating Plant**

| Emission Unit ID | Description | Size/Rating |
|---|---|---|
| 10b | 1 - Line Heater for Membrane Unit | 1.75 MMBtu/hr |
| 11a/b | 1 - High Pressure Dehydrator Reboiler | 1.25 MMBtu/hr |
| 11b | 1 - High Pressure Dehydrator Reboiler | 0.5 MMBtu/hr |
| 13 | 1 - Low Pressure Dehydrator Reboiler | 1.0 MMBtu/hr |
| Tank 1 | 1 - Produced water (inlet) tank | 400 bbl |
| Tank 2 | 1 - Water/waste oil (compressors) tank | 400 bbl |
| Tank 3 | 1 - Water/waste oil (compressors) tank | 300 bbl |
| Tank 4, 5 | 2 - Wash water/oil (compressors) tank | 62 bbl |
| Tank 6, 8 | 1 - Condensed water (dehydrator regenerator) tank | 10 bbl |
| Tank 7 | 1 - Triethylene Glycol makeup tank | 1,500 gal |
| Tank 10 | 1 - Triethylene Glycol makeup tank | 2,100 gal |
| Tank 9 | 1 - Pit-tank – miscellaneous liquids | 62 bbl |
| Tank 11-16 | 6 - Lubrication oil tank | 500 gal |
| Tank 17 | 1 - Lubrication oil tank | 300 gal |
| Tank 18 | 1 - Coolant tank (50% ethylene glycol) | 500 gal |
| Tank 19, 20 | 2 - Coolant tank (50% ethylene glycol) | 300 gal |

## II. Site Specific Requirements

**Requirements for Dehydrators**

**II.A. 40 CFR Part 63, Subpart A - National Emission Standards for Hazardous Air Pollutants, General Provisions** [40 CFR 63.1 - 63.16, RAC 4-103]

This facility is subject to the requirements of 40 CFR Part 63, Subpart A as outlined in Table 2 of 40 CFR Part 63, Subpart HH. Notwithstanding conditions in this permit, the permittee shall comply with all applicable requirements of 40 CFR Part 63, Subpart A.

[40 CFR 63.764(a)]

**II.B. 40 CFR Part 63, Subpart HH - National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities** [40 CFR 63.760 - 63.774, RAC 4-103]

The permittee is the owner or operator of glycol dehydration units (Units 12a, 12b and 14) that are exempt from the standards of 40 CFR §63.764(d). The permittee shall retain each determination used to demonstrate that actual annual average flowrate of natural gas to each glycol dehydrator is less than 85,000 scm/day (3,000,000 scf/day) or the actual average benzene emissions from each dehydrator are below 1 tpy.

[40 CFR 63.764(e)(1), 63.772(b), and 63.774(d)(1)]

**Requirements for Engines**

**II.C. 40 CFR Part 60, Subpart A –Standards of Performance for New Stationary Sources** [40 CFR 60.4, 60.4246, 60.4236(b), and RAC 3-102]

This facility is subject to the requirements of 40 CFR Part 60, Subpart A as outlined in Table 3 of 40 CFR Part 60, Subpart JJJJ. Notwithstanding conditions in this permit, the permittee shall comply with all applicable requirements of 40 CFR Part 60, Subpart A.

[40 CFR 60.4246 and 40 CFR 63.6665]

**II.D. Standards of Performance for Stationary Spark Ignition Internal Combustion Engines - 40 CFR Part 60, Subpart JJJJ** [40 CFR 60.4230-60.4248, RAC 3-102]

1. **Applicability** [40 CFR 60.4230]

   a. 40 CFR Part 60, Subpart JJJJ applies to the following emission unit:

      i. Unit E1– 1366 nameplate rated bhp Caterpillar G3516B natural gas-fired SI 4SLB engine, manufactured after July 1, 2010 ; and
      ii. Unit E2– 1366 nameplate rated bhp Caterpillar G3516B natural gas-fired SI 4SLB engine, manufactured after July 1, 2010 ; and
      iii. Unit E3 – 1366 nameplate rated bhp Caterpillar G3516B natural gas-fired SI 4SLB engine, manufactured after July 1, 2010 ; and
      iv. Unit E4 - 1366 nameplate rated bhp Caterpillar G3516B natural gas-fired SI 4SLB engine, manufactured after July 1, 2010

2. **Emission Standards** [40 CFR 60.4233, 60.4234]

   a. The Permittee must comply with the following emissions standards for each engine as specified in §60.4233(e) and Table 1 of 40 CFR Subpart JJJJ:

| **Emission standards** | | | | | |
|---|---|---|---|---|---|
| **g/HP-hr** | | | **ppmvd at 15% $O_2$** | | |
| **$NO_X$** | **CO** | **VOC** | **$NO_X$** | **CO** | **VOC** |
| 1.0 | 2.0 | 0.7 | 82 | 270 | 60 |

b. For each engine that was certified to the certification emission standards in 40 CFR Part 1048 applicable to engines that are not severe duty engines, the permittee may meet the CO certification (not field testing) standard for which the engine was certified in accordance with §60.4233(e).

c. The Permittee must operate and maintain the engines subject to the emission standards over the entire life of the engine, as specified in §60.4234.

**3. Compliance Requirements** [40 CFR 60.4243]

The Permittee must meet all of the applicable compliance requirements as specified in §60.4243.

**4. Testing Requirements** [40 CFR 60.4244]

For each performance test required under §60.4243, the Permittee must meet the performance testing requirements of §60.4244.

**5. Notification, Reports, and Records** [40 CFR 60.4245]

The Permittee must meet all of the applicable notification, reporting, and recordkeeping requirements of §60.4245.

**II.E. 40 CFR Part 63, Subpart A – National Emission Standards for Hazardous Air Pollutants, General Provisions,** [40 CFR 63.1 - 63.16, RAC 4-103]

This facility is subject to 40 CFR Part 63, Subpart A as outlined in Table 8 of 40 CFR Part 63, Subpart ZZZZ. Notwithstanding conditions in this permit, the permittee shall comply with all applicable requirements of 40 CFR Part 63, Subpart A.

[40 CFR 63.6665]

**II.F. 40 CFR Part 63, Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants From Reciprocating Internal Combustion Engines** [40 CFR 63.6580 - 63.6675, RAC 4-103]

This facility is subject to the requirements of 40 CFR Part 63, Subpart ZZZZ for new four-stroke lean-burn (4SLB) stationary reciprocating internal combustion engines (RICE) with a site rating of more than 500 brake horsepower located at a major source of hazardous air pollutants (HAPs). Notwithstanding conditions in this permit, the permittee shall comply with all applicable requirements of 40 CFR Part 63, Subpart ZZZZ.

## 1. Applicability

a. 40 CFR Part 63, Subpart ZZZZ applies to the following engines:

i. Unit E1 -1,348 site rated bhp, Caterpillar G3516B, natural gas-fired SI 4SLB engine, constructed after to December 19, 2002;

ii. Unit E2 -1,348 site rated bhp, Caterpillar G3516B, natural gas-fired SI 4SLB engine, constructed after to December 19, 2002;

iii. Unit E3 -1,348 site rated bhp, Caterpillar G3516B, natural gas-fired SI 4SLB engine, constructed after to December 19, 2002;

iv. Unit E4 - 1,348 site rated bhp, Caterpillar G3516B, natural gas-fired SI 4SLB engine, constructed after to December 19, 2002;

v. Unit E5 - 1,146 site rated bhp, Caterpillar G3516LE, natural gas-fired SI 4SLB engine, constructed after December 19, 2002;

vi. Unit E6 – 1,146 site rated bhp, Caterpillar G3516LE, natural gas-fired SI 4SLB engine, constructed after December 19, 2002;

vii. Unit E7 - 1,197 site rated bhp, Caterpillar G3516LE, natural gas-fired SI 4SLB engine, constructed after December 19, 2002;

viii. Unit E8 - 1,197 site rated bhp, Caterpillar G3516LE, natural gas-fired SI 4SLB engine, constructed after December 19, 2002

## 2. Emission Limits and Operating Requirements

a. The permittee must comply with the applicable requirements in Tables 2a, 2b, and 2c to this subpart.

[40 CFR 63.6600, 63.6602]

b. Emissions from engine units E1, E2, E3, E4, E5, E6, E7, and E8, equipped with an oxidation catalyst device, must meet one of the following emission limitations according to Table 2a of 40 CFR Part 63, Subpart ZZZZ:

i. Except during periods of startup:

1. Reduce CO emissions by 93 percent or more; or

2. Limit the concentration of formaldehyde in the engine exhaust to 14 ppmvd or less at 15 percent $O_2$.

ii. During periods of startup:

1. Minimize the engine's time spent at idle and minimize the engine's startup time to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the non-startup emission limitations apply.

[40 CFR 63.6600(b) & Table 2a of 40 CFR Part 63, Subpart ZZZZ]

c. The permittee shall comply with the emission limitations, operating limitations, and other requirements in 40 CFR Part 63, Subpart ZZZZ at all times.

[40 CFR 63.6605(a)]

d. For engine units E1, E2, E3, E4, E5, E6, E7, and E8, equipped with an oxidation catalyst device, the permittee must meet the following operating limitations except during periods of startup according to Table 2b to 40 CFR Part 63, Subpart ZZZZ:

i. Maintain the catalyst so that the pressure drop across the catalyst does not change by more than two inches of water at 100 percent load plus or minus 10 percent from the pressure drop across the catalyst measured during the initial performance test; and

ii. Maintain the temperature of the engine exhaust so that the catalyst inlet temperature is greater than or equal to 450 °F and less than or equal to 1,350 °F.

[40 CFR 63.6600(b) and Table 2b of Subpart ZZZZ]

**3. Operation and Maintenance Requirements**

a. The permittee must be in compliance with the emission limitations, operating limitations and other requirements in this subpart at all times.

[40 CFR 63.6605(a)]

b. At all times, the permittee must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions to the levels required by 40 CFR Part 63, Subpart ZZZZ. The general duty to minimize emissions does not require the permittee to make any further efforts to reduce emissions if the required levels have been achieved. Determination of whether such operations and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

[40 CFR 63.6605(b)]

c. For emission units E1, E2, E3, E4, E5, E6, E7, and E8, the permittee must minimize the engine's time spent at idle during startup and minimize the engine's startup time to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes.

[40 CFR 63.6625(h)]

**4. Performance Test Requirements**

a. The permittee must conduct an initial performance test or other initial compliance demonstrations that apply within 180 days after the compliance date that is specified for engine units E3, E4, E5, E6, E7, and E8, in §63.6595 and according to the provisions of §63.7(a)(2).

[40 CFR 63.6610(a)]

b. The permittee is not required to conduct an initial performance test on units for which a performance test has been previously conducted, but the test must meet all of the conditions described in §§63.6610(d)(1) through (5).

[40 CFR 63.6610(d)]

c. The permittee shall perform subsequent performance tests semi-annually. After compliance is demonstrated for two consecutive tests, the testing frequency shall be reduced to annually. However, should the results of any subsequent annual performance test indicate that engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8 is not in compliance with the emission limitations, or the permittee deviates from any operating limitations, then semi-annual performance tests shall be resumed.

[40 CFR 63.6615, Table 3]

**5. Performance Test Procedures**

a. The permittee may demonstrate compliance with the requirements to reduce carbon monoxide emissions using the performance test requirements according to Table 4, Item 1 of 40 CFR Part 63, Subpart ZZZZ; or

[40 CFR 63.6610(a)]

b. The permittee may demonstrate compliance with the requirements to limit the concentration of formaldehyde in the engine exhaust using the performance test requirements according to Table 4, Item 3 of 40 CFR Part 63, Subpart ZZZZ.

[40 CFR 63.6610(a)]

c. The permittee must conduct each performance test according to the requirements in Table 4 of 40 CFR Part 63, Subpart ZZZZ. The test must be conducted at any load condition within plus or minus 10 percent of 100 percent load. If an engine unit is non-operational (E3, E4, E5, E6, E7, or E8), the permittee does not need to start up the engine solely to conduct the

performance test. The permittee can conduct the performance test when the engine is started up again.

[40 CFR 63.6620(b)]

d. The permittee must conduct three separate test runs for each performance test required, as specified in §63.7(e)(3). Each test run must last at least 1 hour as specified in §63.7(e)(3).

[40 CFR 63.6620(d)]

e. The permittee must use the equations of §63.6620(e) when:

i. Demonstrating compliance with the percent carbon monoxide reduction requirements; or

ii. Demonstrating compliance by limiting the concentration of formaldehyde.

[40 CFR 63.6620(e)]

f. The engine percent load during a performance test must be determined by documenting the calculations, assumptions, and measurement devices used to measure or estimate the percent load in a specific application. A written report of the average percent load determination must be included in the notification of compliance status. The following information must be included in the written report:

i. The engine model number;

ii. The engine manufacturer;

iii. The year of purchase;

iv. The manufacturer's site-rated brake horsepower;

v. The ambient temperature, pressure, and humidity during the performance test;

vi. All assumptions that were made to estimate or calculate percent load during the performance test must be clearly explained; and

vii. If measurement devices such as flow meters, kilowatt meters, beta analyzers, strain gauges, etc. are used, the model number of the measurement device, and an estimate of its accuracy in percentage of true value must be provided.

[40 CFR 63.6620(i)]

## 6. Monitoring

a. The permittee must install, operate, and maintain each Continuous Parameter Monitoring System (CPMS) according to the requirements in paragraphs (b)(1) through (8) of §63.6625 of 40 CFR Part 63, Subpart ZZZZ.

[40 CFR 63.6625(b)]

b. Except for monitor malfunctions, associated repairs, required performance evaluations, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), the permittee must monitor continuously at all times that the engines are operating.

[40 CFR 63.6635(b)]

c. The permittee may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels. The permittee must, however, use all the valid data collected during all other periods.

[40 CFR 63.6635(c)]

## 7. Initial Compliance Requirements

a. The permittee must demonstrate initial compliance with each emission and operating limitation that applies according to the following:

i. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to reduce CO emissions and using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit, the permittee shall:

1. Demonstrate that the average reduction of emissions of CO determined from the initial performance test achieves the required CO percent reduction; and

2. Install a Continuous Parameter Monitoring System (CPMS) to continuously monitor catalyst inlet temperature according to the requirements in §63.6625(b); and

3. Record the catalyst pressure drop and catalyst inlet temperature during the initial performance test.

ii. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to reduce CO emissions, using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit, and using a continuous emissions monitoring system (CEMS) the permittee shall:

1. Install a CEMS to continuously monitor CO and either $O_2$ or $CO_2$ at both the inlet and outlet of the oxidation catalyst according to the requirements in §63.6625(a);

2. Conduct a performance evaluation of the CEMS using performance specifications 3 and 4A or 40 CFR part 60, Appendix B; and

3. Demonstrate that the average reduction of CO equals or exceeds the required percent reduction. The initial test comprises the first 4-hour period after successful validation of the CEMS. Compliance is based on the average percent reduction achieved during the 4-hour period.

iii. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to limit the concentration of formaldehyde in the engine exhaust and using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit, the permittee shall:

1. Demonstrate that the average formaldehyde concentration, corrected to 15 percent $O_2$, dry basis, from the three test runs is less than or equal to the formaldehyde emission limitation;

2. Install a CPMS to continuously monitor catalyst inlet temperature according to the requirements in §63.6625(b); and

3. Record the catalyst pressure drop and catalyst inlet temperature during the initial performance test.

[40 CFR 63.6630(a)]

b. During the initial performance test, the permittee must establish each of the following operating limitations for engine units E1, E2, E3, E4, E5, E6, E7, and E8:

i. The pressure drop across the catalyst at 100 percent load plus or minus 10 percent; and

ii. The temperature of the engine exhaust so that the catalyst inlet temperature is greater than or equal to 450 °F and less than or equal to 1,350 °F.

[40 CFR 63.6630(b)]

c. The permittee must submit the Notification of Compliance Status containing the results of the initial compliance demonstration, including the performance test results, before the close of business on the 60$^{th}$ day following the completion of the performance test according to requirements of §63.10(d)(2).

[40 CFR 63.6630(c) and 40 CFR 63.6645(h)(2)]

## 8. Continuous Compliance Requirements

a. The permittee must demonstrate continuous compliance with each emission limitation and operating limitation in 40 CFR Part 63, Subpart ZZZZ that applies according to the following methods:

i. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to reduce CO emissions and using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit and using a Continuous Parameter Monitoring System (CPMS), the permittee shall:

1. Conduct semiannual performance tests for CO to demonstrate that the required CO percent reduction is achieved. After compliance has been demonstrated for two consecutive tests, the permittee may reduce the frequency of subsequent performance tests to annually. If the results of any subsequent annual performance test indicate the engine is not in compliance with the CO or formaldehyde emission limitations, or the permittee deviates from any of the operating limitations, the permittee must resume semiannual performance tests; and

2. Collect the catalyst inlet temperature data according to §63.6625(b) reduce these data to 4-hour rolling averages, and maintain the 4-hour rolling average within the operating limitations for the catalyst inlet temperature; and
3. Measure the pressure drop across the catalyst once per month and demonstrate that the pressure drop across the catalyst is within the operating limitation established during the performance test.

ii. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to reduce CO emissions, using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit, and using a continuous emissions monitoring system (CEMS) the permittee shall:

1. Collect monitoring data according to §63.6625(a), reducing the measurements to 1-hour averages, calculating the percent reduction of CO emission according to §63.6620;

2. Demonstrate that the catalyst achieves the required percent reduction of CO emissions over the 4-hour averaging period; and

3. Conduct an annual RATA of the CEMS using performance specifications 3 and 4A of 40 CFR Part 60, Appendix B, as well as daily and periodic data quality checks in

accordance with 40 CFR Part 60 Appendix F, procedure 1.

iii. For engine unit(s) E1, E2, E3, E4, E5, E6, E7, or E8, complying with the requirement to limit the concentration of formaldehyde in the engine exhaust and using an oxidation catalyst as specified in the **Subpart ZZZZ, Emission Limits and Operating Requirements** section of this permit, the permittee shall:

1. Conduct semiannual performance tests for formaldehyde to demonstrate that the emissions remain at or below the formaldehyde concentration limit. After compliance has been demonstrated for two consecutive tests, the permittee may reduce the frequency of subsequent performance tests to annually. If the results of any subsequent annual performance test indicate the engine is not in compliance with the CO or formaldehyde emission limitations, or the permittee deviates from any of the operating limitations, the permittee must resume semiannual performance tests;

2. Collect the catalyst inlet temperature data according to §63.6625(b);

3. Reduce the data to 4-hour rolling averages;

4. Maintain the 4-hour rolling averages within the operating limitations for the catalyst inlet temperature; and

5. Measure the pressure drop across the catalyst once per month and demonstrate that the pressure drop across the catalyst is within the operating limitation established during the performance test.

[40 CFR 63.6640(a)]

b. The permittee must report each instance in which an emission or operating limit was not met. These instance are deviations from the emission and operating limitations and must be reported according to reporting requirements of §63.6650 and the **Subpart ZZZZ, Reporting** section of this permit.

[40 CFR 63.6640(b)]

c. Upon changing of catalyst, values of the operating parameters measured during the initial performance test must be reestablished. Upon reestablishment of the operating parameters, the permittee must conduct a performance test to demonstrate that the required emission limitations continue to be met.

[40 CFR 63.6640(b)]

d. Deviations from the emission or operating limitations that occur during 200 hours of operation from engine startup (engine burn-in period) are not violations.

[40 CFR 63.6640(d)]

e. The permittee must also report each instance in which the requirements in Table 8 of 40 CFR Part 63, Subpart ZZZZ, were not met.

[40 CFR 63.6640(e)]

**9. Notifications**

a. The permittee must submit all of the notifications in §§63.7(b) and (c), §§63.8(e), (f)(4) and (f)(6), §§63.9(b) through (e), and (g) and (h) of the General Provisions that apply by the dates specified.

[40 CFR 63.6645(a)]

b. Upon startup of a new or reconstructed stationary RICE occurring on or after August 16, 2004, the permittee must submit an Initial Notification not later than 120 days after it becomes subject to 40 CFR Part 63, Subpart ZZZZ.

[40 CFR 63.6645(c)]

c. If the permittee is required to submit an Initial Notification but the engine in question is otherwise not affected by the requirements of 40 CFR Part 63, Subpart ZZZZ, in accordance with §63.6590(b), the notification should include the information in §§63.9(b)(2)(i) through (v), and a statement that the engine has no additional requirements and explain the basis of the exclusion (for example, that it operates exclusively as an emergency stationary RICE).

[40 CFR 63.6645(f)]

d. If a performance test is required, the permittee must submit a Notification of Intent to conduct a performance test at least 60 days before the performance test is scheduled to begin as required in §63.7(b)(1).

[40 CFR 63.6645(g)]

e. If a performance test or other initial compliance demonstration is required, the permittee must submit a Notification of Compliance Status according to §63.9(h)(2)(ii).

[40 CFR 63.6645(h)]

**10. Record Keeping**

a. The permittee must keep the following records to comply with the emission and operating limitations:

i. A copy of each notification and report that was submitted to comply with 40 CFR Part 63, Subpart ZZZZ, including all documentation supporting any Initial Notification or Notification of Compliance Status that was submitted, according to the requirements of §63.10(b)(2)(xiv);

ii. Records of the occurrence and duration of each malfunction of operation (i.e. process equipment) or the air pollution control and monitoring equipment;

iii. Records of performance tests and performance evaluations as required in §63.10(b)(2)(viii);

iv. Records of all required maintenance performed on the air pollution control equipment; and

v. Records of actions taken during periods of malfunction to minimize emissions in accordance with §63.6605(b) and the **Subpart ZZZZ, Operation and Maintenance Requirements** section of this permit, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

[40 CFR 63.6655(a)]

b. For each CEMS or CPMS, the permittee must keep the following records:

i. Records described in §63.10(b)(2)(vi) through (xi);

ii. Previous (i.e., superseded) versions of the performance evaluation plan as required in §63.8(d)(3); and

iii. Requests for alternatives to the relative accuracy test for CEMS or CPMS as required in §63.8(f)(6)(i), if applicable.

[40 CFR 63.6655(b)]

c. The permittee must keep the records required in Table 6 of this subpart and the **Subpart ZZZZ, Continuous Compliance Requirements** section of this permit to show continuous compliance with each emission or operating limitation that applies.

[40 CFR 63.6655(d)]

d. Records must be in a form suitable and readily available for expeditious review.

[40 CFR 63.6660(a) and 40 CFR 63.10(b)(1)]

e. The permittee must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

[40 CFR 63.6660(b) and 40 CFR 63.10(b)(1)]

f. The permittee must keep each record readily accessible in hard copy or electronic form at the Ignacio Gas Treating Plant, for five (5) years after the date of each occurrence, measurement, maintenance, corrective action, report, or record.

[40 CFR 63.10(b)(1), 40 CFR 63.10(f), and 40 CFR 63.6660(c)]

**11. Reporting**

a. The permittee must submit a compliance report semi-annually by January 31st and July 31st of each year. The report due on January 31st shall cover the prior six-month period from July 1st through the end of December. The report due on July 31st shall cover the prior six-month period from January 1st through the end of June.

[40 CFR 63.6650(b)]

b. The compliance report must report all deviations as defined in this subpart in the semi-annual monitoring report required by §70.6(a)(3)(iii)(A) and the **General Reporting Requirements** section of this permit. If the compliance report is submitted along with, or as part of the semiannual monitoring report, and the compliance report includes all required information concerning deviation from any emission or operating limitation in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the Tribe.

[40 CFR 63.6650(f)]

c. The semiannual compliance report must contain the following:

i. Company name and address;

ii. Statement by the responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report;

iii. The date of the report and beginning and ending dates of the reporting period;

iv. In the event a malfunction has occurred during the reporting period, the report must include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable

emission limitation to be exceeded. The report must also include a description of actions taken by the permittee during a malfunction of an engine to minimize emissions in accordance with the **Subpart ZZZZ, Operation and Maintenance Requirements** section of this permit, including actions taken to correct a malfunction;

v. If there are no deviations from any applicable emission limitations, or operating limitations, a statement that there were no deviations from the emissions limitations or operating limitations during the reporting period; and

vi. If there were no periods during which the continuous monitoring system (CMS), including CEMS and CPMS, was out-of-control, as specified in §63.8(c)(7), a statement that there were no periods during which the CMS was out-of-control during the reporting period.

[40 CFR 63.6650(c)]

d. For each deviation from an emission or operating limitation that occurs for an engine where a CMS is not being used to comply with the emission and operating limits, the compliance report must contain the following information:

i. Information required in the **Subpart ZZZZ, Reporting** (3(a) through (d)) section of this permit;

ii. The total operating time of the engine at which the deviation occurred during the reporting period; and

iii. Information on the number, duration, and cause of deviations (including unknown cause, if applicable), and the corrective action taken.

[40 CFR 63.6650(d)]

e. For each deviation from an emission or operating limitation that occurs for an engine where a CMS is being used to comply with the emission and operating limits, the compliance report must contain the following information:

i. Information required in the **Subpart ZZZZ, Reporting** (3(a) through (d)) section of this permit;

ii. The date and time that each malfunction started and stopped;

iii. The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks;

iv. The date, time, and duration that each CMS was out-of-control, including the information in §63.8(c)(8);

v. The date and time that each deviation started and stopped, and whether each deviation occurred during a period of malfunction or during another period;

vi. A summary of the total duration of the deviation(s) during the reporting period, and the total duration as a percent of the total source operating time during that reporting period;

vii. A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes;

viii. A summary of the total duration of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total operating time of the engine at which the CMS downtime occurred during the reporting period;

ix. An identification of each parameter and pollutant (CO or formaldehyde) that was monitored at the engine;

x. A brief description of the engine;

xi. A brief description of the CMS;

xii. The date of the last CMS certification audit; and

xiii. A description of any changes in CMS, processes, or controls since the last reporting period.

[40 CFR 63.6650(e)]

## III. Consent Decree Requirements

**Requirements of Consent Decree Case No. 1:12-cv-02584-REB-KLM**

This source is subject to the requirements of Consent Decree Case No. 1:12-cv-02584-REB-KLM (Consent Decree), filed and effective on November 8, 2012. Notwithstanding the conditions in this permit, the permittee shall comply with all applicable provisions of the Consent Decree.

**III.A. Mitigation Project: Replacement of Engines E1, E2, E3, and E4**
[Consent Decree Case No. 1:12-cv-02584-REB-KLM, Paragraph 11]

1. Not later than December 31, 2013, the permittee shall replace two of the currently uncontrolled E1, E2, E3 and E4 with "Replacement RICE", and not later than December 31, 2014, the permittee shall replace the remaining two of the currently uncontrolled E1, E2, E3 and E4 with "Replacement RICE". The Replacement RICE will be Caterpillar G3516LE, or equivalent, natural gas fired, turbocharged, four-cycle, lean burn reciprocating engines, site-rated at 1,146 brake horsepower, designed to continually meet a nitrogen oxides ($NO_x$) rate of 1.00 grams/horsepower hour. Each Replacement RICE will be equipped with oxidation catalysts designed to reduce carbon monoxide (CO) by 93%, volatile organic compounds (VOC) by 60%, and to reduce formaldehyde by 90%.

**III.B. RICE Requirements**

[Consent Decree Case No. 1:12-cv-02584-REB-KLM, Paragraphs 12 through 14]

1. The following "RICE Requirements" shall apply to E5, E6, E7, and E8 ("Remaining RICE") on the Effective Date of this Consent Decree, and to each Replacement RICE upon its installation at the Facility.

2. Each Remaining RICE, and each Replacement RICE is subject to 40 C.F.R. Part 63, Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants from Stationary Reciprocating Internal Combustion Engines (hereinafter "Subpart ZZZZ"). For purposes of Subpart ZZZZ compliance, the Facility is considered a major source under Subpart ZZZZ as of the Effective Date of this Consent Decree and all RICE will be considered "new" for purposes of Subpart ZZZZ once the Replacement RICE are installed. The initial notification requirements of 40 C.F.R. §§63.9(b) and 63.6645, and any other initial notifications required by ZZZZ for the Remaining RICE, shall be deemed satisfied on the Effective Date of this Consent Decree. The permittee shall thereafter comply with all other emission and operating limitations, compliance demonstration, notification, and reporting requirements of 40 C.F.R. Part 63, Subparts A and ZZZZ by the dates set forth in the regulations. For purposes of the testing and initial compliance requirements in 40 C.F.R. §63.6610 and the compliance reporting requirements in 40 C.F.R. §63.6650(b), the "compliance date" and "start up" date shall be the Effective Date of this Consent Decree for each Remaining RICE, and the installation date for each Replacement RICE.

3. For each Replacement RICE, the permittee shall comply with the requirements specified below:

   a. <u>Emissions Control</u>. In addition to complying with the requirements of Subpart ZZZZ, each Replacement RICE at the Facility shall be equipped with oxidation catalyst controls and shall not exceed an emission limit of 1.3 g/hp-hr for $NO_x$, as determined below, in paragraph c(2), using the averaging times for the applicable test method.

b. Performance Testing for $NO_x$.

i. Not later than 180 days after the start-up date for each Replacement RICE, the permittee shall conduct initial performance tests for $NO_x$ on each Replacement RICE using a test protocol identified in subparagraph c(2)(iii), below.

ii. The permittee shall retest each RICE for $NO_x$ on the same schedule and concurrently with each subsequent performance test required for Subpart ZZZZ (for CO or formaldehyde) using the same test protocol as used to comply with subparagraph c(2)(i), above. The permittee shall submit to EPA the test results for $NO_x$ on the Replacement RICE with the semi-annual report required pursuant to Subpart ZZZZ.

iii. The permittee shall select among the following test methods: 40 C.F.R. Part 60, Appendix A, Method 1 or 1A – Sampling port location and number of traverse points; 40 C.F.R. Part 60, Appendix A, Method 3, 3A or 3B – O2 concentration at inlet and outlet; 40 C.F.R. Part 60, Appendix A, Method 4 – Moisture Content; 40 C.F.R. Part 60, Appendix A, Method 7E – Determination of nitrogen oxides emissions. In the alternative, the permittee may select methods for $NO_x$ measurements contained in the State of Wyoming Portable Analyzer Monitoring Protocol (revised January 25, 2006), or other methods if approved by EPA under this Consent Decree.

**III.C. Additional Requirements under This Agreement**
[Consent Decree Case No. 1:12-cv-02584-REB-KLM, Paragraph 19]

1. Not later than 180 days after the Effective Date of this Consent Decree, the permittee shall convert all natural gas powered pneumatic controllers at the Facility to compressed instrument air. Not later than 30 days after completing this project, the permittee shall submit a report to EPA with an accompanying spreadsheet that identifies a description of the work completed, the estimated annual methane and VOC emission reductions, amount of natural gas conserved, and the approximate cost of the work.

**III.D. Reporting Requirements**
[Consent Decree Case No. 1:12-cv-02584-REB-KLM, Paragraphs 37 through 42]

1. On the date the permittee submits its semi-annual or other periodic reports pursuant to 40 C.F.R. Subpart ZZZZ or, if no such reports are submitted during a calendar year, not later than January 31 of the succeeding calendar year, the permittee shall submit a report for the preceding year that shall include a description of any non-compliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, the permittee shall so state in the report. The permittee shall thereafter investigate the cause of the violation and shall then submit an amendment to the report, including a full

explanation of the cause of the violation, within 30 Days of the Day the permittee becomes aware of the cause of the violation.

2. Whenever any violation of this Consent Decree or of any applicable permits or any other event affecting the permittee's performance under this Decree, or the performance of its Facility, may pose an immediate threat to the public health or welfare or the environment, the permittee shall notify EPA orally or by electronic facsimile transmission as soon as possible, but no later than 24 hours after the permittee first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding paragraph.

3. All reports shall be submitted to the persons designated in Section XIV of the Consent Decree (Notices).

4. Each report submitted by the permittee under this Section shall be signed by an official of the submitting party and include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

## IV. <u>Facility-Wide Requirements</u>

Conditions in this section of the permit apply to all emissions units located at the facility, including any units not specifically listed in Table 1 or Table 2 of the Source Emission Points section of this permit.

[RAC 2-110(1)(d)]

### IV.A. General Recordkeeping Requirements [RAC 2-110(6)]

The permittee shall comply with the following generally applicable recordkeeping requirements:

1. If the permittee determines that his or her stationary source that emits (or has the potential to emit, without federally recognized controls) one or more hazardous air pollutants is not subject to a relevant standard or other requirement established under 40 CFR Part 63, the permittee shall keep

a record of the applicability determination on site at Ignacio Gas Treating Plant for a period of five years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination shall include an analysis (or other information) that demonstrates why the permittee believes the source is unaffected (e.g., because the source is an area source).

[40 CFR 63.10(b)(3)]

2. Records shall be kept of off permit changes made, as required by the Off Permit Changes section of this permit.

## IV.B. General Reporting Requirements

1. The permittee shall submit to the Tribe all reports of any required monitoring under this permit semiannually, by January 31 and July 31 of each year. The report due on January 31 shall cover the July 1 - December 31 reporting period of the previous calendar year. The report due on July 31 shall cover the January 1 - June 30 reporting period of the current calendar year. The initial report shall cover the period from the effective date of this permit through the end of the relevant semi-annual reporting period. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official consistent with the **Submissions** section of this permit.

[RAC 2-110(7)(a)]

2. "Deviation" means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or recordkeeping established in accordance with RAC 2-110(5) and (6). For a situation lasting more than 24 hours which constitutes a deviation, each 24 hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

   a. A situation where emissions exceed an emission limitation or standard;

   b. A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met; or

   c. A situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.

   d. A situation in which an exceedance or an excursion, as defined in 40 CFR Part 64 occurs.

[RAC 1-103(21)]

3. The permittee shall promptly report to the Tribe deviations from permit requirements, (including emergencies), including the date, time, duration, and the probable cause of such deviations, the quantity and pollutant type of excess emissions resulting from the deviation, and any preventative, mitigation, or corrective actions or measures taken. "Prompt" is defined as follows:

   a. Where the underlying applicable requirement contains a definition of "prompt" or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern.

   b. Where the underlying applicable requirement fails to address the time frame for reporting deviations, reports of deviations will be submitted based on the following schedule:

      i. For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in the applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made by email, telephone, verbal, or facsimile communication by the close of business the next working day, upon discovery of the occurrence, and in writing within 10 working days from the occurrence;

      ii. For emissions of any regulated air pollutant, excluding those listed in RAC § 2-110(7)(b)(i), that continue for more than 2 hours in excess of permit requirements, the report must be made by email, telephone, verbal, or facsimile communication by the close of business the next working day, upon discovery of the occurrence, and in writing within 10 working days from the occurrence;

      iii. For all other deviations from permit requirements, the report shall be contained in the report submitted with the semi-annual monitoring report.

[RAC 2-110(7)(b)]

**IV.C. Alternative Operating Scenarios** [RAC 2-110(8)]

1. Replacement of an existing engine identified in this permit shall be allowed as an off-permit change pursuant to the Off Permit Changes provisions of this permit provided all of the following conditions are met:

   a. The engine replacement is not subject to any requirements under Title IV of the Clean Air Act and is not a modification under Title I of the Clean Air Act;

   b. The replacement engine is of the same make, model, horsepower rating, and configured to operate in the same manner as the engine being replaced.

c. The replacement engine meets all applicable requirements identified in this permit that apply to the existing engine being replaced.

d. All applicable requirements that apply to the replacement engine are already identified in the permit. Replacement of an existing engine identified in this permit with a new, modified, or reconstructed engine must utilize a Minor Permit Revision as specified in RAC 2-111(3) or a Significant Permit Revision as specified in RAC 2-111(4) to incorporate any new applicable requirements. The applicable requirements include, but may not be limited to:

i. Standards of Performance for Stationary Spark Ignition Internal Combustion Engines at 40 CFR Part 60, Subpart JJJJ;

ii. Standards of Performance for Stationary Compression Ignition Internal Combustion at 40 CFR Part 60, Subpart IIII;

iii. National Emission Standard for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines at 40 CFR Part 63, Subpart ZZZZ;

iv. Requirements established in a permit or permits issued pursuant to the Federal Minor New Source Review Program in Indian Country at 40 CFR Part 49;

v. Requirements established in a permit or permits issued pursuant to the Prevention of Significant Deterioration of Air Quality Program at 40 CFR Part 52; or

vi. Requirements established in any promulgated Federal Implementation Plan that may apply to engines located on the Southern Ute Indian Reservation.

2. The Permittee shall provide contemporaneous written notice to the Tribe and the Administrator of any replacement of an existing engine identified in this permit. Such notice shall state when the replacement occurred and shall describe the change and any applicable requirement that would apply as a result of the change.

3. The Permittee shall keep a record of the engine replacement.

**IV.D. Permit Shield** [RAC 2-110(10)(c)]

Nothing in this permit shall alter or affect the following:

1. The provisions of Section 303 of the Clean Air Act, 42 U.S.C. § 7603 concerning emergency powers, including the respective authorities of the Administrator under those sections;

2. The liability of a permittee for any violation of applicable requirements prior to or at the time of permit issuance;

3. The applicable requirements of the acid rain program consistent with section 408(a) of the Act; or

4. The ability of the Administrator respectively to obtain information from a source pursuant to Section 114 of the Clean Air Act, 42 U.S.C. § 7414.

## V. Part 70 Administrative Requirements

### V.A. Annual Fee Payment [RAC 2-110(1)(h) and RAC 2-118]

1. An annual operating permit emission fee shall be paid to the Tribe by the permittee.

[RAC 2-118(2)]

2. The permittee shall pay the annual permit fee each year no later than April 1st for the preceding calendar year, except that the first annual permit fee will cover the period from the issuance date of this permit through December 31 of the same year.

[RAC 2-118(2)]

3. Fee payments shall be remitted in the form of a money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the Southern Ute Indian Tribe and sent or delivered by the United States Postal Service c/o Environmental Programs Division Part 70 Program, P.O. Box 737 MS #84, Ignacio, Colorado 81137; or by common carrier (such as UPS or FedEx) c/o Environmental Programs Division Part 70 Program, 398 Ouray Drive, Ignacio, Colorado 81137.

[RAC 2-118(4)(a)]

4. The permittee shall send an updated fee calculation worksheet submitted annually by the same deadline as required for fee payment to the address listed in the **Submissions** section of this permit.

[RAC 2-118]

5. Basis for calculating annual fee:

   a. Subtotal annual fees shall be calculated by multiplying the applicable emission fee set pursuant to RAC § 2-119(1) times the total tons of actual emissions for each fee pollutant. In absence of actual emissions data, calculate the annual fee based on the potential to emit (as defined at RAC 1-103(51)) for each fee pollutant. Emissions of any regulated air pollutant that already are included in the fee calculation under a category of regulated pollutant, such as a federally

listed hazardous air pollutant that is already accounted for as a VOC or as PM10, shall be counted only once in determining the source's actual emissions.

[RAC 2-119(2)(a)]

i. "Actual emissions" means the actual rate of emissions in tpy of any fee pollutant (for fee calculation) emitted from a title V source over the preceding calendar year or any other period determined by the Tribe to be more representative of normal operation and consistent with the fee schedule adopted by the Tribe and approved by the Administrator. Actual emissions shall be calculated using each emissions units actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year or other period used for this calculation.

[RAC 1-103(2)]

ii. Actual emissions shall be computed using compliance methods required by the permit.

[RAC 2-118(1)(b)]

iii. If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures.

[RAC 2-118(1)(b)]

b. The total annual fee submitted shall be the greater of the applicable minimum fee or the sum of subtotal annual fees for all fee pollutants emitted from the source.

[RAC 2-119(2)(b)]

*[Explanatory note: The applicable emission fee amount and applicable minimum fee (if necessary) are revised each calendar year to account for inflation, and they are available from AQP prior to the start of each calendar year.]*

c. The permittee shall exclude the following emissions from the calculation of fees:

i. The amount of actual emissions of any one fee pollutant that the source emits in excess of 4,000 tons per year

ii. Any emissions that come from insignificant activities not required in a permit application pursuant to RAC § 2-106(4).

[RAC 1-103(2)(c)]

6. Annual fee calculation worksheets shall be certified as to truth, accuracy, and completeness by a responsible official.

[RAC 2-105 and RAC 2-118(2)(c)]

7. Failure of the permittee to pay fees by the due date shall subject the permittee to assessment of penalties and interest in accordance with RAC § 2-118(6).

[RAC 2-118(6)]

8. When notified by the Tribe of underpayment of fees, the permittee shall remit full payment within 30 days of receipt of an invoice from the Tribe.

[RAC 2-119(3)(b)]

9. A permittee who thinks a Tribe assessed fee is in error and who wishes to challenge such fee shall provide a written explanation of the alleged error to the Tribe along with full payment of the assessed fee.

[RAC 2-119(3)(c)]

## V.B. Compliance Requirements

1. Compliance with the Permit

   a. The permittee must comply with all conditions of this part 70 permit. Any permit noncompliance with federally enforceable or Commission-only permit conditions constitutes a violation of the RAC and Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

   [RAC 2-110(3)(a)]

   b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

   [RAC 2-110(3)(b)]

   c. All terms and conditions of this permit which are required under the Clean Air Act or under any of its applicable requirements, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Clean Air Act, except terms and conditions the permit specifically designates as not being federally enforceable under the Clean Air Act that are not required under the Clean Air Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of RAC §§ 2-108, 2-111, 2-112, other than those contained in this paragraph.

[RAC 2-110(3)(f)]

d. This permit, or the filing or approval of a compliance plan, does not relieve any person from civil or criminal liability for failure to comply with the provisions of the RAC and the Clean Air Act, applicable regulations thereunder, and any other applicable law or regulation.

[RAC 2-110(3)(g)]

e. For the purpose of submitting compliance certifications in accordance with the Compliance Certifications condition below of this permit, or establishing whether or not a person has violated or is in violation of any requirement of this permit, nothing shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[Section 113(a) and 113(e)(1) of the Act, 40 CFR §§ 51.212, 52.12, 52.33, 60.11(g), and 61.12]

2. Compliance Certifications

a. The permittee shall submit to the Tribe and EPA Region 8 an annual certification of compliance which shall certify the source's compliance status with all permit terms and conditions and all applicable requirements relevant to the source, including those related to emission limitations, standards, or work practices. The compliance certification shall be certified as to truth, accuracy, and completeness by a responsible official consistent with RAC § 2-110(9)(a). The certification of compliance shall be submitted annually by January 31 and shall cover the preceding calendar year in which the certification of compliance is due, except that the first annual certification of compliance will cover the period from the effective date of this permit through December 31 of the same year.

[RAC 2-110(9)(c)]

3. Compliance Schedule

a. For applicable requirements with which the source is in compliance, the source will continue to comply with such requirements.

[RAC 2-106(4)(l)(ii)]

b. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

[RAC 2-106(4)(l)(iii)]

**V.C. Duty to Provide and Supplement Information** [RAC 2-110(7)(e), 2-106(5), and 2-124]

1. The permittee shall furnish to the Tribe, within the period specified by the Tribe, any information that the Tribe request in writing to determine whether cause exists for reopening and revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Tribe copies of records that are required to be kept by the permit, including information claimed to be confidential. Information claimed to be confidential must be accompanied by a claim of confidentiality according to the provisions of RAC 2-124.

   [RAC 2-110(7)(e) and RAC 2-124]

2. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application or in a supplemental submittal, shall promptly submit such supplementary facts or corrected information. In addition, a permittee shall provide additional information as necessary to address any requirements that become applicable after the date a complete application is filed, but prior to release of a draft permit.

   [RAC 2-106(5)]

**V.D. Submissions** [RAC 2-105]

1. Any application, form, report, compliance certification, or other document submitted by the permittee under this permit shall contain a certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

*[Explanatory Note: The Tribe has developed a reporting form "CTAC" for certifying truth, accuracy and completeness of part 70 submissions. The form may be found on the AQP's website (http://www.southernute-nsn.gov/environmental-programs/air-quality).*

2. Except where otherwise noted, any documents required to be submitted under this permit, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted:

| by United States Postal Service: | or by Common Carrier: |
|---|---|
| Part 70 Program | Part 70 Program |
| Environmental Programs Division | Environmental Programs Division |
| Air Quality Program | Air Quality Program |
| P.O. Box 737 MS #84 | 398 Ouray Drive |
| Ignacio, Colorado 81137 | Ignacio, CO 81137 |

**V.E. Severability Clause** [RAC 1-106 and RAC 2-110(1)(f)]

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any provision is held invalid, the remaining permit conditions shall remain valid and in force.

**V.F. Permit Actions** [RAC 2-110(3)]

1. This permit may be modified, reopened and revised, revoked and reissued, or terminated for cause. [RAC 2-110(3)(c)]

2. The filing by the permittee of a request for a permit revision, reissuance, or termination, or of a notification of planned changes or anticipated noncompliance shall not stay any permit condition.

[RAC 2-110(3)(d)]

**V.G. Administrative Permit Revision** [RAC 2-111(2)]

1. The permittee may submit an application for an administrative permit revision as defined in RAC § 1-103.

[RAC 2-111(2)(a)]

2. The permittee may implement an administrative permit revision immediately upon submittal of the request for the administrative revision.

[RAC 2-111(2)(c)]

*[Note to permittee: If the provisions allowing for an administrative permit revision do not apply, please contact the Air Quality Program for a determination of similarity prior to submitting your request for an administrative permit revision.]*

**V.H. Minor Permit Revisions** [RAC 2-111(3)]

1. The permittee may submit an application for a minor permit revision as defined in RAC § 1-103.

2. An application requesting the use of minor permit revision procedures shall meet the requirements of RAC § 2-106(4) and shall include the following:

   a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

   b. If changes are requested to the permit language, the permittee's suggested draft permit changes;

c. Certification by a responsible official, consistent with RAC § 2-105, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that such procedures be used; and

d. Completed forms for the Tribe to use to notify the Administrator and affected programs as required under RAC § 2-108

e. If the requested permit revision would affect existing compliance plans or schedules, related progress reports, or certification of compliance requirements, and an outline of such effects.

[RAC 2-111(3)(a)]

3. The permittee shall not submit multiple minor permit revision applications that may conceal a larger revision that would not constitute a minor permit revision.

[RAC 2-111(3)(b)]

4. The permittee may make the change proposed in its minor permit revision application immediately after it files such application, provided, however, for sources that have previously utilized this provision during the term of the permit and, on two or more occasions have failed to file a complete application, may thereafter make the change only after the application is deemed complete. After the permittee makes the change and until the Tribe takes any of the actions specified in the following subsection, the permittee must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this period, the permittee need not comply with the existing permit terms and conditions it seeks to modify. If the permittee fails to comply with its proposed permit terms and conditions during this period, however, the existing permit terms and conditions it seeks to modify may be enforced against it.

[RAC 2-111(3)(e)]

5. The permit shield under RAC § 2-110(10) does not extend to minor permit revisions.

[RAC 2-110(10)(d)]

**V.I. Significant Permit Revisions** [RAC 2-111(4)]

1. The permittee must request the use of significant permit revision procedures as defined in RAC § 1-103.

2. Significant permit revisions shall meet all requirements of the RAC for permit issuance and renewal, including those for applications, review by the Administrator and affected programs, and public participation.

[RAC 2-111(4), 2-109, and 2-106(3)]

## V.J. Permit Reopenings, Revocations and Reissuances, and Terminations [RAC 2-112]

1. The permit may be reopened and revised for any of the reasons listed in paragraphs a. through d. below. Alternatively, the permit may be revoked and reissued for the reasons listed in paragraphs c. and d. below:

    a. Additional requirements under the Clean Air Act become applicable to a major source with a remaining permit term of 3 or more years, provided that the Tribe shall revise such permits to incorporate such additional requirements no later than 18 months after promulgation of such requirements, and no such reopening is required if the effective date of the requirement is later than the permit expiration date unless the original permit or any of its terms or conditions have been extended past the permit expiration date pursuant to RAC § 2-104(2)(b)(iii);

    b. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit;

    c. The Tribe or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the terms or conditions of the permit; or

    d. The Tribe or the Administrator determines that the permit must be revised or revoked and reissued to assure compliance with applicable requirements.

2. The permit may be terminated for any of the reasons in a. through g. below:

    a. The permittee fails to meet the requirements of an approved compliance plan;

    b. The permittee has been in significant or repetitious noncompliance with the operating permit terms or conditions;

    c. The permittee has exhibited a history of willful disregard for environmental laws of any tribal or state authority, or of the United States;

    d. The permittee has knowingly misrepresented a material fact in any application, record, report, plan, or other document filed or required to be maintained under the permit;

    e. The permittee falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the permit;

    f. The permittee fails to pay fees required under RAC§§ 2-118 and 2-119; or

g. The Administrator has found that cause exists to terminate the permit.

**V.K. Property Rights** [RAC 2-110(3)(e)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

**V.L. Inspection and Entry** [RAC 2-110(9)(b)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives of the Tribe or other authorized representative to perform the following:

1. Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

4. As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

**V.M. Emergency Situations** [RAC 2-117]

1. The permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency as defined in RAC § 1-103. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An emergency occurred and that the permittee can identify the cause(s) of the emergency;

   b. The permitted facility was at the time being properly operated;

   c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and

   d. The permittee reported the emergency to the Tribe in compliance with RAC § 2-110(7).

[RAC 2-117(1)]

2. In any enforcement preceding the permittee attempting to establish the occurrence of an emergency has the burden of proof.

[RAC 2-117(2)]

3. This emergency situation provision is in addition to any emergency or upset provision contained in any applicable requirement.

[RAC 2-117(3)]

**V.N. Permit Transfers** [RAC 2-113]

This permit shall not be transferable, by operation of law or otherwise, from one location to another or from one source to another, except that a permit may be transferred from one location to another in the case of a portable source that has notified the Tribe in advance of the transfer, pursuant to the RAC. A permit for a source may be transferred from one person to another if the Tribe finds that the transferee is capable of operating the source in compliance with the permit. This transfer must be accomplished through an administrative permit revision in accordance with the Administrative Permit Revisions section of this permit.

**V.O. Off-Permit Changes** [RAC 2-116(2)]

1. The permittee is allowed to make, without a permit revision, certain changes that are not addressed or prohibited by this permit provided that the following requirements are met:

   a. Each such change meets all applicable requirements and shall not violate any existing permit term or condition;
   b. Such changes are not subject to any requirements under title IV of the Clean Air Act and are not modifications under title I of the Clean Air Act;

   c. Such changes are not subject to permit revision procedures under RAC § 2-111; and

   d. The permittee provides contemporaneous written notice to the Tribe and the Administrator of each such change, except for changes that qualify as insignificant activities. Such notice shall state when the change occurred and shall describe the change, any resulting emissions change, pollutants emitted, and any applicable requirement that would apply as a result of the change.

[RAC 2-116(2)(a)]

2. The permit shield does not apply to changes made under this provision.

[RAC 2-110(10)(d)]

3. The permittee shall keep a record describing changes made at the source that result in emissions of any regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

[RAC 2-116(2)(b)]

4. A copy of each off-permit change notification shall be made available to the Tribe upon request.

[RAC 2-110(6)]

**V.P. Permit Expiration and Renewal** [RAC §§ 2-104(3), 2-106(2)(b), 2-107(7)(a), 2-107(7)(b), 2-110(1)(a), and 2-106(3)]

1. This permit shall expire five years from the effective date of this permit.

[RAC 2-110(1)(a)]

2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted at least 6 months but not more than 18 months prior to the date of expiration of this permit.

[RAC 2-107(7)(b)]

3. If the permittee submits a timely and complete permit application for renewal, consistent with RAC § 2-106 but the Tribe has failed to issue or disapprove a renewal permit before the end of the permit term, then the permit shall not expire and all its terms and conditions shall remain in effect until the renewal permit has been issued or disapproved.

[RAC 2-104(2)(b)]

4. The ability to operate under this permit shall cease if (1) the Tribe takes final action to issue the permittee a renewal permit or deny the permittee a permit or (2) the permittee fails to submit by the deadline specified in writing by the Tribe any additional information identified as being needed to process the application.

[RAC 2-104(3)]

5. Renewal of this permit is subject to the same procedures, including those for public participation and affected program and EPA review, as those that apply to initial permit issuance.

[RAC 2-107(7)(a)]

6. The application for renewal shall include the current permit number, description of permit revisions and off permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form.

[RAC 2-106(4)(e)(ix)]

# VI. Appendix

## VI.A. Inspection Information

1. Driving Directions to the facility:

From the intersection of CR 318 and State Highway 172, said intersection being approximately 1.3 miles south of Ignacio, travel 6.1 miles west on CR 318 to its intersection with CR 309. Go 1 mile north on CR 309, turn west on CR 310 and travel 1.5 miles to the entrance of the plant.

2. Global Positioning System (GPS):

| | |
|---|---|
| Latitude: | N 37.10 |
| Longitude: | W 107.77 |

3. Safety Considerations:

All visitors must sign in with on-site operations staff and receive a short safety briefing. Required safety equipment includes: hard hat, ear and eye protection, hard toed boots, and fire retardant clothing (FRC).

## VI.B. Consent Decree Case No. 1:12-cv-02584-REB-KLM