Periodic Review

Intergovernmental Agreement Between the Southern Ute Indian Tribe and the State of Colorado Concerning Air Quality Control on the Southern Ute Indian Reservation

January 2017

Requirement: Under section XIII.H. of the Intergovernmental Agreement Between the Southern Ute Indian Tribe and the State of Colorado Concerning Air Quality Control on the Southern Ute Indian Reservation (Exhibit 1), the parties must review the Agreement for compliance, progress in implementation, needed amendments and other issues identified by the parties.

Background: The Intergovernmental Agreement established a single air quality program applicable to all lands within the exterior boundaries of the Southern Ute Indian Reservation. The Tribe and the State agreed that such an air quality program would be the most effective and efficient method for regulating all sources of air pollution on the Reservation. A joint Tribal/State Environmental Commission was created as a separate entity to establish air quality rules and regulations and to serve as an administrative review authority. The Tribe’s Environmental Programs Division is responsible for the day-to-day administration and enforcement of the Reservation Air Program. The State’s Air Quality Control Commission and the Air Pollution Control Division serves in an advisory capacity to the Environmental Commission and periodically consults with the Tribal Environmental Programs Division.

The Intergovernmental Agreement was signed by the Vice-Chairman of the Southern Ute Indian Tribal Council, the Governor of the State of Colorado, and the Attorney General of the State of Colorado on December 13, 1999.

Findings of the Review: The Tribe, through its Environmental Programs Division and the Tribal Legal Department, and the State, through the Colorado Department of Public Health and Environment and the Colorado Attorney General’s Office, each has reviewed the Intergovernmental Agreement and conclude that the parties have complied with the provisions of the Agreement. The Tribe and the State concur that all administrative provisions contained in sections I through XIII are appropriate and relevant moving forward. The Tribe and the State also concur that the Long-Term Plan for the Reservation Air Program, prepared by the Tribe and approved by the Southern Ute Indian Tribe/State of Colorado Environmental Commission in 2006 and amended on June 8, 2016 (Exhibit 2), generally describes an appropriate plan for further development of the air quality program for the Reservation. The parties further agree that satisfactory progress has been made in implementation of the Intergovernmental Agreement as evidenced by (1) the successful transitioning from United States Environmental Protection Agency (EPA), Part 71 permits to Tribe-issued permits by the March 2, 2015 completion deadline established in the transition plan, (2) EPA delegation of certain New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants on September 3, 2013, and subsequent adoption of the standards into the Reservation Air Code by the Environmental Commission, effective January 28, 2013, (3) EPA approval of the Tribe’s
Compliance Monitoring Strategy (CMS) on September 17, 2014 and revised CMS approval on February 8, 2016, (4) completion of the Tribe’s Enforcement Procedures and Penalty Policy Manual on January 29, 2015, (5) the Tribe’s successful implementation of air quality compliance monitoring and enforcement as evidenced by completion of all CMS annual commitments; and, (6) the Tribe’s ongoing participation in regional air quality planning.

Finally, the Tribe and the State concur that there are no issues that have been identified that require revisions to the Agreement.

Signed and Dated:

Michael Silverstein, Administrator and Technical Secretary
Air Quality Control Commission, Colorado Department of Public Health and Environment

Thomas Roan, Assistant Attorney General
Office of the Colorado Attorney General

Thomas Johnson, Division Head
Southern Ute Indian Tribe Environmental Programs Division

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