



**Air Pollution Control
Title V Permit to Operate
Statement of Basis for Permit No V-SUIT-0047-2019.00
August 12, 2019**

**Transit Waste, LLC
Bondad Recycling Center and Depository
Southern Ute Indian Reservation
La Plata County, Colorado**

1. Facility Information

a. Location

The Bondad Recycling Center and Depository (Bondad Landfill), owned and operated by Transit Waste, LLC (Transit Waste), is located within the exterior boundary of the Southern Ute Indian Reservation. The exact location is Section 31, T33N, R9W, in La Plata County, at latitude North 37.055197 and longitude West 107.862756. The Mailing address is:

Transit Waste, LLC
Bondad Recycling Center and Depository
1500 County Road 318
Durango, CO 81301

b. Contacts

Facility Contact:
John David
General Manager
WCA Waste Corporation
P.O. Box 215
Bloomfield, NM 87413
(505) 419-6184

Responsible Official:
Ethan Shackelford
Region Engineering and Compliance
WCA Waste Corporation
33924 Olathe Drive
Lebanon, MO 65536
(417) 426-5001

c. Description of Operations

According to Transit Waste's application, the Bondad Recycling Center and Depository (Bondad Landfill) is a municipal solid waste (MSW) disposal site that accepts non-hazardous residential, commercial, and industrial waste. The facility has been in operation since 1997 and the operating hours for receiving waste are Monday through Friday 8:00 a.m. to 4:30 p.m. MT. The site operating hours may extend beyond this time period to allow for site preparation and the application of daily cover.

The process of waste decomposition over time includes complex microbial and biochemical reactions within the landfill's interior after the waste has been deposited. The first stage of refuse decomposition is rapid and continues until the entrained oxygen within the refuse has been depleted. The mature stage

of refuse decomposition is anaerobic. The two primary constituents of landfill gas (LFG) during this phase are methane (CH₄) and carbon dioxide (CO₂). The landfill gas composition is typically about 45 percent CO₂ with the remaining 50 percent being CH₄. The production of LFG is a continuous process; it begins a few months after initial waste placement and continues until microbial reactions are limited by substrate or moisture availability.

LFG production volumes are affected by the rate at which the solid waste is disposed. Production volumes vary over the lifetime of the landfill but generally increase from year to year until the peak volume is reached shortly after landfill closure. Other factors influencing production include climate (i.e. precipitation), overall moisture conditions within the landfill, types of solid waste accepted (degradable vs. inert), etc.

The LFG picks up other constituents in relatively small concentrations as it travels through the refuse. These include hydrogen sulfide, which can range from zero to several hundred parts per million (ppm), non-methane organic compounds (NMOC) and volatile organic compounds (VOC), which can range from several hundred to several thousand ppm. Some of the VOCs are hazardous air pollutants (HAPs). The CH₄ and CO₂ in the LFG are regulated greenhouse gas (GHG) emissions.

Refuse hauling vehicles and other on-site vehicles generate fugitive dust (particulate matter) emissions while traveling on haul roads and other portions of the landfill site. Heavy equipment used for excavation, transportation, stockpiling, deposition of soil cover material, and wind also generates fugitive particulate emissions on the landfill surface. To mitigate particulate emissions at the site, these areas are watered using a water truck. The water truck moves at slow speeds across the site, spraying a wide area with water to reduce particulate emissions.

Diesel fuel, engine lubrication oil, antifreeze, and hydraulic fluid or oil are stored on-site. The facility maintains one (1) 2000-gallon diesel storage tank, four (4) 300-gallon storage tanks, and five (5) 55-gallon storage tanks. These sources emit fugitive VOC and HAP emissions.

d. List of All Units and Emission-Generating Activities

Transit Waste provided the information contained in Tables 1 and 2 in its part 70 permit renewal application. Table 1 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as “insignificant” emitting units (IEUs) are listed separately in Table 2.

**Table 1 – Emission Units
Transit Waste, LLC, Bondad Recycling Center and Depository**

Emission Unit ID	Description	Control Equipment
E001	Landfill Gas Surface Emissions	None
E002	Construction Vehicles – Haul Roads / Landfill Surface	None

The Southern Ute Indian Tribe/State of Colorado Environmental Commission’s Reservation Air Code allows sources to separately list in the permit application units or activities that qualify as “insignificant” based on potential emissions below 2 tpy for all regulated pollutants that are not listed as hazardous air pollutants (HAPs) under Section 112(b) of the Clean Air Act (CAA) and below 1,000 lbs per year or the de minimis level established under Section 112(g), whichever is lower, for HAP emissions [RAC 2-106(4)(f); RAC 1-103(36) and (37)]. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee [RAC 2-106(4)(f)]. Units that qualify as “insignificant” for the purposes of the Part 70 application are in no way exempt from applicable requirements or any requirements of the Part 70 permit.

Transit Waste stated in its Part 70 permit application that the emission units in Table 2, below, are insignificant. The application provided emission calculations for landfill gases based on: The EPA’s LandGem Version 3.02; fugitive dust emissions based on AP-42, Chapter 13; engine emission estimates using AP-42 Chapter 3; and, storage tank emission estimates based on EPA Tanks 4.0.9d. These data and calculations support Transit Waste’s claim that these units qualify as insignificant.

**Table 2 – Insignificant Emission Units
Transit Waste, LLC, Bondad Recycling Center and Depository**

Emission Unit ID	Amount	Description	Size	Units
IE0001	1	Diesel Storage Tank	2,000	Gallon
IE0002	4	Storage Tank (Storing Engine Lubrication Oil, Antifreeze, Hydraulic Fluid and /or Oil)	300	Gallon
IE0003	5	Storage Tanks (Storing Engine Lubrication Oil, Antifreeze, Hydraulic Fluid and / or Oil)	55	Gallon
FUG	Various	Unloading Cover Material / Wind Erosion of Cover Storage Piles	N/A	N/A

e. Facility Construction and/or Permitting History

The Bondad Landfill commenced operation in June 1997. On October 25, 2006, Transit Waste submitted an initial Part 70 permit application to the Colorado Department of Public Health and Environment

(CDPHE) for the Bondad Landfill after determining the landfill had triggered Title V Operating Permit requirements under 40 CFR Subpart WWW (60.752(c)). The CDPHE recognized the facility was located within the exterior boundaries of the Southern Ute Indian Reservation and subject to the Federal Part 71 operating permit requirements.

Transit Waste submitted a Part 71 application to the EPA on May 16, 2007 and requested the initial Part 70 application to the CDPHE be incorporated by reference in the Part 71 application. The EPA initial part 71 permit, No. V-SU-0047-07.00, was issued on November 21, 2008.

On August 15, 2012, Transit Wasted submitted an initial Part 70 permit application to the Southern Ute Indian Tribe’s Air Quality Program (AQP). AQP issued the permit, V-SUIT-0047-2014.00, on January 31, 2014. A renewal permit, V-SUIT-0047-2019.00, was issued on August 12, 2019. No pre-construction permits have been issued to this facility.

f. Potential to Emit

Under RAC 1-103(51), potential to emit (PTE) is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emissions, is federally enforceable.

The PTE for Bondad Landfill was listed by Transit Waste in Forms “GIS”, “PTE”, and the various forms “EMISS” of the Part 70 operating permit renewal application. Table 3 shows PTE data broken down by each individual emission unit, as well as the total facility-wide PTE.

**Table 3 - Potential to Emit
Transit Waste, LLC, Bondad Recycling Center and Depository**

Emission Unit ID	Regulated Air Pollutants in tpy								
	NO _x	VOC	SO ₂	PM ₁₀ ¹	PM _{2.5} ¹	CO	NMOC	Total HAPs	GHGs (CO _{2e} tpy)
E001	0.0	12.1	0.0	0.0	0.0	0.0	30.9	3.0	99,950
E002	0.0	0.0	0.0	3.9	2.0	0.0	0.0	0.0	0.0
Total IEUs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	0.0	12.1	0.0	3.3	2.0	0.0	30.9	3.0	99,950

¹ Emission unit E002 includes PM₁₀ and PM_{2.5} emission estimates for both landfill equipment and unpaved roads.

2. Tribal Authority

Bondad Landfill is located within the exterior boundaries of the Southern Ute Indian Reservation and is thus within Indian Country as defined at 18 U.S.C. §1151. On March 2, 2012, EPA determined that the Southern Ute Indian Tribe of the Southern Ute Indian Reservation had met the requirements of 40 CFR § 70.4(b) for full approval to administer its Clean Air Act Title V, Part 70 Permitting Program (Program).

In concert with that Program approval, EPA also found that the Tribe met the requirements of Section 301(d)(2) of the CAA and 40 CFR § 49.6 for treatment “in the same manner as a state” for the purposes of issuing CAA Title V, Part 70 operating permits. EPA promulgated its approval of the Tribe’s applications on March 15, 2012 (77 FR 15267). The requirements of the Clean Air Act Title V, Part 70 Permitting Program (Program) have been incorporated at Article II, Part 1 of the Reservation Air Code. Therefore, the Southern Ute Indian Tribe is the appropriate governmental entity to issue the Title V permit to this facility.

Reservation Air Code: The Reservation air Code was adopted pursuant to the authority vested in the Southern Ute Indian Tribe/State of Colorado Environmental Commission by (1) the Intergovernmental Agreement Between the Southern Ute Indian Tribe and the State of Colorado Concerning Air Quality Control on the Southern Ute Indian Reservation dated December 13, 1999, (2) tribal law (Resolution of the Council of the Southern Ute Indian Tribe # 00-09), (3) State law (C.R.S. § 24- 62-101), and (4) as recognized in federal law (Act of October 18, 2004, Pub. L. No. 108-336, 118 Stat.1354).

NSPS and NESHAP Delegation: On September 6, 2013, the Southern Ute Indian Tribe received delegation from the EPA to incorporate by reference into the Reservation Air Code and enforce certain subparts of the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) under Sections 111 and 112 of the Clean Air Act, respectively (78 FR 40635). These NSPS and NESHAP subparts generally apply to oil and gas operations within the exterior boundaries of the Southern Ute Indian Reservation and were adopted, unchanged, into the Reservation Air Code as Parts 2 and 3.

Tribal Minor New Source Review Program: Minor sources of air pollution located within the Southern Ute Indian Reservation exterior boundaries must comply with either the “Federal Implementation Plan for Managing Air Emissions from True Minor Sources in Indian Country in the Oil and Natural Gas Sector” listed at 40 CFR §49.101 – 105 or the “Federal Minor New Source Review Program in Indian Country” listed at 40 CFR §49.151 – 164.

3. Applicable Requirements

The following discussion addresses a selection of the regulations from the Code of Federal Regulations (CFR) at Title 40. Note that this discussion does not include the full spectrum of potentially applicable regulations and is not intended to represent official applicability determinations. These discussions are based on the information provided by Transit Waste in its Part 70 permit renewal application and are only intended to present the information certified to be true and accurate by the Responsible Official of this facility.

The Bondad Landfill is subject to the requirements of 40 CFR 60 Subpart WWW and is therefore required to obtain a Part 70 Federal Operating Permit as outlined in 40 CFR 60.752(c). However, under 40 CFR 70.3(c)(2) this section requires the permitting authority to include only applicable requirements for emission units at a non-major source that cause the source to be subject to the Part 70 program. Therefore, the Part 70 permit for the Bondad Landfill will include only the requirements of 40 CFR

Subpart WWW until such time the facility exceeds the 50 megagrams per year threshold for NMOC emissions.

Prevention of Significant Deterioration (PSD) - 40 CFR 52.21

PSD is a preconstruction review requirement of the CAA that applies to proposed projects that are sufficiently large (in terms of emissions) to be a “major” stationary source or “major” modification of an existing stationary source. A new stationary source, or a modification to an existing minor stationary source, is major if the proposed project has the potential to emit any pollutant regulated under the CAA in amounts equal to or exceeding specified major source thresholds, which are 100 tpy for 28 listed industrial source categories and 250 tpy for all other sources. PSD also applies to modifications at existing major sources that cause a “significant net emissions increase” at that source. Significance levels for each pollutant are defined in the PSD regulations at 40 CFR 52.21. A modification is a physical change or change in the method of operation.

The Bondad Landfill is not a PSD named source. Therefore, the PTE threshold for determining PSD applicability for this source is 250 tpy for criteria pollutants. The PTE of regulated pollutants at this facility are currently below the major source threshold of 250 tpy. **Therefore, Bondad Landfill is not subject to the requirements of the PSD program at this time.**

New Source Performance Standards (NSPS)

40 CFR Part 60, Subpart A: General Provisions. This subpart applies to the owner or operator of any stationary source that contains an affected facility, the construction or modification of which is commenced after the date of publication of any standard in Part 60. The general provisions under Subpart A apply to sources that are subject to the specific subparts of Part 60.

As explained below, the Bondad Landfill is subject 40 CFR Part 60, Subpart WWW. **Therefore, the General Provisions of Part 60 apply.**

40 CFR Part 60, Subpart Cc: Emission Guidelines and Compliance Time for Municipal Solid Waste Landfills. This rule applies to existing MSW landfills for which construction, reconstruction or modification was commenced before May 30, 1991.

According to Transit Waste, the Bondad Landfill commenced construction in 1997 which post-dates the applicability of this rule. **Therefore, Subpart Cc does not apply.**

40 CFR Part 60, Subpart WWW: Standards of Performance for Municipal Solid Waste Landfills. This rule applies to MSW landfills commenced construction, reconstruction, or modification on or after May 30, 1991. Additionally, the provisions of Subpart WWW differ, dependent upon if the landfill has a design capacity of equal to or greater than 2.5 million megagrams and 2.5 million cubic meters.

According to Transit Waste, the Bondad Landfill commenced construction after May 30, 1991, **Therefore, the requirements of Subpart WWW apply to this facility.** Additionally, Bondad

Landfill has a design capacity of 2.924 million cubic meters and 2.924 million megagrams and must comply for the requirements for landfills with a design capacity greater than or equal to 2.5 million cubic meters and 2.5 million megagrams.

A landfill gas collection system is not required since Non-Methane Organic Compounds (NMOC) emissions are projected, by the EPA LandGem Version 3.02 model included in Transit Waste's Part 70 permit application, to be below 50 megagrams per year. If the NMOC emission rate is determined to equal or exceed 50 megagrams per year, as calculated using the procedures outlined in §60.754, then Transit Waste will need to comply with the applicable requirements for installing, operating, and maintaining a collection and control system, as well as applying for a significant permit modification to incorporate the requirements to capture and control landfill gas emissions pursuant to 40 CFR 60.752(b)(2).

40 CFR Part 60, Subpart IIII: Standards of Performance for Storage Vessels for Stationary Compression Ignition Internal Combustion Engines. This rule applies to owners and operators of stationary compression ignition (CI) internal combustion engines (ICE) that commence construction after July 11, 2005.

According to Transit Waste, the Bondad Landfill does not have any Stationary Compression Ignition Internal Combustion Engines. **Therefore, Subpart IIII does not apply.**

40 CFR Part 60, Subpart JJJJ: Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. This subpart establishes emission standards and compliance requirements for the control of emissions from stationary spark ignition (SI) internal combustion engines (ICE) that commenced construction, modification or reconstruction after June 12, 2006, where the SI ICE are manufactured on or after specified manufacture trigger dates. The manufacture trigger dates are based on the engine type, fuel used, and maximum engine horsepower. For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator (See 40 CFR 60.4230(a)).

According to the application submitted by Transit Waste, there are no SI stationary ICE engines located and/or operated at the facility. **Therefore, the requirements of Subpart JJJJ do not apply.**

National Emission Standards for Hazardous Air Pollutants (NESHAP)

40 CFR Part 61, Subpart A: General Provisions. This subpart contains national emissions standards regulating specific hazardous air pollutants from source categories under the CAA. The general provisions under subpart A apply to sources that are subject to the specific subparts of Part 61.

40 CFR Part 61, Subpart M: National Emission Standards for Asbestos. This subpart was promulgated on April 5, 1984 (49 FR 13661) and revised on November 20, 1990, (55 FR 48414) and applies to asbestos mills, roadways, manufacturing, demolition and renovation, spraying, fabricating and insulating

with asbestos materials, and waste disposal. There are specific requirements for active waste disposal sites.

According to Transit Waste, the Bondad landfill accepts and disposes of non-friable asbestos containing wastes. The facility is subject to the Standards for Active Waste Disposal Sites under 40 CFR 61.154. However, under 40 CFR 70.3(c)(2), a permitting authority may include only the applicable requirements for emission units at non-major sources that cause the source to be subject to the Part 70 program. **Therefore, the Bondad Landfill is subject to the requirements of this rule, however, specific terms and conditions will not be included in the Part 70 Federal Operating Permit.**

40 CFR Part 63, Subpart A: General Provisions. This subpart contains national emissions standards for HAPs that regulate specific categories of sources that emit one or more HAP regulated pollutants under the CAA. The general provisions under subpart A apply to sources that are subject to the specific subparts of Part 63.

The Bondad Landfill is not subject to the general provisions of Subpart A because there no applicable requirements of 40 CFR 63. **Therefore, the General Provisions of Part 63 do not apply.**

40 CFR Part 63, Subpart AAAA: National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. This subpart was promulgated on January 16, 2003, (68 FR 2238) and applies to MSW landfills that have accepted waste since November 8, 1987 or have additional capacity for waste deposition and meet any one of three criteria: (1) the MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A; (2) the MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A; or (3) the MSW landfill is an area source landfill that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and has estimated uncontrolled emissions equal to or greater than 50 megagrams per year of non-methane organic compounds (NMOC).

According to Transit Waste, the Bondad Landfill has a design capacity greater than 2.5 million megagrams and 2.5 million cubic meters but does not currently emit NMOC emissions equal to or greater than 50 megagrams per year and is not a major source of HAPs or collocated with a major source of HAPs. Transit Waste estimates the Bondad Landfill will not exceed the 50 megagram per year threshold for NMOC emissions for the next five years. If the Bondad Landfill exceeds the threshold, as outlined in this subpart, and as calculated using the methodology in §60.754, Transit Waste will need to submit an application for a permit revision to incorporate the requirements of Subpart AAAA. **Therefore, the requirements of this subpart do not apply at this time.**

40 CFR Part 63, Subpart ZZZZ (RICE MACT): National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. This rule establishes national emission limitations and operating limitations for HAPs emitted from stationary spark ignition internal combustion engines (SI ICE) and stationary compression ignition internal combustion engines (CI ICE).

According to Transit Waste, there are no Stationary Reciprocating Internal Combustion Engines operating at the Bondad Landfill. **Therefore, the requirements of Subpart ZZZZ do not apply.**

Compliance Assurance Monitoring (CAM) Rule

40 CFR Part 64: Compliance Assurance Monitoring Provisions. According to 40 CFR 64.2(a), the CAM rule applies to each Pollutant Specific Emission Unit (PSEU) at a major source that is required to obtain a Part 70 or Part 71 permit if the unit satisfies all of the following criteria:

- 1) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant other than an emissions limitation or standard that is exempt under §64.2(b)(1);

“§64.2(b)(1): Exempt emission limitations or standards. The requirements of this part shall not apply to any of the following emission limitations or standards:

- (i) Emission limitations or standards proposed by the Administrator after November 15, 1990 pursuant to Section 111 or 112 of the Act;*
- (ii) Stratospheric ozone protection requirements under Title VI of the Act;*
- (iii) Acid Rain Program requirements pursuant to Sections 404, 405, 406, 407(a), 407(b) or 410 of the Act;*
- (iv) Emissions limitations or standards or other applicable requirements that apply solely under an emissions trading program approved or promulgated by the Administrator under the Act that allows for trading emissions with a source or between sources;*
- (v) An emissions cap that meets the requirements specified in §70.4(b)(12) or §71.6(a)(13)(iii) of this chapter;*
- (vi) Emission limitations or standards for which a Part 70 or 71 permit specifies a continuous compliance determination method, as defined in §64.1.”*

“§64.1: Continuous compliance method means a method, specified by the applicable standard or an applicable permit condition, which:

- (1) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and*
- (2) Provides data either in units of the standard or correlated directly with the compliance limit.”*

- 2) The unit uses a control device to achieve compliance with any such limit or standard; and
- 3) The unit has pre-control device emissions of the applicable regulated pollutant that are equal to or greater than 100% of the amount, in tons per year, required for a source to be classified as a major source.

According to Transit Waste, the CAM rule does not apply to any of the emission units at the Bondad Landfill as the pre-control emissions for each unit are less than the major source threshold. **Therefore, CAM does not apply.**

Chemical Accident Prevention Program

40 CFR Part 68: Chemical Accident Prevention Provisions. This rule applies to stationary sources that manufacture, process, use, store, or otherwise handle more than the threshold quantity of a regulated substance in a process. Regulated substances include 77 toxic and 63 flammable substances which are potentially present in the natural gas stream entering the facility and in the storage vessels located at the facility. The quantity of a regulated substance in a process is determined according to the procedures presented under §68.115. §68.115(b)(1) and (2)(i) indicate that toxic and flammable substances in a mixture do not need to be considered when determining whether more than a threshold quantity is present at a stationary source if the concentration of the substance is below one percent by weight of the mixture. §68.115(b)(2)(iii) indicates that prior to entry into a natural gas processing plant, regulated substances in naturally occurring hydrocarbon mixtures need not be considered when determining whether more than a threshold quantity is present at a stationary source. Naturally occurring hydrocarbon mixtures include condensate, field gas, and produced water.

According to Transit Waste, Bondad Landfill does not have regulated substances above the threshold quantities in this rule. **Therefore, the facility is not subject to the requirement to develop and submit a risk management plan.**

Stratospheric Ozone and Climate Protection

40 CFR Part 82, Subpart F: Air Conditioning Units. The Bondad Landfill has an air conditioning unit that qualifies as a small appliance with less than 5 pounds of refrigerant that has been sealed by the manufacturer. The unit is located in the gatehouse and is used for human comfort. According to Transit Waste, no maintenance, service, repair or disposal of any equipment containing Class I or Class II refrigerants chlorofluorocarbons (CFCs)) occurs at Bondad Landfill. However, if Transit Waste were to engage in any of the afore mentioned activities it must comply with the standards of part 82, Subpart F for recycling and emissions reduction if they service, maintain, or repair the air conditioning units in any way or if they dispose of the units.

40 CFR Part 82, Subpart H: Halon Fire Extinguishers. According to Transit Waste, there are no halon fire extinguishers at Bondad Landfill. However, should Transit Waste obtain any halon fire extinguishers, then it must comply with the standards of 40 CFR Part 82, Subpart H for halon emissions reduction, if it services, maintains, tests, repairs, or disposes of equipment that contains halon or uses such equipment during technician training. Specifically, Transit Waste would be required to comply with 40 CFR Part 82 and submit an application for a modification to this Title V permit.

Mandatory Greenhouse Gas Reporting

40 CFR Part 98: Mandatory Greenhouse Gas Reporting. This rule requires sources above certain emission thresholds to calculate, monitor, and report greenhouse gas emissions. The requirements of 40 CFR Part 98 and CAA §307(d)(1)(V), the CAA authority under which 40 CFR Part 98 was promulgated, however, need not be included in a tribal-issued part 70 permit because those requirements are not included in the definition of “applicable requirement” in either 40 CFR part 70 or RAC 1-103(11). Although the rule is not an applicable requirement under 40 CFR Part 70 or the RAC, the source is not relieved from the requirement to comply with the rule separately from compliance with its Part 70 operating permit. It is the responsibility of each source to determine whether Part 98 is applicable and to comply, if necessary.

4. Public Participation

a. Public Notice

Per RAC §2-109, all Part 70 draft operating permits shall be publicly noticed and made available for public comment. Public notice is given by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice, to persons on a mailing list developed by the Tribe, including those who request in writing to be on the list, and by other means if necessary to assure adequate notice to the affected public. If an interested person would like to be added to the Tribe’s mailing list to be informed of future actions on permits issued by the Tribe, please send your name and address:

by United State Postal Service to:

Part 70 Permitting Contact
Southern Ute Indian Tribe
Environmental Programs Division
PO Box 737 MS #84
Ignacio, Colorado 81137

by any other delivery service to:

Part 70 Permitting Contact
Southern Ute Indian Tribe
Environmental Programs Division
398 Ouray Drive
Ignacio, Colorado 81137

Public notice for the draft permit was published in the Durango Herald, and the Southern Ute Drum on May 17, 2019 in order to provide opportunity for public comment on the draft permit and the opportunity to request a public hearing.

b. Opportunity for Comment

Members of the public were given an opportunity to review a copy of the draft permit prepared by the Tribe, the application, the statement of basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were on the Southern Ute Air Quality Program webpage at <https://www.southernute-nsn.gov/justice-and-regulatory/epd/air-quality/>, and at:

Southern Ute Indian Tribe

Environmental Programs Division
Air Quality Program
71 Mike Frost Way
Ignacio, Colorado 81137

All documents were available for review at the Southern Ute Indian Tribe's Environmental Programs Division office Monday through Friday from 9:00 a.m. to 4:00 p.m. (excluding holidays).

Any interested person was given the opportunity to submit written comments on the draft Part 70 operating permit during the public comment period. The Tribe has considered and addressed comments in making a final decision on the permit. The Tribe keeps a record of the commenters and of the issues raised during the public participation process.

Anyone, including the applicant, who believed any condition of the draft permit was inappropriate, could raise all reasonably ascertainable issues and submit all arguments supporting his or her position by the close of the public comment period. Any supporting materials submitted must have been included in full and may not have been incorporated by reference, unless the material had already been submitted as part of the administrative record in the same proceeding or consisted of Environmental Commission, tribal, state or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference material.

c. Opportunity to Request a Hearing

A person may submit a written request for a public hearing to the Part 70 Permit Contact at the addresses listed above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, the Tribe will hold a public hearing whenever it finds there is a significant degree of public interest in a draft operating permit. The Tribe will provide public notice of the public hearing. If a public hearing is held, any person may submit oral or written statements and data concerning the draft permit.

d. Public Petitions to the Administrator

In the event the Administrator of the United States Environmental Protection Agency does not object to issuance of the permit, on the basis that it would not be in compliance with applicable requirements, within its 45-day review period, any person may then petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition must be based only on objections to the permit that were raised with reasonable specificity during the public comment period unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objections arose after such period. If the administrator objects to a permit as a result of this petition, the Tribe shall not issue the permit until the Administrator's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and before the Administrator's objection.

e. Appeal of Permits

Within 60 days after the Tribe's final permit action, an applicant, any person who filed comments on the draft permit or participated in the public hearing, and any other person who could obtain judicial review of that action under applicable law, may appeal to the Environmental Commission in accordance with RAC 2-109(8) and the Commission's Procedural Rules.

Petitions for administrative review of final permit actions can be filed after the deadline designated by the Commission only if they are based solely on grounds arising after the deadline for administrative review has passed. Such petitions shall be filed no later than 60 days after the new grounds for review arise. If the final permit action being challenged is the Tribe's failure to take final action, a petition for administrative review may be filed any time before the Tribe denies or issues the final permit.

f. Notice to Affected States/Tribes

As described in RAC § 2-109(3), public notice will be given by notifying all affected programs. The following entities will be notified:

- State of Colorado, Department of Public Health and Environment
- State of New Mexico, Environment Department
- Ute Mountain Ute Tribe, Environmental Programs Department
- Navajo Tribe, Navajo Nation EPA
- Jicarilla Tribe, Environmental Protection Office
- National Park Service, Air Resources Division, Denver, CO
- U.S. Department of Agriculture, United States Forest Service, Rocky Mountain Region