

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

May 2020

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 (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 Tribe's 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 Legal Department, and the State, through the Colorado Department of Public Health and Environment and the Colorado Attorney General's Office, have each 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 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 Part 70 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

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of the standards into the Reservation Air Code by the Environmental Commission, effective January 28, 2013;

- 3) EPA approval of the Tribe's most current Compliance Monitoring Strategy (CMS) on September 17, 2018;
- 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 enforcement case processing;
- 6) The Tribe's submission of a conditional request for administrative delegation of the Federal Minor New Source Review Program in Indian Country and the Federal Implementation Plan for Managing Air Emissions from True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector; and
- 7) 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:



Jeremy Neustifter, Policy Advisor to the Environmental Boards and Commissions
Colorado Department of Public Health and Environment
Date: 24 Sept., 2020



Thomas Roan, First Assistant Attorney General
Office of the Colorado Attorney General
Date: 9/24/2020



Christine Sage, Chairman
Southern Ute Indian Tribe
Date: 9-23-2020