



# Southern Ute Indian Tribe / State of Colorado Environmental Commission Meeting

November 29, 2023

# Agenda



SOUTHERN UTE INDIAN TRIBE/STATE OF COLORADO  
ENVIRONMENTAL COMMISSION  
MEETING AGENDA



November 29, 2023.  
1:00 p.m. – 3:00 P.M.  
EPD Large Conference Room  
71 Mike Frost Way  
Ignacio, O 81137  
and  
Remote Platform  
For information, call Danny Powers at (970) 563-2265  
Or email [dpowers@southernute-nsn.gov](mailto:dpowers@southernute-nsn.gov)

- 1:00 – 1:05                    **Call to Order/Introductions**
- 1:05 – 1:10                    **New Business**
- Review and Approve November 29, 2023 Agenda (*Action Item*)
  - Review and Approve April 26, 2023 Meeting Minutes (*Action Item*)
- 1:10 – 1:45                    **Air Quality Updates**
- Air Quality Division Status
  - New Staff
  - Reservation Air Code Revisions
  - Title V Updates
    - Permitting
    - Compliance
    - Enforcement and Ignacio Flare Monitoring Project
  - Ambient Monitoring Program Updates
  - Minor Source Program and Climate Pollution Reduction Grant (CPRG)Updates
- 1:45 – 2:15                    **Tribal Air Initiatives**
- 2:15 – 2:45                    **CDPHE Updates**
- 2:45 – 2:55                    **Open Discussion/Questions and Public Comment**
- 2:55 – 3:00                    **Schedule Next Meeting**
- 3:00                              **Adjourn**

## Commissioners

Ember Michel  
Nathan Strong Elk  
Dan Jefferson

Dr. Peter McCormick  
Rolfe Spiegel  
Dr. Rebecca Austin

# New Business

- Approval of April 26, 2023 Meeting Agenda
- Approval of November 9, 2022 Meeting Minutes

# Air Quality Division Status

On April 25, 2023, the Southern Ute Tribal Council authorized the creation of the Environmental Programs Department through Resolution No. 2023-077.

- Why this move occurred?
  - Scope and size of EPD has changed over the years.
  - Increased functionality.
  - EPD's civil enforcement functions vs. Justice and Regulatory's criminal functions.
- This moved the Environmental Programs from a Division to a Department and the Air Quality Program to an Air Quality Division.
- The Environmental Programs no longer operates under the Justice & Regulatory Department.
- All staff within Environmental Programs adopted new titles.

# New Staff & New Roles

- New Staff
  - Michael Kirsch – Air Quality Scientist II - Planner
  - Sharon LeBeau – Air Quality Scientist I – Compliance
- New Roles
  - Andrew Switzer – Air Quality Program Manager – Monitoring & Planning

# Reservation Air Code Revisions

- Article I and Article II: Part 1
  - Updated the “major source” definition for consistency with EPA’s “major source” definition
  - Removed outdated provision related to the programs transition of Part 71 permits
  - Added requirements to require operators to use the most current forms provided by the Tribe
  - Updated permit application completeness determination and permit issuance language
  - Updated requirements for operators who are issued an initial or revised New Source Review.
  - Multiple minor revisions to provide administrative clarity.
- Article II: Parts 2 and 3
  - Incorporated “newly” promulgated New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP).
    - 40 CFR Part 60 Subpart OOOOa and 40 CFR Part 63 Subpart DDDDD, Subpart CCCCCC, and Subpart JJJJJ

# Reservation Air Code Revisions

- On November 16, 2022, following the Environmental Commission's direction, two sets of Reservation Air Code (RAC) revisions were submitted to public comment through a direct final rulemaking.
- No comments were received on Article II: Parts 2 and 3. The RAC was finalized with these revisions and issued final on January 17, 2023.
- Comments were received on Article I and Article II: Part 1.
- The AQP revised Article I and Article II: Part 1 in consideration of the comments received.
- The AQP proposed the revisions to the Commission at the April 26, 2023 Environmental Commission meeting.
- On May 3, 2023, following the Environmental Commission's direction, the Reservation Air Code (RAC) revisions were submitted to public comment through a proposed rulemaking.
- No comments were received on the second public notice, nor during the required EPA review.
- The RAC was finalized on September 15, 2023.

# Title V Operating Permit Program Updates





# Title V Permitting

Title V sources are major sources that emit 100 tons of any single criteria air pollutant, and/or 10 tons per year of any single hazardous air pollutant, or 25 tons of any combination of hazardous air pollutants. Title V permits contain all of the regulations/requirements that a facility is subject to (Federal, pre-construction, prevention of significant deterioration, consent decrees, settlement agreements, etc). Title V permits also require the permittee to certify compliance with all applicable rules and regulations every year.

- The Tribe currently permits 32 Title V sources on the Reservation.
- Initial permit applications are required to be submitted within 1 year of becoming subject to Title V.
- Each Title V permit is valid for a period of 5 years.
- Title V permits can be modified by request from the permittee through either the administrative, minor, or significant permit revision process.

# Title V Permitting

## Current and Recently Completed Permitting

- ❑ Processing eight permit renewals
- ❑ Processing one initial permit
- ❑ Completed one administrative permit revision since last EC meeting.
- ❑ Continuing to review draft NSR and PSD permits from EPA Region 8, and Title V and NSR permits from the State of New Mexico and Colorado
- ❑ The AQD is expecting to permit 2 or more new Title V sources in the next year



# Title V Compliance Overview and Update

## Overview

- The AQD administers compliance inspections to 32 permitted Title V sources on the Reservation.
- Types of facilities with Title V permits on the Reservation include natural gas processing plants, gas transmission facilities, and a landfill.
- Compliance inspections conducted on a biannual monitoring schedule approved by EPA.

## Current Approved Compliance Monitoring Schedule:

Fiscal Year 2023 (October 1, 2022 – September 30, 2023):

- 17 of 17 Title V facility inspections conducted.

Fiscal Year 2024 (October 1, 2023 – September 30, 2024):

- 18 Title V facility inspections scheduled to be completed



# Title V Enforcement

The AQD conducts civil enforcement for findings of non-compliance identified during compliance inspections. The enforcement team determines if the non-compliance rises to the level of an alleged violation, and the appropriate enforcement path is chosen based on the AQD Enforcement Procedures and Penalty Manual.

- Area of Concern (No violation, but could potentially lead to a violation if unaddressed)
- Informal (Minor or Moderate Violations)
  - Compliance Advisory or Written Warning
- Formal (Major, Moderate, or Repeat Violations)
  - Notice of Violation with Settlement Agreement
- Monetary Penalties are calculated based on EPA Civil Penalty Policy and considering multiple factors
  - Actual or Potential Harm (actual release, toxicity of pollutant, sensitivity of the environment)
  - Length of Time of Violation
  - Regulatory Scheme (reporting, notifications, recordkeeping, testing, etc.)
  - Size of Source
  - Compliance History
  - Mitigating Factors (voluntary disclosure, prompt correction, early settlement, etc.)

# Title V Enforcement

## • Informal & Formal Enforcement

### Informal enforcement actions

- Compliance Advisories/Warning letters
  - 2022= 6
  - 2023= 5 (to date)

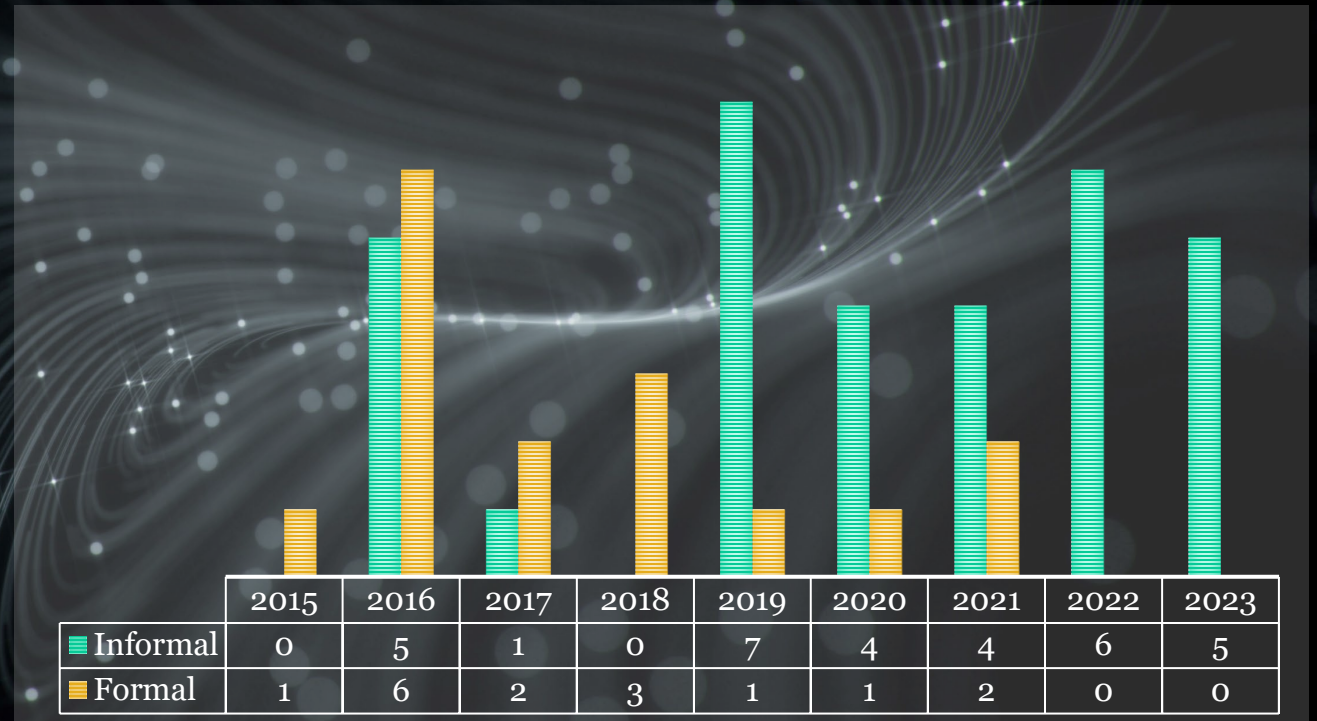
### Formal enforcement actions

- Notices of Violation
  - 2022= 0
  - 2023= 0 (to date)

## • Enforcement Summary

Total enforcement cases = 47

- Informal = 31
- Formal = 16



# Williams Global Settlement

- Global Settlement – A case which serves to settle multiple claims within a single settlement, as opposed to with individual cases
- Has benefits for both the defendant and plaintiffs
- In 2019 the Tribe joined as a co-plaintiff in a DOJ and EPA global settlement against the Williams Companies and spanning 15 facilities across seven states, including a source on the Southern Ute Reservation
- The Tribe had interest in the inclusion of alleged violations identified by the Tribe during Title V source inspections and relating to a process flare
- The parties reached agreement in 2023 on a flare monitoring plan for inclusion in the final consent decree
- The consent decree was signed by all parties and was lodged in the U.S. District Court for the District of Colorado on April 20, 2023
- Finalization of the consent decree is expected by the end of the year

# Minor Source Program

- A program for sources below the CAA “major source” permit thresholds
- Approximately 250 true minor oil and gas sources on the Reservation
- Collectively, these sources emit larger concentrations of ozone precursor emissions than major sources
- These sources are typically well-sites with compressor engines, small compressor stations and produced water injection wells



# Minor Source Program Current Status

- The Tribe's delegation request was submitted in April of 2020 and (1) "conditioned" upon receiving a program funding commitment from EPA and , (2) reaching an agreement on delegation roles and responsibilities.
- Slow moving process due to resource constraints at EPA and no Tribe having yet received delegation
- Most recently, the Tribe and EPA have nearly finalized a draft delegation agreement
- Agreement outlines authorities/roles and responsibilities of the Tribe and EPA
- Agreement will be published in the federal register for public comment – planned for 2024
- Depending on timing, source inspections may begin in 2025





# Climate Pollution Reduction Grant (CPRG)

- Inflation Reduction Act grant for states, local governments, tribes and territories
- 5 billion dollars for the development of plans to reduce greenhouse gas (GHG) emissions and other harmful pollutants
- Split into two phases-Phase I planning grant and Phase II implementation grant
- The AQD applied for and was awarded funding under the Phase I planning grant
- AQD has proposed the reduction of GHG and co-pollutants through increased CAA minor source inspections during the implementation phase- as a means of funding minor source program implementation
- To qualify for the Phase II funding the AQD is responsible for three key deliverables by April 1, 2024
  - (1) Emissions inventory QAPP, (2) Priority Climate Action Plan (PCAP), and (3) implementation grant application
  - Phase II implementation grant requires the development of a comprehensive GHG emissions inventory and Comprehensive Climate Action Plan (CCAP)

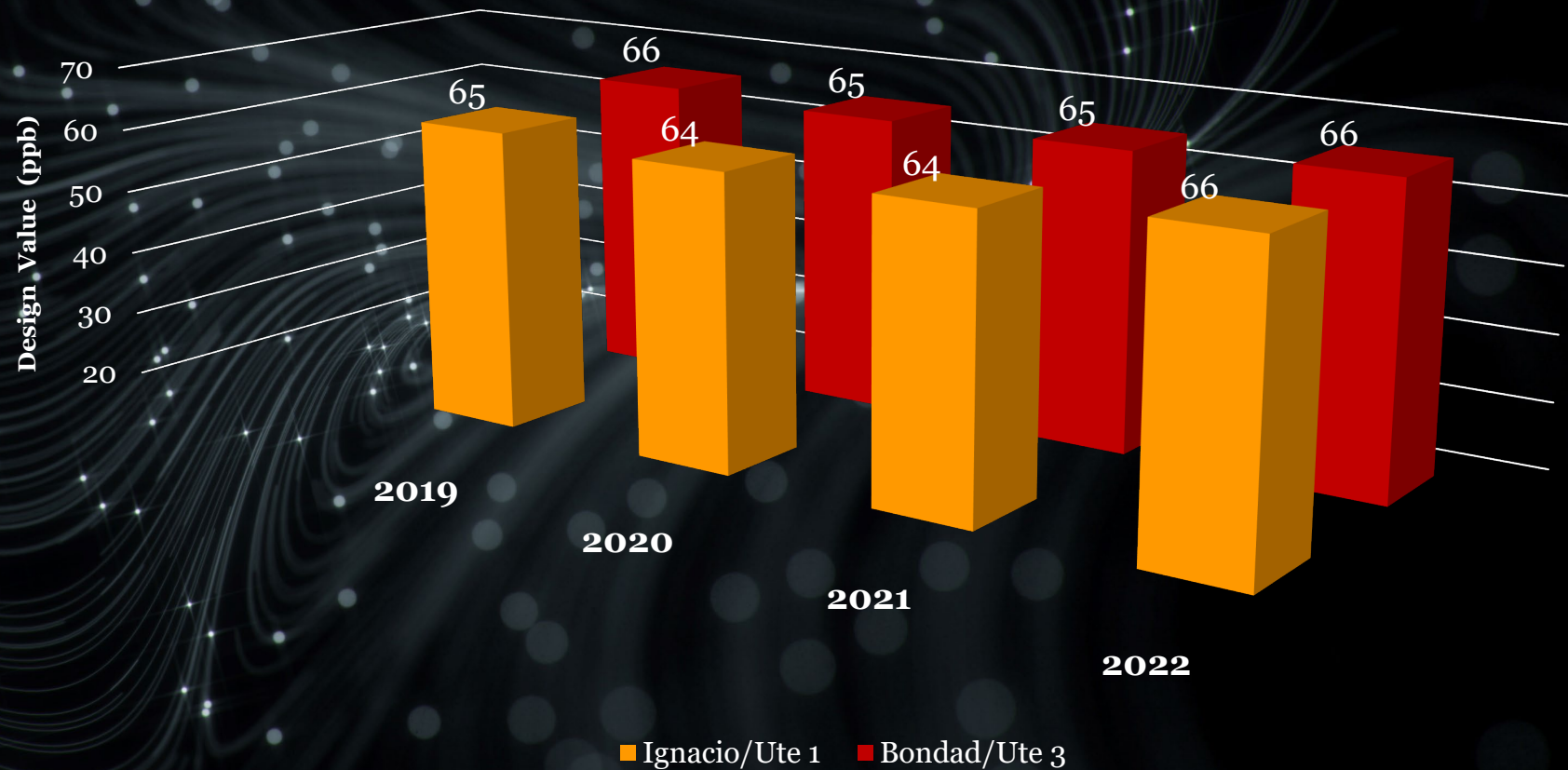
# Ambient Monitoring Program Update

	Ute 1 (Ignacio)	Ute 3 (Bondad)	Mobile (Lake Capote)
Ozone	X	X	X
Nitrogen Dioxide	X	X	X
Carbon Monoxide		X	
Methane/NMHC		X	
PM10	X	X	
PM2.5	X	X	
Visibility		X	
Wind Speed/Direction	X	X	X
Relative Humidity	X	X	X
Ambient Temperature	X	X	X
Solar Radiation	X	X	X
Precipitation	X	X	



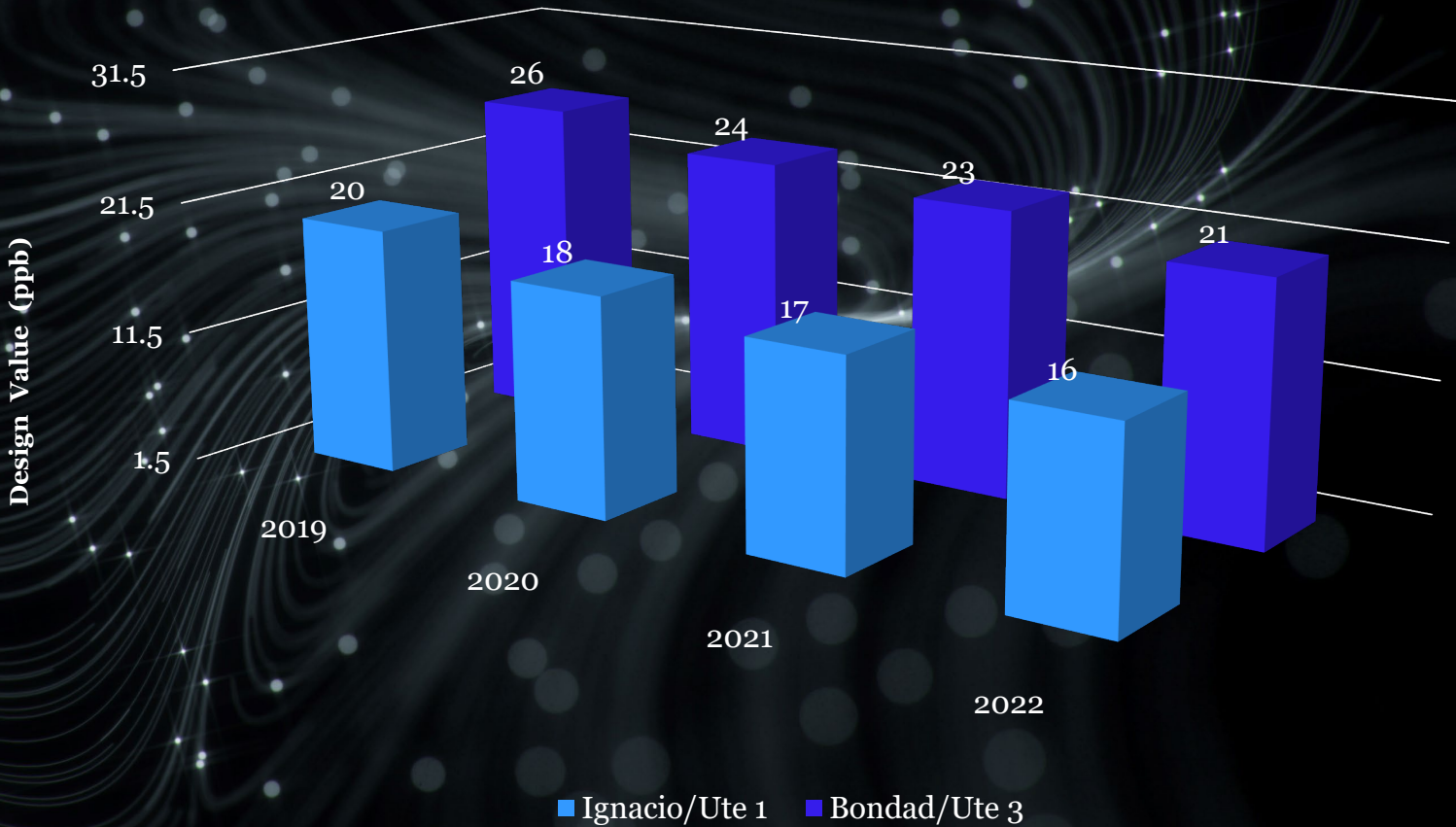
# Ambient Monitoring Program Update - Ozone

Ozone Standard : 70 ppb



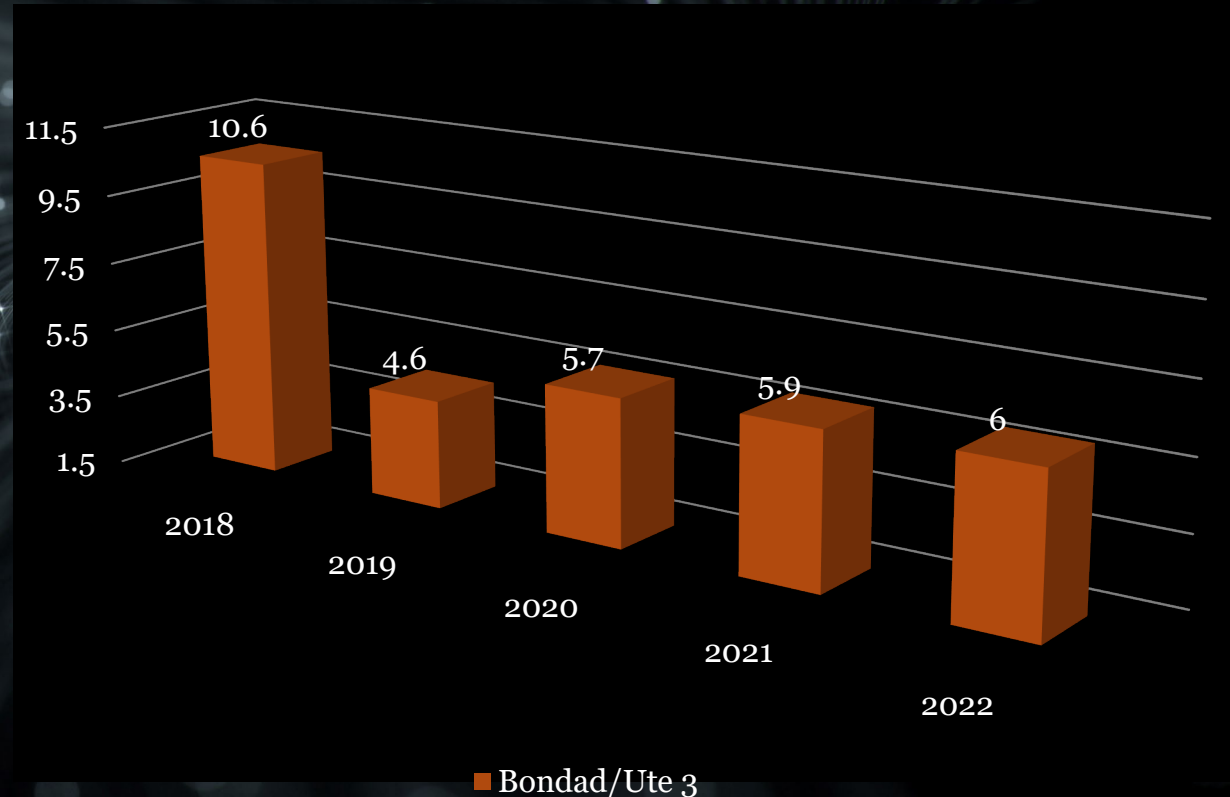
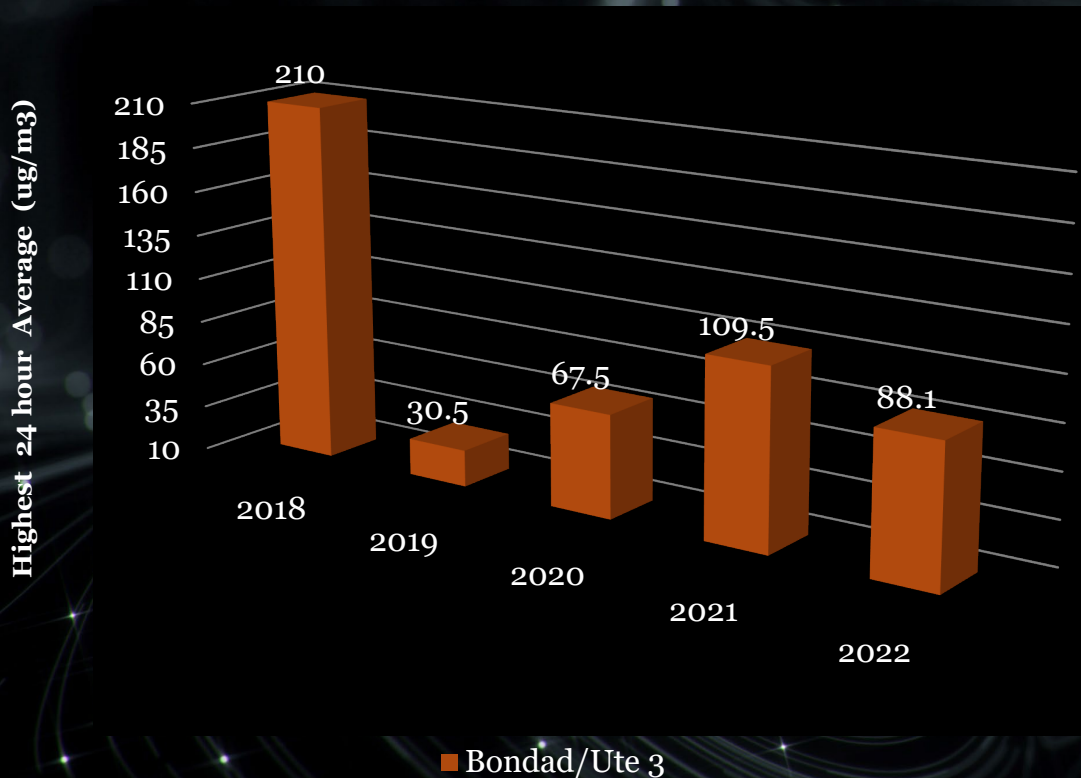
# Ambient Monitoring Program Update – Nitrogen Dioxide

NO<sub>2</sub> Standard :100 ppb



# Ambient Monitoring Program Update - PM10 and PM2.5

- PM Monitoring on the Reservation is non-regulatory
- Data is collected for the purpose of informing citizens in real-time of hazardous PM levels due to naturally occurring forest fires, prescribed burns, and dust storms



\* The higher values in 2018 are from the 416 Fire

# Tribal Air Initiatives – Southern Ute Growth Fund

The background of the slide is a dark, gradient blue-to-black field. It is filled with intricate, glowing white patterns. These patterns consist of numerous thin, curved lines that flow and swirl across the frame, creating a sense of motion and depth. Interspersed among these lines are many small, bright white particles or dots, some of which have a starburst or lens flare effect, giving the overall appearance of a starry night sky or a complex digital data visualization.



CDPHE Updates

Schedule Next Meeting