

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



**Air Pollution Control
Minor Source Permit to Construct**

40 CFR 49.151

SMNSR-SU-000476-2021.002

Synthetic Minor Permit to Construct to establish emission limits to avoid the requirements of the Prevention of Significant Deterioration Permitting (PSD) Program at 40 CFR part 52 with respect to nitrogen oxide (NO_x) emissions.

Permittee:

Aka Power, LLC

Permitted Facility:

Antler Power Station
Southern Ute Indian Reservation
La Plata County, Colorado

Summary

On January 19, 2021, the EPA received an application from Red Cedar Gathering Company (Red Cedar), requesting a synthetic minor permit for the Antler Power Station (Antler Power) in accordance with the requirements of the Tribal Minor New Source Review (MNSR) Permit Program at 40 CFR part 49. The application was determined complete on February 23, 2021. The EPA held a public comment period for the proposed permit from August 10, 2022 – September 8, 2022, and comments were received from the Southern Ute Indian Tribe. This permit action applies to construction and operation of a new facility on the Southern Ute Indian Reservation. The physical location is Latitude 37.017969, Longitude -108.027573, in La Plata County, Colorado.

The location was previously occupied by a gas treating plant which had been shut down and all equipment had been removed. The new Antler Power Station will consist of four GE LM2500 natural gas fired turbine electric power generating units. Red Cedar's medium pressure system provides natural gas to fire the four units. With the exception of carbon dioxide (CO₂), fuel gas must be pipeline quality.

This permit establishes legally and practicably enforceable limits on NO_x emissions and operating hours for the four natural gas fired turbines. The hours of operation will be reduced by 50% of full-time operation, but the reduced hours may not be evenly distributed between each of the four units. As such, to allow operational flexibility at Red Cedar's request, this permit limits the combined run hours of all four units to 17,520 hours, and establishes a facility-wide NO_x emissions limit of 230 tons per year (tpy) and a 25.4 lb/hr NO_x emissions limit for each turbine to establish the source as a synthetic minor source for the purpose of the Prevention of Significant Deterioration (PSD) Permit Program at 40 CFR part 52. The limitations in this permit do not include any add-on emission controls to meet the emission limits described above.

On June 11, 2024, the EPA and the Southern Ute Indian Tribe (Tribe) entered into the Agreement for Delegation of Partial Administrative Authority (Agreement) between the Tribe and the EPA for the EPA's partial delegation of authority to the Tribe to assist the EPA in administering the Federal Minor New Source Review Program in Indian country, 40 Code of Federal Regulations (C.F.R.) Part 49, Subpart C, Sections 49.151 through 49.164 (EPA Indian country MNSR Program), to include the issuance of new and revised MNSR permits by the Tribe's Air Quality Division (AQD).

The initial permit for Antler Power Station (*SMNSR-SU-000476-2021.001*) became effective on July 7, 2023. Pursuant to 40 CFR 49.155(b), Red Cedar had 18 months to commence construction after the effective date of the permit (January 7, 2025). On December 12, 2024, Red Cedar submitted a request for an 18-month extension to commence construction citing "*availability and lead time to procure the turbines has caused significant delays. Additionally, contractual negotiations for off-take of the power to be generated have taken much longer than anticipated due to significant and unforeseen changes in the status of the local power providers.*" The AQD approved the permit extension request and extended the 18-month period by an additional 18 months to July 7, 2026.

On April 27, 2026, AQD received a subsequent permit extension request citing the same reasons for the extension as given in the initial request. Additionally, Red Cedar stated that they are "*seeing some forward progress and are optimistic that contracts can be negotiated and equipment procured within the next 18 months.*" The AQD granted a second 18-month extension for the Antler Power Station on April 30, 2026, extending the deadline for commencing construction to January 7, 2028.

Additionally, the AQD received an administrative permit revision request on April 27, 2026, requesting

to update the owner and operator of the Antler Power Station from Red Cedar to Aka Power, LLC (Aka). This change was requested because of a Surface Use Agreement made between Red Cedar and Aka, on March 14, 2025. The change in ownership is reflected in the permit version *SMNSR-SU-000476-2021.002* issued on May 27, 2026.

This permit contains construction approval and limitations, emissions limits, operational limitations, and associated monitoring, recordkeeping and reporting requirements. Upon compliance with the permit, Aka will have legally and practicably enforceable restrictions on emissions that can be used when determining the applicability of other Clean Air Act (CAA) permitting requirements, such as those imposed by the PSD Permit Program.

The Tribe has determined that issuance of this SMNSR permit will not contribute to National Ambient Air Quality Standards (NAAQS) violations or have potentially adverse effects on ambient air quality. The Tribe reissued the permit as *SMNSR-SU-000476-2021.002*.

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I. Conditional Permit to Construct

A. General Information

<u>Facility/Source:</u>	Aka Power, LLC – Antler Power Station
<u>Permit Number:</u>	SMNSR-SU-000476-2021.002
<u>SIC Code and SIC Description:</u>	4911- Electric Services
<u>Site Location:</u> Southern Ute Indian Reservation La Plata, Colorado Latitude 37.017969, Longitude -108.027573	<u>Corporate Office Location</u> Aka Power, LLC 65 Mercado St., Suite 205 Durango, Colorado 81301
Initial Permit Issuance Date:	June 7, 2023
Effective Date:	July 7, 2023
Permit Revision Issuance Date:	May 27, 2026
Deadline for Commencing Construction:	January 7, 2028*

The equipment listed in this permit is authorized to be installed and operated by Aka Power, LLC at the location described above.

B. Applicability

1. This Federal Permit to Construct is being issued under the authority of 40 CFR 49.151, MNSR Permit Program.
2. The requirements in this permit have been created, at the Permittee's request, to establish facility-wide legally and practically enforceable restrictions on NO_x emissions to avoid the requirements of the PSD Permit Program.
3. Any conditions otherwise established for this facility or any specific units at this facility pursuant to any permit issued under the authority of the PSD Permit Program or the MNSR Permit Program shall continue to apply.
4. By issuing this permit, the Tribe does not assume any risk of loss which may occur as a result of the operation of the permitted facility by the Permittee, Owner and/or Operator, if the conditions of this permit are not met by the Permittee, Owner and/or Operator.

C. Construction and Operational Requirements

1. Before beginning construction of any emissions units authorized by this permit, the Permittee shall

* An initial extension request was received and granted on December 12, 2024. A second extension request was received and granted on April 30, 2026, extending the deadline to commence construction to January 7, 2028.

ensure that all existing emissions units are decommissioned and physically removed from the permitted location.

2. This permit becomes invalid if you do not commence construction within 18 months after the effective date of the permit, if you discontinue construction for a period of 18 months or more, or if you do not complete construction within a reasonable time. The Tribe may extend the 18-month period upon a satisfactory showing that an extension is justified.

3. Natural Gas-Fired Turbine Generating Units

- (a) The Permittee is authorized to install and operate no more than four 252.5 MMBtu/hr natural gas fired turbine generating units, each limited to a maximum of 27.52 megawatts, and operated and restricted as specified in this permit.
- (b) The combined run hours of all four natural gas-fired turbines shall be limited to 17,520 hours in any consecutive 12-month period.
- (c) Each turbine shall be operated at a minimum of 50% load at all times during normal operations, which excludes times of startups, shutdowns and malfunctions.
- (d) Each natural gas-fired turbine shall be equipped with a non-resettable hours meter that starts measuring hours as soon as the unit is initially started up.

4. Other Emissions Sources Approved for Construction and Operation:

The Permittee is authorized to install and operate the emissions sources identified below, which are not subject to any emissions restrictions:

- (a) One 15,750 gallon produced water storage tank;
- (b) One 140 gallon turbine lube oil tank;
- (c) One 205 gallon generator lube oil tank
- (d) One 40 gallon hydraulic lube oil tank;
- (e) Water wash detergent (55 gallons); and
- (f) Two transformer oil storage units, 8,500 gallons each.

D. Emission Limits

- (a) Total facility-wide NO_x emissions shall not exceed 230 tons in any consecutive 12-month period.
- (b) NO_x emissions from each natural gas fired turbine shall not exceed 25.4 pounds per hour (lbs/hr) during normal operations, which excludes times of startups, shutdowns and

malfunctions.

- (c) Emission limits shall apply at all times, including times of startups, shutdowns and malfunctions of the four natural gas-fired turbines, unless otherwise specified in this permit.
- (d) The Permittee shall only fire each engine with natural gas. The natural gas shall be pipeline-quality in all respects.

E. Testing and Monitoring Requirements

- (a) The Permittee shall conduct an initial NO_x performance test on each natural gas-fired turbine within 60 days after achieving the maximum production rate, but no later than 180 days after initial startup of each turbine to demonstrate continuous compliance with the 25.4 lbs/hr NO_x emissions limit specified in this permit.
- (b) Subsequent NO_x performance tests shall be conducted on an annual basis (no more than 14 calendar months following the previous performance test).

Each performance test shall be conducted at a load condition within plus or minus 25 percent of 100 percent of peak load. Performance testing shall be conducted in accordance with the testing procedures in 40 CFR part 60, subpart KKKK, §60.4400.

- (c) The Permittee shall monitor NO_x emissions from the exhaust of each natural gas-fired turbine at least quarterly during normal operations, to demonstrate compliance with the 25.4 lbs/hr NO_x emissions limit specified in this permit. To meet this requirement, the Permittee shall:
 - (i) Measure NO_x emissions at the normal operating load (load conditions within plus or minus 25% of 100% of peak load) using a portable analyzer and a monitoring protocol approved by the Tribe;
 - (ii) Commence portable analyzer monitoring for NO_x emissions within 90 calendar days of the Permittee's submittal of the initial performance test results for NO_x emissions to the Tribe.
- (d) For each turbine, if the results of two consecutive quarterly portable analyzer measurements during normal operations demonstrate compliance with the 25.4 lbs/hr NO_x emissions limit specified in this permit, the required monitoring frequency may change from quarterly to semi-annually.
- (e) For any one turbine, if the results of any one semi-annual portable analyzer measurement during normal operations demonstrate non-compliance with the 25.4 lbs/hr NO_x emissions limit specified in this permit, the required monitoring frequency shall revert back to quarterly.
- (f) The Permittee shall also monitor NO_x emissions from the exhaust of each natural gas-fired turbine during each turbine startup and malfunction, to demonstrate compliance with the facility-wide 230 tpy NO_x emission limit. The monitoring shall be conducted

using a portable analyzer and according to the Tribal-approved portable analyzer monitoring protocol, except that there is no operating load requirement at which measurement must be made.

- (g) The Permittee shall submit portable analyzer specifications and monitoring protocols to the Tribe at the following address for approval at least 45 calendar days prior to the date of initial portable analyzer monitoring.

by United States Postal Service:
Southern Ute Indian Tribe
Air Quality Division
P.O. Box 737 MS #84
Ignacio, CO 81137

Or by Common Carrier:
Southern Ute Indian Tribe
Air Quality Division
398 Ouray Drive
Ignacio, CO 81137

Documents may be submitted electronically to airquality@southernute-nsn.gov

- (h) Portable analyzer specifications and monitoring protocols that have already been approved by the Tribe for the emission units approved in this permit may be used in lieu of new protocols unless the Tribe determines it is necessary to require the submittal and approval of a new protocol. The Permittee may submit a new protocol for Tribe approval at any time.
- (i) As an alternative to subsequent annual performance testing and quarterly portable analyzer monitoring, the Permittee may demonstrate continuous compliance with the 25.4 lbs/hr NO_x emissions limit specified in this permit by installing, calibrating, maintaining and operating a continuous emission monitoring system as described in §60.4335(b) and §60.4345.
- (j) At least once per week and at the same time as each NO_x emissions portable analyzer measurement during normal operations, the Permittee shall read and record the operating load of each natural gas-fired turbine using the turbine's digital readout that continuously measures the load once synced to the power grid.
- (k) The Permittee is not required to conduct emissions monitoring on turbines that have not operated during the monitoring period. The Permittee shall certify that the turbine(s) did not operate during the monitoring period in the annual report specified in this permit.
- (l) The Permittee shall monitor and record the hours of operation for each natural gas-fired turbine at the end of each calendar month, beginning with the first calendar month of operation under this permit, using the non-resettable hours meter. Prior to 12 full calendar months of operation under this permit, at the end of each calendar month, the Permittee shall add the hours for that month to the hours for the previous months and record the total. Thereafter, at the end of each calendar month, the Permittee shall add the hours for

each calendar month to the total hours for the preceding 11 months and record a new total.

- (m) Alternative testing and monitoring methods may be used by the Permittee upon written Tribe approval.

F. Emissions Calculations Requirements

- (a) Facility-wide actual NO_x emissions, including emissions from startups and malfunctions of the four natural gas-fired turbines, shall be calculated in tons and recorded at the end of each calendar month, beginning with the first calendar month that operations commence under this permit. Periods of shutdown may be calculated as periods of zero emissions from the affected turbine.
- (b) NO_x emissions in lbs and tons shall be calculated using the hours of operation for each natural gas-fired turbine for each calendar month and the NO_x emissions rate in lbs/hr from the most recent performance test or portable analyzer measurement.
- (c) All NO_x emission sources shall be included in the monthly and consecutive 12-month calculations, including, but not limited to: the four natural gas-fired turbines and any other NO_x emissions sources. The addition of new NO_x emissions sources that do not trigger the need for a permit modification shall be included in the facility wide calculations.
- (d) Prior to 12 full months of facility-wide NO_x emissions calculations, the Permittee shall, at the end of each month, add the emissions for that month to the calculated emissions for all previous months since production commenced and record the total.

Thereafter, the Permittee shall, at the end of each month, add the emissions for that month to the calculated emissions for the preceding 11 months and record a new 12-month total.

G. Recordkeeping and Reporting Requirements

1. The Permittee shall maintain the permit application and all documentation supporting that application, including manufacturer or vendor specifications, maintenance schedules, and maintenance procedures, for the duration of time that the affected emissions units are covered under this permit.
2. The Permittee shall maintain records of:
 - (a) The hours of operation for each month and consecutive 12-month period for each natural gas-fired turbine;
 - (b) The NO_x emissions in lbs/hr and tons calculated for each month and consecutive 12-month period for each natural gas-fired turbine;
 - (c) The facility-wide NO_x emissions in tons calculated for each month and consecutive 12-month period;

- (d) The number and length of startups, shutdowns and malfunctions for each turbine.
 - (e) Each reading of natural gas-fired turbine engine load using the turbine's digital readout.
 - (f) Each turbine NO_x emissions performance test and quarterly portable analyser measurement required by this permit; and
 - (g) All deviations from the requirements of this permit.
3. The Permittee shall submit a written report of the results of each turbine NO_x emissions performance test before the close of business on the 60th day following the completion of the performance test for each affected natural gas-fired turbine.
 4. Alternative methods of recordkeeping may be used by the Permittee upon written Tribe approval.
 5. The Permittee shall submit any record or report required by this permit upon the Tribe's request.
 6. The Permittee shall retain all records required by this permit for a period of at least 5 years from the date the record was created.
 7. Records shall be kept in the vicinity of the facility, such as at the facility, the location that has day-to-day operational control over the facility or the location that has day-to-day responsibility for compliance of the facility.
 8. Notification of Startup of Operations: The Permittee shall submit a written notice (may be electronic) within 30 days from when the Permittee begins actual construction, and when the permit begins operations or resumes subsequent operations after any shut down.
 9. The Permittee shall submit a written annual report each calendar year no later than April 1st. The annual report shall cover the period for the previous calendar year. All reports must be certified to truth and accuracy by the person responsible for CAA compliance for the Permittee. The report shall include:
 - (a) Facility-wide monthly and consecutive 12-month NO_x emissions;
 - (b) An evaluation of the permitted source's compliance status with the requirements in this permit;
 - (c) Summaries of the required monitoring and recordkeeping in this permit; and
 - (d) Summaries of deviation reports submitted pursuant to this permit.
 10. The Permittee shall promptly submit to the Tribe a written report of any deviations of emissions or operational limits specified in this permit and a description of any corrective actions or preventative measures taken. A "prompt" deviation report is one that is post marked or submitted via electronic mail to airquality@southernute-nsn.gov as follows:
 - (a) Within 30 days from the discovery of a deviation that would cause the Permittee to

exceed the operational or emission limits in this permit; and

- (b) By April 1st for the discovery of a deviation of recordkeeping or other permit conditions during the preceding calendar year that do not affect the Permittee's ability to meet the control or operational limits, included as part of the Annual Reports required in this permit.

11. Notification of Change in Ownership or Operator: If the permitted source changes ownership or operator, then the Permittee shall submit to the Tribe a written notice (may be electronic) within 90 days before or after the change in ownership or operator is effective. In the report, the Permittee shall provide the reviewing authority a written agreement containing a specific date for the transfer of ownership or operator, and an effective date on which the new owner or operator assumes partial and/or full coverage and liability under this permit. The submittal shall identify the previous owner or operator, and update the name, street address, mailing address, contact information and any other information about the permitted source if it would change as a result of the change of ownership or operator. The Permittee shall ensure that the permitted source remains in compliance with this permit during any such transfer of ownership.

12. Notification of Closure: The Permittee shall submit to the Tribe a report of any permanent or indefinite closure in writing (may be electronic) within 90 days after the cessation of all operations at the permitted source. The notification shall identify the owner and the operating location of the permitted source.

[Note: to help meet notification requirements, the Tribe has developed forms "Change in Ownership Form" (for notifications of change in ownership) and "Facility Closure Form" (for notifications of facility closure). The forms may be found on the Tribe's website at: [New Source Review Permitting – Southern Ute Indian Tribe.](#)]

13. All documents required to be submitted under this permit shall be submitted to:

U.S. Environmental Protection Agency, Region 8
Enforcement and Compliance Assurance Division
Air and Toxics Enforcement Branch, 8ENF-AT
1595 Wynkoop Street
Denver, Colorado 80202-1129

Documents may be submitted via electronic mail to R8AirPermitting@epa.gov

and by

by United States Postal Service:
Southern Ute Indian Tribe
Air Quality Division
P.O. Box 737 MS #84
Ignacio, CO 81137

Or by Common Carrier:
Southern Ute Indian Tribe
Air Quality Division

398 Ouray Drive
Ignacio, CO 81137

Documents may be submitted electronically to airquality@southernute-nsn.gov

II. General Provisions

A. Conditional Approval

Pursuant to the authority of 40 CFR 49.151, the Tribe hereby conditionally grants this permit to construct. This authorization is expressly conditioned as follows:

1. *Document Retention and Availability:* This permit and any required attachments shall be retained and made available for inspection upon request at the location set forth herein.
2. *Permit Application:* The Permittee shall abide by all representations, statements of intent and agreements contained in the application submitted by the Permittee. The Tribe shall be notified 10 days in advance of any significant deviation from this permit application as well as any plans, specifications or supporting data furnished.
3. *Permit Deviations:* The issuance of this permit may be suspended or revoked if the Tribe determines that a significant deviation from the permit application, specifications and supporting data furnished has been or is to be made. If the proposed source is constructed, operated or modified not in accordance with the terms of this permit, the Permittee will be subject to appropriate enforcement action.
4. *Compliance with Permit:* The Permittee shall comply with all conditions of this permit, including emission limitations that apply to the affected emissions units at the permitted facility/source. Noncompliance with any permit term or condition is a violation of this permit and may constitute a violation of the CAA and is grounds for enforcement action and for a permit termination or revocation.
5. *Fugitive Emissions:* The Permittee shall take all reasonable precautions to prevent and/or minimize fugitive emissions during the construction period.
6. *NAAQS and PSD Increments:* The permitted source shall not cause or contribute to a NAAQS violation or a PSD increment violation.
7. *Compliance with Federal and Tribal Rules, Regulations, and Orders:* Issuance of this permit does not relieve the Permittee of the responsibility to comply fully with all other applicable federal and tribal rules, regulations and orders now or hereafter in effect.
8. *Enforcement:* It is not a defense, for the Permittee, in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
9. *Modifications of Existing Emissions Units/Limits:* For proposed modifications, as defined at 40 CFR 49.152(d), that would increase an emissions unit's allowable emissions of pollutants above its existing permitted annual allowable emissions limit, the Permittee shall first obtain a permit

modification pursuant to the MNSR regulations approving the increase. For a proposed modification that is not otherwise subject to review under the PSD or MNSR regulations, such proposed increase in the annual allowable emissions limit shall be approved through an administrative permit revision as provided at 40 CFR 49.159(f).

10. *Relaxation of Legally and Practically Enforceable Limits:* At such time that a new or modified source within this permitted facility/source or modification of this permitted facility/source becomes a major stationary source or major modification solely by virtue of a relaxation in any legally and practically enforceable limitation which was established after August 7, 1980, on the capacity of the permitted facility/source to otherwise emit a pollutant, such as a restriction on hours of operation, then the requirements of the PSD regulations shall apply to the source or modification as though construction had not yet commenced on the source or modification.
11. *Revise, Reopen, Revoke and Reissue, or Terminate for Cause:* This permit may be revised, reopened, revoked and reissued or terminated for cause. The filing of a request by the Permittee, for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. The Tribe may reopen this permit for a cause on its own initiative, e.g., if this permit contains a material mistake or the Permittee fails to assure compliance with the applicable requirements.
12. *Severability Clause:* The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.
13. *Property Rights:* This permit does not convey any property rights of any sort or any exclusive privilege.
14. *Information Requests:* The Permittee shall furnish to the Tribe, within a reasonable time, any information that the Tribe may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating this permit or to determine compliance with this permit. For any such information claimed to be confidential, the Permittee shall also submit a claim of confidentiality in accordance with 40 CFR part 2, subpart B.
15. *Inspection and Entry:* The EPA or its authorized representatives, to include the Tribe, may inspect this permitted facility/source during normal business hours for the purpose of ascertaining compliance with all conditions of this permit. Upon presentation of proper credentials, the Permittee shall allow the EPA or its authorized representative, the Tribe to:
 - (a) Enter upon the premises where this permitted facility/source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of this permit;
 - (b) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of this permit;
 - (c) Inspect, during normal business hours or while this permitted facility/source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices or operations regulated or required under this permit;

- (d) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with this permit or other applicable requirements; and
- (e) Record any inspection by use of written, electronic, magnetic and photographic media.

16. *Permit Effective Date:* This permit is effective immediately upon issuance unless a later effective date is specified in the permit, or unless comments resulted in a change in the proposed permit, in which case this permit is effective 30 days after issuance. If within 30 days after the service of notice of the final permit issuance, a person petitions the Environmental Appeals Board to review any condition(s) of the final permit in accordance with 40 CFR 49.159(d), the specific terms and conditions of the permit that are the subject of the request for review must be stayed.

17. *Permit Transfers:* Permit transfers shall be made in accordance with 40 CFR 49.159(f). The Tribe shall be notified in writing at the address shown below if the company is sold or changes its name.

by United States Postal Service:
Southern Ute Indian Tribe
Air Quality Division
P.O. Box 737 MS #84
Ignacio, CO 81137

Or by Common Carrier:
Southern Ute Indian Tribe
Air Quality Division
398 Ouray Drive
Ignacio, CO 81137

The notification may be submitted electronically to airquality@southernute-nsn.gov

18. *Invalidation of Permit:* Unless this permitted source of emissions is an existing source, this permit becomes invalid if construction is not commenced within 18 months after the effective date of this permit, construction is discontinued for 18 months or more, or construction is not completed within a reasonable time. The Tribe may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between the construction of the approved phases of a phased construction project. The Permittee shall commence construction of each such phase within 18 months of the projected and approved commencement date.

19. *Notification of Start-Up:* The Permittee shall submit a notification of the anticipated date of initial startup of this permitted source to the Tribe within 60 days of such date, unless this permitted source of emissions is an existing source.

B. Authorization

Authorized by the Southern Ute Indian Tribe, Air Quality Division

Daniel Powers
Air Quality Division Head
Environmental Programs Department
Southern Ute Indian Tribe