

EPA REGION 8'S RESPONSE TO PETITION FOR REVIEW

Attachment W

Administrative Record Document No. 51

Letter from Suzanne Bohan, EPA, to Shaun Chapoose, Ute Indian Tribe, re: Inspection
Coordination Letter for Resource Conservation and Recovery Act (RCRA) Inspections on the
Uintah & Ouray Reservation



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

October 18, 2022
Ref: 8ENF-RO-R

SENT VIA EMAIL AND
CERTIFIED MAIL- RETURN RECEIPT REQUESTED

The Honorable Shaun Chapoose, Chairman
Ute Indian Tribe
P.O. Box 190
Ft. Duchesne, Utah 84026-0190
shaunc@utetribe.com

Re: Inspection Coordination Letter for Resource Conservation and Recovery Act (RCRA)
Inspections on the Uintah & Ouray Reservation

Dear Chairman Chapoose:

I am writing to coordinate the inspection dates for the U.S. Environmental Protection Agency to conduct RCRA inspections on the Uintah & Ouray Reservation. We identified **October 24 - 28, 2022**, as the inspection dates. Both the Ute Department of Natural Resources and members of the Ute Business Committee are invited to participate in the inspections. Within the next seven days, please let us know if you are interested in attending so we can finalize the inspection planning.

The EPA will be inspecting commercial oilfield waste disposal facilities to assess compliance with Administrative Orders on Consent and RCRA §7003, a power plant to assess compliance with the Coal Combustion Residual rule requirements of 40 C.F.R. 257 Subpart D, and a hazardous waste generator facility to assess compliance with generator requirements of 40 C.F.R Parts 260 to 279.

This letter also provides notice of the facilities we intend to inspect and requests information about whether the facilities listed below are owned, managed or controlled by the Ute Indian Tribe.

Scope of Inspections

EPA staff intend to conduct inspections at the following locations:

- Brennan Bottom Disposal 12 Mile Wash (commercial oilfield waste disposal facility),
lat/long 40.278941, -109.60297
- DHI/RNI Wonsit (commercial oilfield waste disposal facility),
lat/long 40.086327, -109.513564
- DHI/RNI Seep Ridge (commercial oilfield waste disposal facility),
lat/long 39.903345, -109.61106
- American Gilsonite (small quantity generator of hazardous waste),
lat/long: 40.019610, -109.175434

- Bonanza Power Plant (electric generation plant), lat/long: 40.086426, -109.286535; this inspection will be conducted by the EPA National Enforcement Investigations Center in support of EPA Region 8

EPA staff from the RCRA & OPA Enforcement Branch are coordinating inspection details with Water Quality Coordinator, Bart Powaukee. Contact and vehicle information for EPA inspectors are listed below.

Names and contact information of EPA staff entering the Reservation:

Annette Maxwell; (303) 312-6068; maxwell.annette@epa.gov

Brian Kennedy; (303) 462-9278; kennedy.brian@epa.gov

Zachary Schlachter; (303) 462-9325; schlachter.zachary@epa.gov

Anticipated government fleet vehicles:

GMC Terrain; Color: Silver; License Plate G61-0109U

GMC Terrain; Color: White; License Plate 106-RCK

Inspection Policies and Protocols

Consistent with the EPA's well-established practice, our intent is to follow the *EPA Region 8 Policy for Environmental Protection in Indian Country* (Policy) set forth at <http://www.epa.gov/region8/tribes/Policy/r8policy.html>. As stated in the Policy, the EPA inspectors agree to protocols including, but not limited to, the following:

- Notification of inspections, including specific locations, will be provided to you as the Tribal Chair and to the Tribal Natural Resources Director at least seven calendar days prior to conducting routine inspections.
- Entrance and exit briefings will be offered to you as the Tribal Chair and to the Tribal Natural Resources Director regarding the inspection trip.
- Photographs will be limited to those for official government use.
- Consultation with the Tribe will occur if state inspector(s) request to accompany the EPA inspectors on Tribal lands.

Please note that for environmental emergency situations, the EPA may not be able to provide the Tribe at least seven days' advance notice of an inspection but will coordinate with the Tribal Natural Resources Director as soon as possible. In all circumstances, information about upcoming inspections is intended for internal purposes only and should not be shared with the facility or the regulated community. The EPA believes that unannounced inspections generally are the most accurate way to determine compliance.

The EPA will collect data to determine the compliance status with federal environmental laws during inspections and subsequently take appropriate action to address the noncompliance. EPA action and coordination with the Tribal government may depend on the status of the facility. The EPA may address noncompliance by issuing a letter, an order, or other administrative or judicial enforcement action against a non-Tribally-owned facility while keeping the Tribal government informed of our efforts and progress. This is typically the most expeditious way to return a facility to compliance and to deter it and other similar facilities from violating the law in the future.

If, on the other hand, a facility is owned (51 percent or more) or managed or controlled by a Tribal government, either directly or through one or more intermediaries or affiliates (this does not include ownership, management, or control by an individual Tribal member), consistent with the Federal government's trust responsibility, the EPA will offer appropriate assistance to the Tribal government in

the matter prior to considering formal enforcement action. The EPA will work together with the Tribal government to assist the facility in achieving compliance.

Information Needed from Tribal Government

We request your cooperation in determining the status of the facilities. Accordingly, we now ask if the Tribal government owns, manages or controls the facilities and seek any other facts or information you wish to provide in writing to aid the EPA in our efforts to address any noncompliance that may be found. Other information could include any Tribal ownership interest (including less than 51 percent), substantial economic benefit the facility provides your Tribal government (but not individuals), essential or unique services it provides the Tribal government, whether the facilities are located on Tribal trust land, or any other information you would like to share. The EPA will consider any such information submitted in reaching the Agency’s decision as to the appropriate enforcement response.

Please email Annette Maxwell of my staff at maxwell.annette@epa.gov with such information within two weeks of receipt of this letter. The EPA will consider any information submitted either prior to or during the inspections in reaching the Agency’s decision as to the appropriate enforcement response for any facility found to be in noncompliance with federal environmental laws.

If you have any questions regarding this letter, please contact me at (303) 312-6925. If you or your staff would like to schedule an entrance or exit briefing with the EPA inspectors, for the Bonanza Power Plant inspection please contact Brian Kennedy at (303) 462-9278 or by email at kennedy.brian@epa.gov, and for all other inspections please contact Annette Maxwell at (303) 312-6068 or by email at maxwell.annette@epa.gov.

Thank you in advance for your partnership in protecting public health and the environment on the Uintah & Ouray Reservation.

Sincerely,

**SUZANNE
BOHAN**



Digitally signed by SUZANNE
BOHAN
Date: 2022.10.18 13:54:35 -06'00'

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

cc:

- Edred Secakuku., Vice Chairman, Ute Indian Tribe
- J.T. Murray, Councilman, Ute Indian Tribe
- Luke Duncan, Councilman, Ute Indian Tribe
- Ronald Wopsock, Councilman, Ute Indian Tribe
- Christopher Tabbee, Councilman, Ute Indian Tribe
- Kirby Arrive, Executive Director, Ute Indian Tribe
- Jeremy Patterson, Tribal Attorney, Ute Indian Tribe
- Luana Thompson, Natural Resources Director, Ute Indian Tribe