

**Air Pollution Control
Title V Permit to Operate
Statement of Basis for Permit No. V-SU-0022-05.00
Renewal #1**



**BP America Production Company
Florida River Compression Facility
Southern Ute Indian Reservation
La Plata County, Colorado**

1. Facility Information

a. Location

The Florida River Compression Facility (Florida River), owned and operated by BP America Production Company (BP), is located within the exterior boundaries of the Southern Ute Indian Reservation, in the southwestern part of the State of Colorado, in La Plata County. The coordinates are SE ¼, SW ¼, of Section 25, Township 34N, Range 9W. The parent company mailing address is:

BP America Production Company
501 Westlake Park Boulevard
Houston, Texas 77079

b. Contacts

Facility Contact:

Julie A. Best, Environmental Coordinator
Manager
380 Airport Road
Durango, CO 81303
970-375-7540
970-375-7586 (fax)

Responsible Official:

John D. Lowe, Deputy Florida Operations Site
2906 County Road 307
Durango, CO 81303
970-247-6848
970-247-6910 (fax)

Company Contact:

Rebecca Robert, Environmental Specialist
501 Westlake Park Boulevard
Houston, TX 77079
281-366-3946

Alternate Responsible Official:

David P. McKenna, Durango Operations Manager
380 Airport Road
Durango, CO 81303
970-247-6810
970-247-6825 (fax)

Tribal Contact:

Brenda Jarrell, Air Quality Program Manager
Southern Ute Indian Tribe
970-563-4705

c. Description of operations

Florida River processes coal bed methane gas in order to reduce CO₂ and water content to within pipeline specifications then compresses this gas for delivery into interstate pipelines. The plant has four medium pressure gas inlets (Area 6, ECBM, MPP, Red Cedar) and two low pressure gas inlets (Area 1 East, Area West). Current plant throughput averages around 380 million standard cubic feet per day (MMscfd) with plant process capacity around 400 MMscfd. Low pressure gas (about 105 MMscfd) enters the plant through an inlet separator to remove free liquids after which it is compressed from 50 to 300 psig. Initial compression of low pressure gas is done by two electric driven, ammonia refrigerated screw compressors and two electric driven reciprocating compressors. About 20 MMscfd of the low pressure gas is then commingled with medium pressure gas and treated by methyl-di-ethanol-amine (MDEA) sweetening to remove CO₂, followed by triethylene glycol (TEG) dehydration to remove water vapor from the gas. The low pressure gas bypassing amine mixes with amine treated gas in the dehydrator header such that all gas is blended and identical going to the three dehydrators. The CO₂ and water vapor are vented to the atmosphere. The gas is then compressed to 800 psig and sent to El Paso, Transwestern or Northwest Pipeline for transport to market via interstate pipeline. Gas from Area 6, ECBM and Red Cedar (about 75 MMscfd) enters the plant at 300 psig, goes directly to the treating processes and is then compressed to 800 psig and sent to market. Gas from the medium pressure pipeline enters the plant already low in CO₂ and previously dried at upstream compression. It is commingled with the processed gas and compressed for transport via pipeline.

The treating processes include two MDEA trains to remove CO₂ and three TEG dehydration units. Gas-fired heaters are utilized to heat ethylene glycol (EG) which is used as the heat medium to generate lean MDEA from CO₂ saturated (rich) MDEA and for heating some tanks in the plant. The dehydrators are fired on natural gas to evaporate water from rich TEG. Post treatment compression consists of three electric driven centrifugal compressors, two “temporary” electric driven reciprocating compressors and two natural gas fired Solar Centaur turbine driven centrifugal compressors.

The plant is equipped with a ground flare “candle” system to combust gases that for various reasons cannot be sent to market. The flare system disposes of a minimum of about 100,000 scfd, but is designed to handle the full inlet for a very brief time in an emergency or plant upset situations.

Twelve 2,922 hp diesel fired generator sets were installed at the plant in 2004 for the purpose of reducing plant electric load during times of monthly peak electrical grid load; which has the effect of significantly reducing the plant’s electrical bill.

Current pigging operations include four receivers with varying diameters: two 16-inch, two 12-inch, one 10-inch, and one 8-inch, each about 6 feet long and operated at about 50 psi. Pigging operations occur once per month on average, totaling about 322 cubic feet at 50 psi.

d. Permitting and/or construction history

Florida River Compression was initially permitted by the Colorado Department of Public Health and Environment (CDPHE) in 1987, under the name of Amoco Production Company. This facility was a minor source for both the Prevention of Significant Deterioration (PSD) and the title V operating permit programs. Amoco Production Company then obtained ownership and operation of two nearby turbines

from El Paso Natural Gas Company. The first natural gas-fired simple cycle turbine was installed in 1995, unit A-01. The second simple cycle turbine was installed in 1999, unit A-02. The El Paso turbines were considered a major source under the title V program and a minor source under the PSD program.

The El Paso Natural Gas Company's Florida River Compressor Station (2- turbines) and BP's (previously Amoco) Florida River Compression Facility were each individually minor sources under the PSD permitting program. Upon BP obtaining the ownership/operator status of the El Paso turbines, the combined Florida River facility is now considered as one source and as a major source under the PSD and title V rules. Future major modifications to Florida River will trigger the PSD permitting requirements.

Past modifications to each of the facilities (Amoco and El Paso Natural Gas) were permitted by CDPHE. Florida River is located within the exterior boundaries of the Southern Ute Indian Reservation, and therefore the State of Colorado's minor source pre-construction permit program does not apply to this facility. EPA has no record of any federal air permitting activity at either the two separate facilities or the now combined Florida River facility. Consequently, there are no federal pre-construction permits.

The Federal Title V Operating Permit Program became effective in February of 1999. Since the El Paso Natural Gas Company's Florida River Compressor Station is within the exterior boundaries of the S. Ute Indian Reservation, EPA Region 8 asserted jurisdiction over the regulation of this facility for purposes of the Clean Air Act (CAA), and in March of 2000, a part 71 application was received by the Regional office.

An initial part 71 permit was issued for the facility on June 5, 2001.

In July/August 2001, BP installed a gas-fired Waukesha L579T lean burn compressor engine. The emissions increase from the installation of this engine did not trigger PSD requirements. Subsequently, this engine has been removed.

On June 4, 2004, EPA issued a significant modification to BP's part 71 permit to establish synthetic minor limits for NO_x emissions for 12-yet-to-be-installed diesel generators. The permit established enforceable requirements to control nitrogen oxide (NO_x) emissions with an add-on SCR from each generator. In addition, EPA established an enforceable NO_x emissions limit cap over all of the generators of 39.1 tons per year (tpy) and limited the total annual hours of operation for all 12 generators to 12,900 hours. These proposed limits made the modification a minor PSD modification to a major PSD stationary source, and thus the modification of the facility was not subject to the PSD permitting requirements.

On December 1, 2005, EPA received an application for renewal of the part 71 permit. In a letter dated January 21, 2006, EPA determined the application to be complete on January 19, 2006.

e. List of all units and emission-generating activities

BP provided in its Florida River application and applications for modifications the information contained in Tables 1 and 2. Table 1 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as "insignificant" are listed separately in Table 2.

Part 71 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 a

hazardous air pollutant (HAP) under Clean Air Act (CAA) section 112(b) and below 1000 lbs/year or the de minimis level established under section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee. Units that qualify as insignificant for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

Table 1 - Emission Units
BP America Production Company
Florida River Compression Facility

Emission Unit Id. No.	Description	Control Equipment
	45 MMBtu/hr Solar Centaur H T5500 Turbine Package. Natural gas fired, simple cycle:	
T-1	Serial Number: HC90781 Installed: 1995	None
T-2	Serial Number: HC93D50 Installed: 08/1999	
	44.5 mmBtu/hr Amine Heater #1. Natural gas fired:	
AH-1	Serial Number: 421 Installed: 1990 (Const. 5/30/1989)	None
	44.0 mmBtu/hr Amine Heater #2. Natural gas fired:	
AH-2	Serial Number: 2440 Installed: 1997 (Const. 1980)	None
	70 MMscfd Amine Unit #1 Still Vent:	
AV-1	Serial Number: NA Installed: 1990	None
	4 MMBtu/hr pilot, 0.1 – 400 MMScfd; 98% VOC control efficiency Disposes of a minimum of 100,000 scf/d. Designed to handle full inlet for brief periods in emergency or plant upset situations	
Plant Flare	VECO Custom Ground Flare Installed: 1/2004	None
	2922 hp Cummins QSK60; Diesel-fired electric generation unit:	
P-1	Serial Number: 33149137 Installed: 4/2004	Selective Catalytic Reduction (90% NO _x Reduction)
P-2	Serial Number: 33149295 Installed: 4/2004	
P-3	Serial Number: 33148889 Installed: 4/2004	
P-4	Serial Number: 33149128 Installed: 4/2004	
P-5	Serial Number: J000160545 Installed: 4/2004	
P-6	Serial Number: K000176265 Installed: 4/2004	
P-7	Serial Number: K000172343 Installed: 4/2004	
P-8	Serial Number: 1000155267 Installed: 4/2004	
P-9	Serial Number: 1000155269 Installed: 4/2004	
P-10	Serial Number: 1000148783 Installed: 4/2004	
P-11	Serial Number: L000190130 Installed: 4/2004	
P-12	Serial Number: K000172346 Installed: 4/2004	

**Table 2 - Insignificant Emission Units
BP America Production Company
Florida River Compression Facility**

Description
1 – 99 hp Emergency Diesel Generator. (DMT Corporation, Model DMT-80C. Serial No. 89411-2)
1 - 70 MMscfd Amine Unit #2 Vent
1 - Amine #2 Flash Tank
1 - 2.5 MMBTU/hr Dehy Reboiler #1a
1 - 2.5 MMBTU/hr Dehy Reboiler #1b
1 - 2.5 MMBTU/hr Dehy Reboiler #2
1 - 2.14 MMBTU/hr Dehy Reboiler #3a
1 - 2.14 MMBTU/hr Dehy Reboiler #3b
1 - Dehy #1 Flash Tank
1 - Dehy #2 Flash Tank
1 - Dehy #3 Flash Tank
1 - 90 MMscfd Glycol Still Column Vent #1
1 - 35 MMscfd Glycol Still Column Vent #2
1 - 180 MMscfd Glycol Still Column Vent #3
Process Fugitive Emissions
1 - 1,000 gal Gasoline Tank
1 - 250 bbl MDEA Tank
1 - 300 bbl EG Tank
1 - 1,500 gal EG Tank
1 - 100 bbl TEG Tank
1 - 12,000 gal Diesel Fuel Tank
1 - 100 gal Diesel Fuel Tank
2 - 300 gal Diesel Tanks
4 - 2,400 gal Peaker Diesel Fuel Tanks
8 - 3,200 gal Peaker Diesel Fuel Tanks
1 - 300 bbl Waste Oil Tank
1 - 210 bbl Lube Oil Tank
1 - 100 bbl Oily Water Tank
3 - 550 gal Lube Oil Tanks
4 - 500 gal Lube Oil Tanks
1 - 238 gal Compressor Lube Oil Drain and Sump
6 - 55 gal Lube Oil Tanks

f. Potential to emit

Potential to emit (PTE) means the maximum capacity of a source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design if the limitation is enforceable by EPA. PTE is meant to be a worse case emissions calculation. Actual emissions may be much lower.

The 12 diesel fired electric generating units [Units P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, and P-12] are equipped with SCR to control emissions of NO_x.

National EPA guidance states that air pollution control equipment (in this case, SCR) can be credited as restricting PTE only if federally enforceable requirements are in place requiring the use of such air pollution control equipment. (Reference: letter dated November 27, 1995, from David Solomon, Acting Group Leader, Integrated Implementation Group, Office of Air Quality Planning & Standards, U.S. EPA, to Timothy Mohin of Intel Government Affairs.) A cumulative emissions limit for NO_x in tons per year is established in the permit as an enforceable condition for units P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, and P-12, as well as a limit on the cumulative number of hours of operation for the 12 diesel fired electric generating units.

In consultation with Office of General Counsel at EPA Headquarters, as well as with EPA Regions 9 and 10, the EPA Region 8 office determined that authority exists under the CAA and 40 CFR 71 to create a restriction on PTE through issuance of a part 71 permit. The specific citations of authority are:

CAA Section 304(f)(4): provides that the term “emission limitation, standard of performance or emission standard” includes any other standard, limitation, or schedule established under any permit issued pursuant to title V, any permit term or condition, and any requirement to obtain a permit as a condition of operations.

40 CFR 71.6(b): provides that all terms and conditions in a part 71 permit, including any provisions designed to limit a source’s PTE, are enforceable by the Administrator and citizens under the Act.

40 CFR 71.7(e)(1)(i)(A)(4)(i): provides that a permit modification that seeks to establish a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I of the CAA (which includes PSD), and for which there is no underlying applicable requirement, does not qualify as a minor permit modification. Therefore, under 40 CFR 71.7(e)(3)(i), it is a significant permit modification, which, according to 40 CFR 71.7(e)(3)(ii), must meet all the requirements that would apply to initial permit issuance or permit renewal.

An enforceable limit on the NO_x emissions for units P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, and P-12 will reduce potential NO_x emissions to 39.1 tpy. Adequate testing, monitoring, reporting, and recordkeeping requirements have also been included as permit conditions to make the restrictions on potential emissions and hours of operation a practical matter.

The PTE for Florida River as a whole are as follows:

- Nitrogen Oxides (NO_x) – 282.07 tpy
- Carbon Monoxide (CO) – 181.94 tpy
- Volatile Organic Compounds (VOC) – 30.27 tpy
- Small Particulates (PM₁₀) – 7.95 tpy
- Sulfur Dioxide (SO₂) – 24.23 tpy
- Total Hazardous Air Pollutants (HAPs) – 4.14 tpy
- Largest Single HAP (formaldehyde, CH₂O) – 1.20 tpy

2. Tribe Information

a. Indian country:

Florida River 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. The Southern Ute Tribe does not have a federally-approved CAA title V operating permits program nor does EPA's approval of the State of Colorado's title V program extend to Indian country. Thus, EPA is the appropriate governmental entity to issue the title V permit to this facility.

b. The Reservation:

The Southern Ute Indian Reservation is located in Southwestern Colorado adjacent to the New Mexico boundary. Ignacio is the headquarters of the Southern Ute Tribe, and Durango is the closest major city, just 5 miles outside of the north boundary of the Reservation. Current information indicates that the population of the Tribe is about 1,305 people with approximately 410 tribal members living off the Reservation. In addition to tribal members, there are over 30,000 non-Indians living within the exterior boundaries of the Southern Ute Reservation.

c. Tribal government:

The Southern Ute Indian Tribe is governed by the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado adopted on November 4, 1936 and subsequently amended and approved on October 1, 1975. The Southern Ute Indian Tribe is a federally recognized tribe pursuant to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.984), as amended by the Act of June 15, 1935 (49 Stat. 378). The governing body of the Southern Ute Indian Tribe is a seven member Tribal Council, with its members elected from the general membership of the Tribe through a yearly election process. Terms of the Tribal Council are three years and are staggered so in any given year 2 members are up for reelection. The Tribal Council officers consist of a Chairman, Vice-Chairman and Treasurer.

d. Local air quality and attainment status:

The Tribe maintains an air monitoring network consisting of two sites equipped to collect Oxides of Nitrogen (NO₂), Ozone (O₃), Carbon Monoxide (CO) and meteorological data. The Tribe has collected NO₂ and O₃ data at the Ignacio site and Bondad site since June 1, 1982, and April 1, 1997, respectively. Since January 1, 2000, both sites initiated meteorological monitors measuring Wind Speed, Wind Direction, Vertical Wind Speed, Outdoor Temperature, Relative Humidity, Solar Radiation, and Rain/Snow Melt Precipitation. Particulate data (PM₁₀) was collected from December 1, 1981 to September 30, 2006, at the Ignacio site and since April 1, 1997 to September 30, 2006, at the Bondad site. The monitors indicate the following averages for the pollutant monitored: An annual average for NO₂, an hourly average for O₃ and CO, an 8-hour average for CO.

3. Applicable Requirement Review

This section includes a discussion of some 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 BP in the most recent part 71 application and are only intended to present the information certified to be true and accurate by the Responsible Official of this facility.

Emission Limits, Testing, and Monitoring

BP requested a cumulative NO_x emission limit of 39.1 tpy, and a limit on the hours of operation for the 12 diesel fired electric generating units [Units P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, and P-12] in order to avoid applicability to the PSD permitting requirements (40 CFR 52.21). In order to determine initial compliance with the established NO_x permit limit, a requirement for reference method performance testing for NO_x is also included as a permit condition.

Determining continuing compliance with the cumulative NO_x limit will be accomplished using a portable analyzer to monitor for NO_x emissions. The inlet temperatures to the SCR and pressure drops across the SCR will be measured when each unit is operating. Each generating unit has an ammonia injection pump for the SCR. These ammonia pumps will also be monitored to ensure the pump is running and ammonia is being injected.

In order for the SCR to effectively reduce NO_x emissions, the inlet temperature to the SCR must be maintained at all times a generating unit operates at no less than 500°F and no more than 1200°F. The pressure drop across each SCR must be maintained to within four (4) inches of water from the baseline pressure drop reading taken during the initial performance test for each generating unit.

Periodic Monitoring

Turbine units T-1 and T-2 are subject to the Standards of Performance for Stationary Gas Turbines at 40 CFR 60, subpart. Units T-1 and T-2 are subject to the NO_x standard at 40 CFR 60.332(a)(2) and the sulfur in fuel standard at 40 CFR 60.333(b).

The monitoring requirements contained in 40 CFR part 60, subpart GG only require that a one-time performance test for NO_x be conducted to demonstrate initial compliance with the requirements of 40 CFR 60.332. No additional testing or monitoring of NO_x emissions is required under this NSPS.

The *Appalachian Power* court held that 40 CFR 71.6(a)(3)(i) authorizes a sufficiency review of monitoring and testing in an existing emissions standard, and enhancement of that monitoring or testing through the permit when the standard requires no periodic testing or instrumental or noninstrumental monitoring, specifies no frequency, or requires only a one-time test. Thus, EPA has authority in the federal operating permit regulation to specify additional testing or monitoring for a source to assure compliance, when existing applicable regulations do not require periodic monitoring or only require a one-time emissions test.

Because 40 CFR 60, subpart GG requires that a one-time compliance test for NO_x emissions be conducted for a subject turbine, additional monitoring of the turbines for assuring compliance with the NO_x emission

limit has been included in the permit. Appropriate periodic monitoring for the gas-fired turbines was determined to be quarterly monitoring of NO_x emissions using a portable analyzer.

Off Permit Changes and Alternative Operating Scenarios

The Florida River permit allows for turbine replacements. Language has been included in the permit to allow for off permit replacement of individual simple cycle turbines with new or overhauled turbines, provided that each replacement turbine is the same make, model, heat input capacity rating, configuration, and with equivalent air emission controls, as the turbine it replaces, and provided that the provisions in the Off Permit Changes section of the permit, specific to turbine replacement, are satisfied. The primary purpose of the Off Permit Changes provisions is to ensure that NESHAP and NSPS requirements are not triggered and that PSD permitting requirements are not circumvented by off permit changes. Related language is also included in the section on Alternative Operating Scenarios.

Similar emission unit replacement language has been included in the permit for the 12 diesel fired electric generating units.

Streamlined Permit Condition

The custom fuel monitoring schedule approved by EPA per 40 CFR part 60, subpart GG requires that BP retain records of any sample analysis, fuel supplier, fuel supply, fuel quality, and fuel make-up for a period of two years. Section II.A of White Paper 2 allows conflicting requirements on the same emissions unit to be streamlined into one enforceable permit condition, as long as the most stringent of the multiple applicable requirements is determined. Section 71.6(a)(3)(ii) requires that the permittee retain records, data, etc. for a period of at least five years. The two year record retention requirement was streamlined with the five year requirement and is found in Section II.E.7 of the permit.

Chemical Accident Prevention

Based on BP's application, Florida River has a regulated substance listed in 112(r) of the CAA that is above the threshold quantity. BP is therefore subject to the requirement to develop and submit a risk management plan (RMP). Florida River has on site in excess of 10,000 pounds of ammonia, which is used in the refrigeration cooling system. The risk management plan for Florida River was received by EPA on June 23, 1999 and was determined complete on July 14, 1999. The Plan Sequence Number is 12123. This number uniquely identifies the RMP for each subject facility.

Stratospheric Ozone and Climate Protection - Subpart F

Florida River has several air conditioning units that utilize Freon as the refrigerant. There are six (6) air conditioning units in the office space, eleven (11) air conditioning units in the electrical compression buildings, and four (4) other units located throughout the facility. According to the information provided by BP, they do not service, maintain, repair or dispose of appliances pursuant to 40 CFR part 82, subpart F. Only certified contractors are used to provide these services. If BP ever services, repairs, maintains, or disposes of any of the air conditioning units, then BP must comply with the standards of 40 CFR subpart F, specifically, §§82.156, 82.158, 82.161, and 82.166(i), and request a significant modification to this part 71 permit.

Stratospheric Ozone and Climate Protection - Subpart H

Florida River does not have fire extinguishers on site that use halon, so 40 CFR part 82, subpart H for halon emissions reduction does not apply. If BP ever decides to use fire extinguishers that use halon and use its personnel to service, maintain, test, repair, or dispose of equipment that contains halons or use such equipment during technician training, then it must comply with the standards of 40 CFR part 82, subpart H for halon emissions reduction and request a significant modification to this part 71 permit.

Prevention of Significant Deterioration (PSD)

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. The PSD regulations are found at 40 CFR 52.21. Source size is defined in terms of “potential to emit,” which is its capability at maximum design capacity to emit a pollutant, except as constrained by existing federally and practically enforceable conditions applicable to the 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.

A review of BP’s applications for Florida River shows that the PTE of any pollutant regulated under the CAA [not including pollutants listed under section 112] is less than the 250 tpy PSD major source threshold, except for NO_x emissions. The potential NO_x emissions are about 282 tpy.

The El Paso Natural Gas Company’s Florida River Compressor Station (2- turbines) and the BP’s (previously Amoco) Florida River Compression Facility were each individually minor sources under the PSD permitting program. Upon BP obtaining the ownership/operator status of the El Paso turbines, the combined Florida River facility is now considered as one source and as a major source under the PSD rules. While this combined facility has never been required to receive a PSD permit to construct, significant emission increases due to modifications at the facility could trigger the PSD permitting requirements.

BP requested an enforceable limit of 39.1 tpy on the cumulative NO_x emissions from units P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, and P-12 in its application for a significant permit modification on February 10, 2004. The federally enforceable limit, established in the permit (prior to construction of the modification) made the modification a minor modification to a major stationary source, and thus it was not subject to the PSD permitting requirements.

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 which 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.

According to the information provided by BP, Florida River is subject to the provisions of 40 CFR part 60, subpart GG. Therefore, the general provisions of 40 CFR part 60 also apply.

40 CFR Part 60, Subpart Dc: Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. This rule applies to steam generating units for which construction, modification, or reconstruction commenced after June 9, 1989 and that have a maximum design heat input capacity of 29 megawatts (100 MMBtu/hr) or less, but greater than or equal to 2.9 MW (10 MMBtu/hr).

Florida River has two steam generating units (AH-1 and AH-2) with maximum design heat input capacities of 44.5 MMBtu/hr and 44 MMBtu/hr, respectively. Both units meet the design capacity of steam generating units subject to this rule. According to the information provided by BP, both units were constructed prior to June 9, 1989. Therefore, this rule does not apply.

40 CFR Part 60, Subpart GG: Standards of Performance for Stationary Gas Turbines. This rule applies to stationary gas turbines, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (10 MMBtu/hr), that commenced construction, modification, or reconstruction after October 3, 1977.

According to the information provided by BP, turbine units T-1 and T-2 were constructed after October 3, 1977. Each turbine also has a heat input at peak loads greater than 10 MMBtu/hr and each is subject to NSPS-subpart GG. Units T-1 and T-2 are subject to the NO_x standard at 40 CFR 60.332(a)(2) and the sulfur in fuel standard at 40 CFR 60.333(b).

40 CFR Part 60, Subpart K: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. This rule applies to storage vessels for petroleum liquids with a storage capacity greater than 40,000 gallons. Subpart K does not apply to storage vessels for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer.

Florida River has many tanks on site that are of various sizes and which contain various substances (i.e., gasoline, diesel, lube oil, etc.). The largest tank is 400 bbls (12,600 gallons). According to the information provided by BP, initial construction of this facility occurred in the timeframe of 1987-1989. Due to the sizes of the tanks and the date of construction of the site, this rule does not apply.

40 CFR Part 60, Subpart Ka: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to June 23, 1984. This rule applies to storage vessels for petroleum liquids with a storage capacity greater than 40,000 gallons. Subpart Ka does not apply to petroleum storage vessels with a capacity of less than 420,000 gallons used for petroleum or condensate stored, processed, or treated prior to custody transfer.

Florida River has many tanks on site that are of various sizes and which contain various substances (i.e. gasoline, diesel, lube oil, etc.). The largest tank is 400 bbls (12,600 gallons). According to the information provided by BP, initial construction of this facility occurred in the timeframe of 1987-1989. Due to the sizes of the tanks and the date of construction of the site, this rule does not apply.

40 CFR Part 60, Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This rule applies to storage vessels with a capacity greater than or equal to 75 cubic meters used to store volatile organic liquids.

According to the information provided by BP, all tanks on site have a capacity less than 75 cubic meters. Therefore, this rule does not apply.

40 CFR Part 60, Subpart KKK: Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. This rule applies to compressors and other equipment at onshore natural gas processing facilities. As defined in this subpart, a natural gas processing plant is any processing site engaged in the extraction of natural gas liquids (NGLs) from field gas, fractionation of mixed NGLs to natural gas products, or both. NGLs are defined as the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas.

According to the information provided by BP, Florida River does not extract or fractionate NGLs from field gas, and therefore does not meet the definition of a natural gas processing plant under this subpart. Therefore, this rule does not apply.

40 CFR Part 60, Subpart LLL: Standards of Performance for Onshore Natural Gas Processing; SO₂ Emissions. This rule applies to sweetening units and sulfur recovery units at onshore natural gas processing facilities. As defined in this subpart, sweetening units are process devices that separate hydrogen sulfide (H₂S) and carbon dioxide (CO₂) from a sour natural gas stream. Sulfur recovery units are defined as process devices that recover sulfur from the acid gas (consisting of H₂S and CO₂) removed by a sweetening unit.

According to the information provided by BP, Florida River does not perform sweetening or sulfur recovery at the site. Therefore, this rule does not apply.

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

- a. Manufactured after April 1, 2006 and are not fire pump engines, or
- b. Manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006.

For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

This subpart also applies to owners and operators of stationary CI ICE that modify or reconstruct their stationary ICE after July 11, 2005.

BP operates 12 CI ICE for electric generation and one 1 CI ICE as an emergency generator at Florida River. According to the information provided by BP, construction commenced on all 13 engines before

July 11, 2005. In addition and according to BP, these 13 engines have not been modified or reconstructed after July 11, 2005. Therefore, this rule does not apply at this time.

40 CFR Part 60, Subpart KKKK: Standards of Performance for Stationary Combustion Turbines. This subpart establishes emission standards and compliance schedules for the control of emissions from stationary combustion turbines that commenced construction, modification or reconstruction after February 18, 2005. The rule applies to stationary combustion turbines with a heat input at peak load equal to or greater than 10.7 gigajoules (10 MMBtu) per hour.

According to the information provided by BP, the turbines operating at Florida River were initially installed prior to February 18, 2005, and EPA has no information that indicates that the turbines have been replaced with new units or have been modified or reconstructed after February 18, 2005. Therefore, based on the information provided by BP, this rule does not apply.

National Emissions Standards for Hazardous Air Pollutants (NESHAP)

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.

According to the information provided by BP, Florida River is subject to standards of 40 CFR part 63, subpart HH for area sources as it applies to the glycol dehydrators. However, the facility is only subject to minimal record keeping requirements of the rule and is exempt from the general provisions of 40 CFR part 63 as outlined in 40 CFR part 63, subpart HH.

BP is required to keep a record of the applicability determinations demonstrating that the facility is not subject to any other part 63 standards in accordance with §63.10(b)(3). These applicability determinations must be kept on site for a period of 5 years after the determinations or until a source changes its operations to become an affected source.

40 CFR Part 63, Subpart HH: National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities. This subpart applies to the owners and operators of affected units located at natural gas production facilities that are major sources of HAPs, and that process, upgrade, or store natural gas prior to the point of custody transfer, or that process, upgrade, or store natural gas prior to the point at which natural gas enters the natural gas transmission and storage source category or is delivered to a final end user. The affected units are glycol dehydration units, storage vessels with the potential for flash emissions, and the group of ancillary equipment, and compressors intended to operate in volatile hazardous air pollutant service, which are located at natural gas processing plants.

Throughput Exemption:

Those sources whose maximum natural gas throughput, as appropriately calculated in §63.760(a)(1)(i) through (a)(1)(iii), is less than 18,400 standard cubic meters per day are exempt from the requirements of this subpart.

Source Aggregation:

Major source, as used in this subpart, has the same meaning as in §63.2, except that:

- 1) Emissions from any oil and gas production well with its associated equipment and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units.
- 2) Emissions from processes, operations, or equipment that are not part of the same facility shall not be aggregated.
- 3) For facilities that are production field facilities, only HAP emissions from glycol dehydration units and storage tanks with flash emission potential shall be aggregated for a major source determination.

Facility:

For the purpose of a major source determination, facility means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in subpart HH. Examples of facilities in the oil and natural gas production category include, but are not limited to: well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

Production Field Facility:

Production field facilities are those located prior to the point of custody transfer. The definition of custody transfer (40 CFR 63.761) is the point of transfer after the processing/treating in the producing operation, except for the case of a natural gas processing plant, in which case the point of custody transfer is the inlet to the plant.

Natural Gas Processing Plant:

A natural gas processing plant is defined in 40 CFR 63.761 as any processing site engaged in the extraction of NGLs from field gas, or the fractionation of mixed NGLs to natural gas products, or a combination of both. A treating plant or compression facility that does not engage in these activities is considered to be production field facilities.

Major Source Determination for Production Field Facilities:

The definition of major source in this subpart (at 40 CFR §63.761) states, in part, that only emissions from the dehydration units and storage vessels with a potential for flash emissions at production field facilities are to be aggregated when comparing to the major source thresholds. For facilities that are not production field facilities, HAP emissions from all HAP emission units shall be aggregated.

Area Source Applicability

40 CFR part 63, subpart HH applies to area sources of HAPs. An area source is a HAP source whose total HAP emissions are less than 10 tpy of any single HAP or 25 tpy for all HAPs in aggregate. This subpart requires different emission reduction requirements for triethylene glycol dehydration units found at oil and gas production facilities based on their geographical location. Units located in densely populated areas (determined by the Bureau of Census) and known as urbanized areas with an added 2-mile offset and urban clusters of 10,000 people or more, are required to have emission controls. Units located outside these areas will be required to have the glycol circulation pump rate optimized or operators can document that PTE of benzene is less than 1 tpy.

Applicability of subpart HH to Florida River:

According to the information provided by BP, Florida River does not engage in the extraction of NGLs; therefore, it is not considered a natural gas processing plant. Hence, the point of custody transfer, as defined in this subpart HH, occurs downstream of the station and the facility would therefore be considered a production field facility. For production field facilities, only emissions from the dehydration units and storage vessels with a potential for flash emissions are to be aggregated to determine major source status. The application stated that the facility does not have flash tanks and the HAP emissions from the dehydration units alone at the facility are below the major source thresholds of 10 tpy of a single HAP and 25 tpy of aggregated HAPs.

With respect to the area source requirements of this subpart, the facility is located outside both an urban area and an urban cluster. Furthermore, uncontrolled benzene emissions from each of the TEG units at the facility were determined to be less than 1 tpy using GRI-GLYCalc Version 4.0, as presented in the supporting documentation in the application. **As a result, each dehydration unit at the facility is exempt from the §63.764(d) general requirements for area sources. However, the following general recordkeeping requirement does apply to this facility:**

- §63.774(d)(1) – retain the GRI-GLYCalc determinations used to demonstrate that actual average benzene emissions are below 1 tpy.

40 CFR Part 63, Subpart HHH: National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities. This rule applies to natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user, and that are major sources of HAP emissions. Natural gas transmission means the pipelines used for long distance transport, and storage vessel is a tank or other vessel designed to contain an accumulation of crude oil, condensate, intermediate hydrocarbon, liquids, produced water or other liquid and is constructed of wood, concrete, steel or plastic structural support. A compressor station that transports natural gas prior to the point of custody transfer or to a natural gas processing plant (if present) is not considered a part of the natural gas transmission and storage source category.

This subpart does not apply to Florida River, as the facility is a natural gas production facility and not a natural gas transmission or storage facility.

40 CFR Part 63, Subpart YYYY: National Emission Standards for Hazardous Air Pollutants from Stationary Combustion Turbines. This rule establishes national emission limitations and work practice standards for HAPs emitted from Stationary Combustion Turbines. The affected source includes the stationary combustion turbine located at a major source of HAP emissions.

Stationary Combustion Turbine:

Stationary combustion turbines are defined in §63.6175 as all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle stationary combustion turbine, any regenerative/recuperative cycle stationary combustion turbine, the combustion turbine portion of any stationary cogeneration cycle combustion system, or the combustion turbine portion of any stationary combined cycle steam/electric generating system. Stationary means that the combustion turbine is not self propelled or intended to be propelled while performing its function. Stationary combustion turbines do not include turbines located at a research or laboratory facility, if research is conducted on the turbine itself and the turbine is not being used to power other applications at the research or laboratory facility.

Major Source:

Major source for purposes of this subpart has the same meaning as provided in 40 CFR 63.2, with the exception that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units to determine whether such emission points or station are major sources, even when emission points are in a contiguous area or under common control.

Applicability to the Florida River Compression Facility:

According to the information provided by BP, Florida River is not subject to this subpart because it is not a major source of HAPs as determined from the requirements of this rule.

40 CFR Part 63, Subpart ZZZZ (MACT ZZZZ): 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).

For the purposes of this standard, construction or reconstruction is as defined in §63.2.

Rule History

June 15, 2004: SI and CI ICE > 500 bhp at Major HAP Source

This rule was originally promulgated in June 15, 2004 (69FR 33474). The original rule regulated all new and reconstructed lean burn and rich burn stationary SI ICE and CI ICE greater than 500 bhp located at major HAP sources. Only one category of existing ICE was subject to the rule at that time: Existing 4SRB SI ICE with a horse power rating equal to or greater than 500 bhp.

For this version of the rule,

Existing means: Construction or reconstruction commenced on or before 12/19/2002.

New means: Construction or reconstruction commenced after 12/19/2002.

January 18, 2008: New SI & CI ICE at Area HAP Sources & New SI & CI ICE with Horse Power Rating < 500 bhp at Major HAP Sources

The first round of amendments to MACT ZZZZ was promulgated on January 18, 2008 (73FR 3568). Requirements were established for new SI & CI ICE of any horse power rating located at area sources of HAPs and new SI & CI ICE with a horse power rating less than or equal to 500 bhp at major sources of HAPs.

For this version of the rule:

Existing means: Construction or reconstruction commenced before 6/12/2006.

New means: Construction or reconstruction commenced on or after 6/12/2006.

February 17, 2010: Existing Compression Ignition Diesel Fired Engines (CI ICE) at Area & Major HAP Sources

The second round of amendments to MACT ZZZZ was promulgated on February 17, 2010. New requirements were established for existing CI ICE (diesel fired engines) of any horse power rating located at area sources of HAPs, existing CI RICE with a horse power rating less than or equal to 500 bhp at major sources of HAPs, and existing non-emergency CI ICE with a horse power rating greater than 500 bhp at major sources of HAPs.

For this version of the rule

Existing CI at Area Source any HP = Construction or reconstruction commenced before 6/12/2006.

Existing CI at Major Source, bhp \leq 500 = Construction or reconstruction commenced before 6/12/2006.

Existing Non-Emergency CI at Major Source, bhp > 500 = Construction or reconstruction commenced on or before 12/19/2002.

While engines identified above are subject to the final rule and its amendments (February 17, 2010, January 18, 2008, June 15, 2004), there are distinct requirements for each engine depending on their design, use, horsepower rating, fuel, and major or area HAP emission status.

Summary of Applicability to Engines at Major HAP Sources

Major HAP Sources			
Engine Type	Horse Power Rating	New or Existing?	Trigger Date
SI ICE – All ¹	≥ 500 hp	New	On or After 12/19/2002
SI ICE - 4SRB	> 500 hp	Existing	Before 12/19/2002
SI ICE – All ¹	≤ 500 hp	New	On or After 6/12/2006
CI ICE - All ²	≥ 500 hp	New	On or After 12/19/2002
CI ICE - Non Emergency	> 500 hp	Existing	Before 12/19/2002
CI ICE - All ²	≤ 500 hp	New	On or After 6/12/2006
CI ICE - All ²	≤ 500 hp	Existing	Before 6/12/2006

1. All includes emergency ICE, limited use ICE, ICE that burn and fill gas, 4SLB, 2SLB, and 4SRB.
2. All includes emergency ICE and limited use ICE

Summary of Applicability to Engines at Area HAP Sources

Area HAP Sources			
Engine Type	Horse Power Rating	New or Existing?	Trigger Date
SI ICE - All ¹	All hp	New	On or After 6/12/2006
CI ICE - All ²	All hp	New	On or After 6/12/2006
CI ICE - All ²	All hp	Existing	Before 6/12/2006

1. All includes emergency ICE, limited use ICE, ICE that burn land fill or digester gas, 4SLB, 2SLB, and 4SRB.
2. All includes emergency ICE and limited use ICE

Applicability of 40 CFR 63, Subpart ZZZZ to Florida River

Unit	Unit Description	Fuel	BHP	Commenced Construction Reconstruction or Modification Date	Subpart ZZZZ Requirements
IEU	Emergency Generator	Diesel	99	Manufactured October 1989	Subject – 5/3/2013 Existing CI Emergency Engine – Area Source
P-1	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-2	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-3	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source

P-4	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-5	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-6	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-7	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-8	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-9	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-10	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source
P-11	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source hp >500 - Area Source
P-12	Cummins QSK60 Generator	Diesel	2,922	April 2004	Subject – 5/3/2013 Existing CI Engine hp >500 - Area Source

According to the information provided in by BP, the facility is an area source for HAPs and the emergency generator and the 12 generator engines located at the facility are existing units having been constructed before June 12, 2006. Therefore, the Florida River Compression Facility has engines subject to the RICE MACT. However, the compliance date is May 3, 2013 and there are currently no applicable requirements from this regulation to be placed into this permit.

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 percent of the amount, in tons per year, required for a source to be classified as a major source.

The turbines at the Florida River Compression Facility are subject to an emission limit, but neither of the turbines use any add-on control devices to achieve compliance. Therefore, the turbines are not subject to the CAM requirements.

The 12 diesel fired electric generating units are not each subject to an individual emission limit. The generating units are subject to a cumulative limit on NO_x emissions and each unit uses a control device (SCR) to reduce NO_x emissions. The permittee requested that the control devices and cumulative limit on NO_x emissions be made enforceable conditions in the part 71 permit. The pre-control NO_x emissions of each unit do not exceed the major source threshold of 100 tpy. Therefore, the generating units are not subject to the CAM requirements.

c. Conclusion

Since Florida River is located in Indian country, the State of Colorado's implementation plan does not apply to this source. In addition, no tribal implementation plan (TIP) has been submitted and approved for the Southern Ute Tribe, and EPA has not promulgated a federal implementation plan (FIP) for the area of jurisdiction governing the Southern Ute Indian Reservation. Therefore, Florida River is not subject to any implementation plan.

EPA recognizes that, in some cases, sources of air pollution located in Indian country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate FIPs that will establish federal requirements for sources in specific areas. EPA will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop TIPs for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

4. EPA Authority

a. General authority to issue part 71 permits

Title V of the Clean Air Act requires that EPA promulgate, administer, and enforce a federal operating permits program when a state does not submit an approvable program within the time frame set by title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR part 71 setting forth the procedures and terms under which the Agency would administer a federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to stationary sources in Indian country.

As described in 40 CFR 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA will administer and enforce a part 71 federal operating permits program for stationary sources until a tribe receives approval to administer their own operating permits program.

5. Use of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

6. Public Participation

a. Public notice

As described in 40 CFR 71.11(a)(5), all part 71 draft operating permits shall be publicly noticed and made available for public comment. The Public Notice of permit actions and public comment period is described in 40 CFR 71(d).

There was a 30 day public comment period for actions pertaining to the draft permit and Statement of Basis. Public notice was given for the draft permit by mailing a copy of the notice to the permit applicant, the affected state, tribal and local air pollution control agencies, the city and county executives, the state and federal land managers and the local emergency planning authorities which have jurisdiction over the area where the source is located. A copy of the notice was also provided to all persons who have submitted a written request to be included on the mailing list. If you would like to be added to our mailing list to be informed of future actions on these or other Clean Air Act permits issued in Indian country, please send your name and address to the contact listed below:

Part 71 Permit Contact
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202

Public notice was published in the Durango Herald giving 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 EPA, the application, the Statement of Basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were available at:

La Plata County Clerk's Office
1060 East 2nd Avenue
Durango, Colorado 81302

Southern Ute Indian Tribe
Environmental Programs Office
116 Mouache Drive
Ignacio, Colorado 81137

US EPA Region 8
Air Program Office
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202

All documents were available for review at the U.S. EPA Region 8 office Monday through Friday from 8:00 a.m. to 4:00 p.m. (excluding federal holidays).

Any interested person was given the opportunity to submit written comments on the draft part 71 operating permit during the public comment period to the Part 71 Permit Contact at the address listed above. All comments were considered and answered by EPA in making the final decision on the permit. EPA 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 reasonable ascertainable issues and submit all arguments supporting their 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 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 could submit a written request for a public hearing to the Part 71 Permit Contact, at the address listed above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, EPA would have held a public hearing if it found that there was a significant degree of public interest in the draft operating permit. EPA would have provided public notice of the public hearing. If a public hearing had been held, any person would have had an opportunity to submit oral or written statements and data concerning the draft permit. No public hearing was requested for the draft permit action.

d. Appeal of permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition to the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or participate in the public hearing may petition for administrative review, only if the changes from the draft to the final permit decision or other new grounds were not reasonably foreseeable during the public comment period. The 30 day period to appeal a permit begins with EPA's service of the notice of the final permit decision.

The petition to appeal a permit must include a statement of the reasons supporting the review, a demonstration that any issues were raised during the public comment period, a demonstration that it was impracticable to raise the objections within the public comment period, or that the grounds for such objections arose after such a period. When appropriate, the petition may include a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous; or, an exercise of discretion, or an important policy consideration which the Environmental Appeals Board should review.

The Environmental Appeals Board will issue an order either granting or denying the petition for review, within a reasonable time following the filing of the petition. Public notice of the grant of review will establish a briefing schedule for the appeal and state that any interested person may file an amicus brief. Notice of denial of review will be sent only to the permit applicant and to the person requesting the review. To the extent review is denied, the conditions of the final permit decision become final agency action.

A motion to reconsider a final order shall be filed within 10 days after the service of the final order. Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration shall be directed to the Administrator rather than the Environmental Appeals Board. A motion for reconsideration shall not stay the effective date of the final order unless it is specifically ordered by the Board.

e. Petition to reopen a permit for cause

Any interested person may petition EPA to reopen a permit for cause, and EPA may commence a permit reopening on its own initiative. EPA will only revise, revoke and reissue, or terminate a permit for the reasons specified in 40 CFR 71.7(f) or 71.6(a)(6)(i). All requests must be in writing and must contain facts or reasons supporting the request. If EPA decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denial of these requests is not subject to public notice, comment, or hearings. Denials can be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts.

f. Notice to affected states/tribes

As described in 40 CFR 71.11(d)(3)(i), public notice was given by mailing a copy of the notice to the air pollution control agencies of affected states, tribal and local air pollution control agencies which have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any state or federal land manager whose lands may be affected by emissions from the source. The following entities were notified:

State of Colorado, Department of Public Health and Environment
State of New Mexico, Environment Department
Southern Ute Indian Tribe, Environmental Programs Office
Ute Mountain Ute Tribe, Environmental Programs
Navajo Tribe, Navajo Nation EPA
Jicarilla Tribe, Environmental Protection Office
La Plata County, County Clerk
Town of Ignacio, Mayor
National Park Service, Air, Denver, CO
U.S. Department of Agriculture, Forest Service, Rocky Mountain Region
San Juan Citizen Alliance
Carl Weston
Rocky Mountain Clean Air Action (now WildEarth Guardians)