

APPENDIX J
PUBLIC COMMENTS AND RESPONSES



David R. Brown
Manager, Regulatory Affairs-HSSE

BP America Production Company

U. S. Onshore Business Unit,-HSSE
1660 Lincoln Street, Suite 2900
Denver, Colorado 80264

Telephone: 303-830-3241
Facsimile: 303-830-3292
Cellular: 303-887-3695

June 5, 2009

SUIT Draft PEA Comments
P.O. Box 2508
Durango, CO 81302

RE: Comments On Draft Programmatic Environmental Assessment For 80 Acre Infill Oil and Gas Development On The Southern Ute Indian Reservation.

To Whom It May Concern:

BP is a leading producer of natural gas in North America and a global producer and manufacturer of oil, natural gas, petroleum products and petrochemicals. The company is also internationally recognized as a leader in environmentally responsible operations and corporate transparency. BP has a large number of tribal and fee leases and right of way easements within the exterior boundaries of the Southern Ute Indian Reservation and operates over 300 wells on tribal land.

BP has reviewed the Programmatic Environmental Assessment (PEA) and concludes that the document is thorough and complete. One example of this statement can be found with the air quality analysis found in the document. The air quality analysis and the air quality technical document are very comprehensive and have analyzed Alternatives 1 and 2 including other reasonable foreseeable actions. This analysis has also considered attainment of the air quality analysis area, a proposed tribal minor source program, visibility in PSD Class I Areas and Comprehensive Air Quality (CAMx) modeling data. Based upon the air quality analysis, there is no need to include or develop a mitigation strategy to reduce emission lower than what was analyzed in the document. The PEA also includes detailed information regarding the expectation that 770 coalbed methane wells and their associated disturbance will fall below the threshold of surface disturbance analyzed in the 2002 Southern Ute Environmental Impact Statement. Virtually every resource included in the PEA received a comprehensive analysis supporting implementation of Alternative 2.

Based upon the level of analysis and the impact conclusions disclosed in the PEA, BP strongly urges that a Finding of No Significant Impact (FONSI) be issued as soon as possible following the conclusion of the public comment period.

Thank you for considering our comments.

Regards,
David R. Brown

Response to BP Comment Letter

Date Comment Received: June 5, 2009

Comment Letter Author: David Brown, Manager Regulatory Affairs - HSSE

Comment Number and Beginning Phrase	Responses to Comments
No substantive comments submitted.	Comments noted – no change made in text.

May 18, 2009 – submitted via the website

From Catherine Dickert at CH2MHill/Trigon:

1) Under New or Modified Design Features for Wildlife (page 2-25), the Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors is cited as the guidance document that will be implemented for raptor surveys and mitigations. This document contains bald eagle nesting and winter roosting survey protocols and mitigation measures that differ from those included in the DPEA under State Listed Threatened and Endangered Species (pages 2-27 through 2-28). Should the information on pages 2-27 and 2-28 be used for bald eagle surveys and the Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors be followed for other raptors?

2) The text of the DPEA states that the annual reclamation report is due to SUIT DOE and BLM by January 31 of each year, but the form in Appendix E states that it will be due on March 1st. Please clarify.

3) The Stormwater Recommendations for Oil and Gas Operations on Tribal Lands within the Southern Ute Indian Reservation will be implemented? (page 2-31). How will this stormwater permitting process be implemented with regard to the CDPHE process and permit?

Responses to CH2MHill/Trigon Comment Letter

Date Comment Received: May 18, 2009

Comment Letter Author: Catherine Dickert

Comment Number and Beginning Phrase	Responses to Comments
CH2MHill-1: "Under New or Modified Design Features for Wildlife (page 2-25), The recommended Buffer Zones..."	The following text has been incorporated in Section 2.4.2 to clarify the statement: "...with the exception of bald eagle. Buffer zones and seasonal restrictions for bald eagle shall be determined by the SUIT DNR and are described below under State Listed Threatened and Endangered Species."
CH2MHill-2: "The text of the DPEA states that the annual reclamation report is due to SUIT DOE and BLM by January 31 of each year..."	The text has been changed to reflect March 1 as per the reclamation report. See Section 2.4.2.
CH2MHill-3: "The Stormwater Recommendations for Oil and Gas Operations on Tribal Lands within the Southern Ute Indian Reservations..."	Comment noted – no change made in text. As a result of the Energy Policy Act passed by Congress in 2005, the oil and gas industry was given a blanket variance from complying with EPA stormwater regulations on federal lands including Tribal Lands. The EPA has jurisdiction over the Clean Water Act on all lands within the exterior boundaries of the SUIR and, as a result, the CDPHE stormwater regulations are not applicable to these lands. Therefore, in order to address the issue of erosion and sediment control for construction activities conducted within the SUIR, Tribal Council approved the implementation of stormwater recommendations for oil and gas operations. These recommendations will ultimately be referenced in the Conditions of Approval attached to the approved Application for Permit to Drill, which stipulates that stormwater BMPs must be utilized, where necessary, to prevent erosion and sedimentation for any oil & gas construction activities disturbing >1 acre.

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

June 5, 2009

Richard A. Rymerson
USDA-BLM
SUIT Draft PEA Comments
P.O. Box 2508
Durango, Colorado 81302

Dear Mr. Rymerson:

The Air Pollution Control Division (APCD) of the Colorado Department of Public Health and Environment has reviewed the Programmatic Environmental Assessment of the Southern Ute Indian Tribe Coal Bed Methane 80-Acre Infill Development.

The APCD offers the following comments to your agency on the ozone modeling done for the PEA.

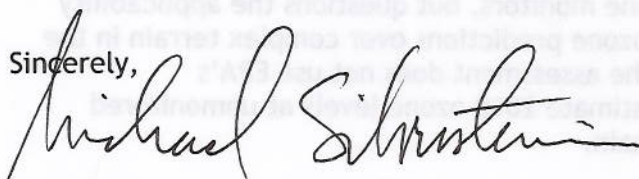
- Page 106 of the April 2009 report ("Air Quality Impact Assessment Technical Support Document Southern Ute Indian Tribe Coal Bed Methane 80-Acre Infill Development Environmental Assessment") supports use of the EPA guidance for estimating future year ozone design values in unmonitored areas such as urban areas with a dense network of ozone monitors, but questions the applicability of the guidance for interpolating ozone predictions over complex terrain in the Four Corners region. As a result, the assessment does not use EPA's unmonitored attainment test to estimate 2018 ozone levels at unmonitored locations within the modeling domain.
- In addition, page 87 the air quality report describes the development and use of a methodology to address a modeling artifact that caused the prediction of unrealistically high springtime ozone levels over the highest terrain of the modeling domain.
- In order to address the two issues above, the Division recommends that this NEPA action include a commitment to install and operate an ozone monitoring site for a minimum of 3-years in a high altitude area of Southwest Colorado to help ground-truth any future ozone modeling in this area and to determine if the high altitude mountainous areas of southwest Colorado comply with or will comply with the 0.075 ppm ozone standard.

In addition, the APCD submits the following comments in regard to the oil and gas measures described in the PEA:

- Text on page 2-20 of the PEA indicates that although natural gas-powered drilling rigs are technically feasible, they are not commercially available. Please provide more detail to explain what is meant by "not commercially available." Other areas, such as the Jonah Field in Wyoming, are using natural gas-powered drilling rigs.
- Text on page 4-21 of the PEA and page 14 of Appendix G indicate that initial evaluation of adding selective catalytic reduction (SCR) controls on drilling rig engines showed operational problems and large costs. However, information has not been published regarding the second-generation SCR control systems. Please provide more detail regarding the use of second-generation SCR control systems and/or of any specific research conducted to analyze this mitigation measure.
- Text on pages 2-19 and 4-19 through 4-21 of the PEA and pages 7 through 14 of Appendix G indicates that the 2002 FEIS design features included the following engine mitigation measures: electrification, lean burn technology, non-selective catalytic reduction, SCR, and oxidation catalyst. However, this PEA indicates that because New Source Performance Standard JJJJ was promulgated in 2008, these mitigation measures no longer need to be included in the PEA. The PEA makes the assumption that all engines used as part of the infill project will be new and subject to NSPS JJJJ. It is unlikely that every engine will be subject to NSPS JJJJ. Therefore, it is recommended that the PEA retain these mitigation measures and indicate that they should be followed if an engine is not subject to NSPS JJJJ.

The APCD appreciates the opportunity to comment on this PEA. Please contact Mr. Jim DiLeo of my staff at 303.692.3127 or jim.dileo@state.co.us should you have any questions or comments.

Sincerely,



Michael Silverstein, Deputy Director
Air Pollution Control Division

cc: Paul Tourangeau, APCD
Doug Lempke, AQCC
Chuck Machovec, APCD
Mark McMillan, APCD
Jim DiLeo, APCD
Jim Hanley, EPA
James Temte, SUIT
Sam Maynes, SUIT

Response to State of Colorado Air Pollution Control Division Comment Letter

Date Comment Received: June 5, 2009

Comment Letter Author: Michael Silverstein, Deputy Director

Comment Number and Beginning Phrase	Responses to Comments
CO-1: "Page 106 of the April 2009 report..."	Comment noted- no change made in text.
CO-2: "In addition, page 87 the air quality report describes the development..."	Comment noted – no change made in text.
CO-3: "In order to address the two issues above, the Division recommends..."	<p>Comment noted – no changes in text.</p> <p>There are currently eight ozone monitors within the 4-kilometer modeling domain: 1) the state of New Mexico operates the Substation, Bloomfield and Navajo Lake monitors; 2) the SUIT operates monitors at Ignacio and Bondad; 3) the FLMs operate monitors in CO at Mesa Verde and Shamrock and 4) the state of Colorado operates a monitor in Cortez, CO. In addition, a monitor is operated at Gothic, CO just beyond the 4 kilometer modeling domain. The Shamrock monitor provides data from a location at 2367 m (7,800 ft) elevation in La Plata, CO; ozone data are also collected at the Gothic site at 2930 m (9,600 ft) elevation near Gunnison, CO. Thus, there is ozone monitoring data to document ozone levels in southern Colorado, on the Southern Ute Reservation and northern New Mexico. In addition, modeling results indicate that predicted impacts from this proposed action are less than 0.2 ppb on ozone design values in the San Juan mountains.</p>
CO-4: "Text on page 2-20 of the PEA indicates that although natural gas-powered drilling rigs are technically..."	<p>Comment noted – no changes in text.</p> <p>To date, neither EnCana nor the Wyoming Department of Environmental Quality have published any data regarding the operability, level of control or the cost (capital and cost to control) for the implementation of natural gas drilling rigs. It is important to note in Sublet County, WY drilling rigs are the largest source of NOx emissions. This is because the type of rock formation as well as the depth of the wells require more drilling time and engine capacity than is required for CBM wells in the northern San Juan Basin. By contrast, the largest NOx emission source in the northern San Juan Basin is natural gas fired engines associated with natural gas production (engines 91 percent and drilling rigs 6 percent). In examining emission control strategies, it is important to consider the unique properties of each basin.</p>
CO-5: "Text on page 4-21 of the PEA and page 14 of Appendix G indicate..."	<p>Text has been added to Section 2.4.2 to address Tier 2 emission standards.</p> <p>To date, neither Shell nor the Wyoming Department of Environmental Quality have published any data regarding the operability, level of control or the cost (capital and cost to control) for the implementation of SCR of drilling rigs. It is important to note in Sublet County, WY drilling rigs are the largest source of NOx emissions. This is because the type of rock formation as well as the depth of the wells require more drilling time and engine capacity than is required for CBM wells in the northern San Juan Basin. By contrast, the largest NOx emission source in the northern San Juan Basin is natural gas fired engines associated with natural gas production (engines 91 percent and drilling rigs 6 percent). In examining emission control strategies, it is important to consider the unique properties of each basin.</p>

Comment Number and Beginning Phrase	Responses to Comments
CO-6: "Text on pages 2-19 and 4-19 through 4-21 of the PEA and pages 7...)"	<p>Comment noted – no changes in text.</p> <p>The 2002 FEIS air quality analysis examined 1, 1.5 and 2 g/hp-hr emission levels on engines, but there was no stipulation in the ROD with respect to the level of NOx control.</p> <p>The assumption that all engines will meet NSPS JJJJ installed as part of infill development is reasonable. Currently, existing engines greater than 500 hp already achieve this level of control.</p> <p>In addition, the SUIT Environmental Commission is in the process of developing a minor source permitting program that will have a control requirement for natural gas fired engines on the reservation. Once implemented, it will create an enforceable emission control mechanism. It is more appropriate for the SUIT environmental department to implement such mitigation requirements rather than BLM.</p> <p>The TSD and PEA both discuss the development of the minor source permitting program.</p>



ConocoPhillips Company
San Juan Business Unit
3401 East 30th Street
Farmington, New Mexico 87401

May 20, 2009

Mr. Richard A. Rymerson
Mr. John Pecor

SUIT Draft PEA Comments
P.O. Box 2508
Durango, Colorado 81302

Reference: Programmatic Environmental Assessment
80 Acre Infill Oil and Gas Development
Southern Ute Indian Reservation

Gentlemen:

ConocoPhillips Company (COP) appreciates the opportunity to provide comments on the Programmatic Environmental Assessment (PEA) proposed actions for 80-acre infill oil and gas development on the Southern Ute Indian Reservation. COP is an international, integrated energy company with extensive expertise in exploration and production and the refining, marketing and transportation of petroleum products. COP explores, develops and produces energy on federal, tribal and public lands throughout the United States.

ConocoPhillips supports the Proposed Action as it follows current practices of minimizing surface location size, utilization of existing disturbance, access and pipeline routes and addresses wildlife, drainage and water issues. However, some areas within the PEA do require some additional support and/or clarification and therefore we offer the following general comments:

- In the Proposed Action, there is lack of evidence to show that 95% of the proposed 770 new CBM wells could be collocated. There is a reference in the PEA to the 2002 EIS which stated that wells would be collocated “whenever possible.” There is a similar statement made in the 2009 PEA. Since the 2002 EIS, all 86 wells that have been drilled have been on new locations. Page 2-6 (PEA) says: “A reasonable assumption is that approximately 5% of the 770 wells (39 wells) would not be co-located due to environmental or cultural restraints on the existing well pad sites. In these cases a new well pad location would be constructed.” There should be more explanation to back-up the 5% assumption even in light of the infill drilling aspect.
- Under Vegetation in the Proposed Action, a new design feature requires that “All oil and Gas operators will obtain a permit from the SUIT Forestry Division prior to the removal of wood materials greater than 4 inches in diameter from well pads or pipelines.” This additional step in the SUIT permitting process is not currently required for BLM projects.

What is the process for obtaining a permit and what is the expected turnaround time? ConocoPhillips does not support this requirement as it could hinder pad location and development due to the fact that many shabby sage plants (small fringe stands of pinon and juniper) have 4 inch diameter trunks at the base. We recommend the removal of this design feature.

- Also under Vegetation in the Proposed Action is the requirement that “An annual report detailing reclamation of facilities must be submitted by all oil and gas operators with facilities on Tribal lands within the SUIT boundary no later than January 31 of each year to the SUIT DOE and the BLM. The report format is outlined in Appendix E.” While the report format and requirements are not unreasonable, ConocoPhillips would like to understand why this report is required? What will the data be utilized for? If this report is to determine compliance, there are other means than a report to satisfy reclamation requirements. Additional information and clarification about the end use of this report is requested.

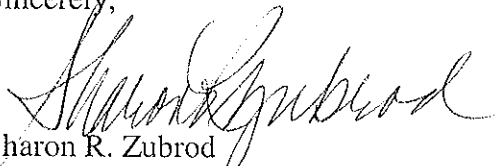
Further, it states that based on the results of the annual report, the SUIT DNR may require additional design features for operators with facilities within the exterior boundary of the SUIT boundary to minimize impacts to vegetation and soils. This condition appears too vague and open ended. ConocoPhillips suggests that clarification on specific example of when additional design features will be required.

- Under Facility Design in the Proposed Action, a new design feature states “Panel barriers will be erected around meter houses, pump heads or other surface facilities unless an allottee or private landowner requests fencing of the location. The type and location of barriers would be determined on a case by case basis during the onsite.” The BLM should consider what the cost and unintended consequences to visual mitigation this requirement would impose prior to determining it for a location. In most cases, this requirement poses a safety issue for those that work on well equipment and therefore COP requests that this design feature be used wisely.
- In the Proposed Action, under the Wetlands section a new design feature notes “Whenever reasonably possible, bore under jurisdictional waters of the U.S., including drainages and wetlands to avoid and/or minimize surface impacts.” This is generally done already due to the costs associated with 404 permitting. However, COP would like clarification on who decides what is “reasonably possible” and possibly some guidelines to help anticipate the requirements.
- According to Section 3.9.3 Visual Characteristics Summary, unavoidable adverse Impact from Oil and Gas well pads (requiring co-locate/twinning), access roads and pipelines would modify the scenic quality of the area impacting the views from sensitive view points for the life of the project. Although some activity is expected in Level II and Level III, there will be Oil and Gas activity occurring in Level IV. We appreciate and support the fact that the PEA provides for management of activities which require major modifications to existing character of the landscape.

- Tables 4-15 and 4-16 in the wildlife section seem to be flawed. Table 4-16 is based on 4-15 and the numbers in 4-15 do not add up as described in the footnotes for the table. If calculated as in footnotes and as described throughout the rest of the document, long-term disturbance for Alternative 2 would be close to twice as large. COP strongly suggests that this information be corrected, or clearly explained.
- Within Appendix B, Page 13 of Volume 2 the requirement for a Section 401 Water Quality Permit from the U.S. Environmental Protection Agency is not listed. However, obtaining 401 Water Quality Certification is mentioned in PEA page 2-30, sixth item down in the listed 2002 FEIS Design Features. The Section 401 requirement needs to be included in the list in Appendix B.
- In Section 4.5.2 related to surface water impacts, the Alternative 1 summary of impacts is based on 15-year development period and Alternative 2 summary of impacts is based on a 20-yr development period. COP recommends that a brief explanation as to why the impact evaluation development periods differ. Additionally, based on the numbers presented, increasing Alternative 1 to a 20-yr development period would not appear to have a negative effect on Alternative 2. However, it is not clear if conventional wells will continue to be developed. If conventional wells will continue to be developed and they are not currently part of this calculation (which it is not obvious they are) this would likely alter Alternative 2 values if conventional wells are included in the equation and may be a question/concern raised by other reviewers of this PEA.
- In Appendix F under Stormwater Recommendations for Oil and Gas Operators on Tribal Lands within the Southern Ute Indian Reservation it notes that “in the event that it is determined from the NOI that O&G activities could negatively impact Tribal water resources, the company is also requested to develop a Storm Water Pollution Prevention Plan (SWPPP).” ConocoPhillips would like clarification on what triggers the need for the SWPPP and who decides.

Again, thank you for the opportunity to provide these comments on the Programmatic Environmental Assessment for 80-Acre Infill Drilling on the Southern Ute Indian Reservation. Please feel free to contact me at (505) 326-9793 should you have questions or would like to discuss our comments.

Sincerely,



Sharon R. Zubrod
Regulatory Compliance Manager
ConocoPhillips Company
San Juan Business Unit

Response to Conoco Phillips Comment Letter

Date Comment Received: May 20, 2009

Comment Letter Author: Sharon Zubrod, Regulatory Compliance Manager, San Juan Business Unit

Comment Number and Beginning Phrase	Responses to Comments
<p>Conoco Phillips – 1: “In the Proposed Action, there is lack of evidence to show that 95% of the proposed 770 new CBM wells could be collocated...”</p>	<p>Comment noted – no change made in text.</p> <p>In January 2007, the Southern Ute Growth Fund initiated contact with operators (including ConocoPhillips) on the Reservation to determine the reasonably foreseeable development for proposed 80-acre infill. The proposed action was developed from operator supplied data which included existing and proposed oil and gas facility information such as the number (amount), location and size of well pads that currently and are proposed to operate on the reservation. Based on the supplied operator data, it was determined that 95% of proposed well pads could be co-located.</p>
<p>Conoco Phillips – 2: “Under Vegetation in the Proposed Action, a new design feature requires that ...”</p>	<p>Comment noted – no change made in text.</p> <p>Although identified as a “new or modified design feature”, it has been the Bureau of Indian Affairs (BIA) policy for several years that operators must obtain a BIA timber cutting permit, Form 5-5331, prior to cutting trees (see Appendix C). This is not a new step in the permitting process and all operators on the Reservation should be familiar with the permit requirements. This BIA policy will continue.</p>
<p>Conoco Phillips – 3: “Also under Vegetation in the Proposed Action is the requirement that...”</p>	<p>Comment noted – no change made in text.</p> <p>The purpose of the annual reclamation report is to ensure that operators on the Reservation are complying with reclamation requirements outlined in the Conditions of Approval attached to the approved Application for Permit to Drill. The report will allow the Bureau of Land Management (BLM) and Southern Ute Indian Tribe (SUIT) to ensure compliance and track the amount of short-term disturbance associated with development on the Reservation. The BLM will compile and follow-up with operators on the required annual reclamation reports.</p> <p>Additional design features may be required to ensure compliance. These would be legally authorized enforcement actions and would be site-specific and determined on a case-by case basis. Therefore, it is beyond the scope of this analysis to include a detailed description of the possible situations and additional design features that may be required.</p>
<p>Conoco Phillips – 4: “Under Facility Design in the Proposed Action, a new design features states...”</p>	<p>Comment noted – no change made in text.</p>
<p>Conoco Phillips – 5: “In the Proposed Action, under the Wetlands section a new design feature...”</p>	<p>Comment noted – no change made in text.</p> <p>This determination would be made in coordination with the operator during the 404 permitting process with the U.S. Army Corps of Engineers. This determination would be made on a site specific case-by-case basis.</p>
<p>Conoco Phillips – 6: “According to Section 3.9.3 Visual</p>	<p>Comment noted – no change made in text.</p>

Comment Number and Beginning Phrase	Responses to Comments
Characteristics Summary, unavoidable adverse..."	
Conoco Phillips-7: "Tables 4-15 and 4-16 in the wildlife section seem to be flawed..."	Table 4-15 in Section 4.3.2 has been revised to reflect only disturbance related to the proposed action. Table 4-16 was not revised as it displays the total disturbance from the proposed action and the additional incremental development.
Conoco Phillips-8: "Within Appendix B, Page 13 of Volume 2 the requirement for a Section 401 Water Quality Permit..."	Appendix B has been updated to include Section 401 Water Quality Certification requirements.
Conoco Phillips-9: "In Section 4.5.2 related to surface water impacts, the Alternative 1 summary of impacts is based on..."	<p>Comment noted - no change made in text.</p> <p>The development periods differ because Alternative 1 (No Action) was evaluated as Alternative 3 – the preferred alternative in the 2002 Environmental Impact Statement (EIS), to which this Programmatic Environmental Assessment (PEA) tiers. The No Action (approved in 2002) was proposed and analyzed on a 20 year development period. Therefore, in this PEA the analysis was evaluated on the approximate remaining 15 years of development for the No Action. The Proposed Action is being evaluated on an expected 20 year development time frame.</p> <p>The effects of the No Action have already been evaluated in the 2002 EIS based on a 20 year development period. In this PEA, the proposed action analyzes estimated depletions based on the proposed 80-acre infill, which would be the incremental increase to those attributed to the No Action. This provides for a cumulative analysis.</p> <p>The fresh water use for drilling and completion of conventional wells is evaluated in this analysis (refer to page 4-51). However, conventional wells do not dewater the Fruitland Formation and therefore are not included in the analysis of surface depletions based on interception of discharge from the Fruitland Formation to surface waters.</p>
Conoco Phillips-10: In Appendix F under Stormwater Recommendations for Oil and Gas Operators on Tribal Lands..."	<p>Comment noted – no change made in text.</p> <p>Currently, the implementation of the stormwater recommendations is a voluntary action operators comply with on the Reservation. However, these recommendations will ultimately be referenced in the Conditions of Approval attached to the approved Application for Permit to Drill, which stipulates that stormwater BMPs must be utilized, where necessary, to prevent erosion and sedimentation for any oil & gas construction activities disturbing >1 acre.</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: EPR-N

June 5, 2009

Richard A. Rymerson
San Juan Public Land Center
ATTN: SUIT Draft PEA Comments
P.O. Box 2508
Durango, CO 81302

Dear Mr. Rymerson:

Re: Draft Programmatic Environmental Assessment
80-Acre Infill Oil and Gas Development
Southern Ute Indian Reservation (No CEQ #)

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, *et seq.*, and Section 309 of the Clean Air Act, the Region 8 office of the Environmental Protection Agency (EPA) has reviewed the referenced Draft Programmatic Environmental Assessment (DPEA) for the Southern Ute Indian Tribe (SUIT). This letter transmits comments that we recommend be incorporated into the Final PEA so that minor errors or omissions in the draft document can be amended before making the FPEA available to the public. These minor amendments, especially further explanation of the mechanism for implementation of the Southern Ute Tribal Council's direction for this project, would be needed to support a mitigated Finding of No Significant Impact (FONSI).

The Proposed Action increases the density of coalbed methane (CBM) production wells to obtain 80-acre spacing per well on the Southern Ute Indian Reservation (Reservation) over the next 20 years. The cumulative impact assessment area in this DPEA consists of the western and central portions of the Reservation, most of which is located in the northern San Juan Basin. The study area encompasses approximately 421,450 acres of land, including portions of La Plata, Archuleta, and Montezuma counties. Two alternatives were analyzed:

1. **NO ACTION:** A continuation of present management direction resulting in a reasonably foreseeable future drilling activity of a total of 636 wells, including conventional and coalbed methane wells, allowing two wells per 320 acres (160-acre spacing). Eighty-six (86) conventional gas and CBM wells have already been drilled. Applications for Permit to Drill (APD) for 550 planned wells might be processed under this alternative.
2. **PROPOSED ACTION (80-ACRE INFILL DEVELOPMENT):** Development of up to 770 new coalbed methane wells, principally co-located on existing well pads. This alternative would allow an increase in the number of coalbed methane wells from two per 320 acres to

four per 320 acres (eight wells per section).

Some of the information for the DPEA has been tiered to the Final Environmental Impact Statement (FEIS) Oil and Gas Development on the Southern Ute Indian Reservation (2002). That FEIS included additional information discussing the potential for wetland impacts and included a discussion of wetland impact avoidance and permitting procedures when avoidance is not possible. Additional information was also provided on past wetland impacts and more complete information on the current condition of wetland resources. Commitments to mitigation for federally threatened and endangered species were adopted in the Record of Decision for that FEIS. The cumulative impact assessment area in this DPEA consists of the western and central portions of the Reservation, most of which is located in the northern San Juan Basin. EPA still remains concerned about uncontrolled methane migration to the surface throughout the San Juan Basin. However, it appears that industry and COGCC studies are being currently conducted to provide information for future additional mitigation. EPA encourages BLM and other permitting agencies to gather monitoring information before CBM development continues in order to establish the impacts of methane migration from CBM development in the San Juan Basin.

Our concerns with this environmental analysis stem from two principal issues:

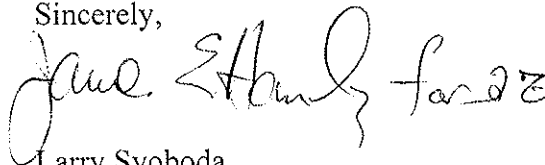
- 1) EPA was not given an opportunity to become involved early during the planning for the air quality analysis. Thus, the modeling analysis had already commenced under an air quality modeling protocol by the time we were notified by the Southern Ute Indian Tribe (SUIT) about the project. In this case, since the modeling protocol was developed under close coordination with the Four Corners Air Quality Task Force (4CAQTF) activity, we are not so concerned about this oversight. In fact, we are reasonably satisfied with the far field air quality analysis approach and discussion of modeling results. But for future NEPA analyses we encourage SUIT to extend us an opportunity to work more closely on scoping and choosing impact assessment methodologies.
- 2) Our other concern is with your approach to satisfying the National Environmental Planning Act (NEPA) responsibility by tiering this programmatic analysis to a FEIS completed in 2002. There have been new developments in NO_x emission control technology in southwestern Wyoming that should be considered during the authorization of new gas compression equipment associated with the proposed action. The attached set of technical comments includes additional information on the practicability of enhanced emission controls on large-horsepower compression-ignition engines.

Finally, we have included the Southern Ute Indian Tribal Chairman as a recipient of a courtesy copy of our letter so that he will be aware that EPA is genuinely pleased with the initiative SUIIT has shown in outlining requirements for the implementation of the proposed action including (a) co-location of infill wells on existing drill pads to the maximum extent feasible, and (b) presumptive utilization of the best available air emissions control technology for new compressor installations and the presumptive upgrade of existing compressors to best available emissions control technology to the maximum extent feasible.

Our continuing concern is how discussion in the Final PEA can be included to describe the implementation and enforcement mechanisms for driving these technology-based requirements and meeting the good intentions of the Tribal Council for optimizing air quality on the Reservation with renewed CBM development and sustained production. EPA Tribal Assistance and the NEPA Programs would be interested in convening periodic teleconference calls with representatives from SUIIT Environmental Department and the Growth Fund to continue dialogue with Tribal leadership on management of its conventional and CBM resources.

If you have any questions regarding EPA's comments, please contact me at 303-312-6004 or Jim Hanley, EA reviewer, at 303-312-6725.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Svoboda". The signature is written in a cursive, flowing style.

Larry Svoboda
Director, NEPA Program
Office of Ecosystems Protection and Remediation

Enclosure

cc: Lynn Woomeer, SUGF
Matthew Box, SUIIT Chairman
P O Box 737, Ignacio, CO 81137

Mark Torres, (acting) Environmental Program Division

General Air Quality Technical Comments

The Southern Ute 80-acre infill oil and gas development is located within the Southern Ute Indian Tribe (SUIT) tribal boundaries approximately 25 miles from the Class I areas of Weminuche Wilderness Area and Mesa Verde National Park (37 miles). These are Federal Class I areas under the Clean Air Act, requiring special protection of air quality and air quality related values (AQRVs), such as visibility. The project is approximately 10 miles from the New Mexico of Environment Department's Navajo Lake Monitoring site. The Navajo Lake monitoring site is of special concern to EPA because it has reported high levels of ozone concentrations in the past and currently has a current ozone design value of 75 ppb, which is very near the current ozone National Ambient Air Quality Standard (NAAQS). There are no non-attainment areas near the SUIT project.

The AERMOD model was used to determine near-field air quality impacts from the project for CO, NO₂ and formaldehyde. Near Field impacts for PM_{2.5}/PM₁₀ from the project were not presented in the Draft PEA. No adverse near field impacts were identified and this determination should be stated in the Final EA.

The CAMx model was used to quantify all-pollutant far field impacts from the project to the surrounding area, including ozone, PM_{2.5}, visibility impairment and deposition. The results of the CAMx modeling for ozone predicted a maximum project specific incremental impact of 0.3 ppb for predicted ozone data above 70 ppb and 0.7 ppb for predicted ozone data above 60 ppb at locations that are not identified in the draft PEA. EPA is concerned that this incremental increase may cause adverse impacts that could lead to a violation of the ozone NAAQS if mitigation measures are not required during implementation of the proposed action.

Mitigation for Ozone Precursor Emissions

The Final PEA should include a mitigation program that addresses ozone precursor emissions to reduce the predicted ozone increment. Examples of mitigation steps that should be implemented include use of Tier 2 or better drill rig engines throughout the life of project. Some gas projects in the intermountain west are now successfully using secondary emission controls to reduce NO_x emissions to Tier 4 levels for drill rig engines. In addition, the Four Corners Air Quality Task Force (4CAQTF) has recommended emission standards for engines throughout the 4-corners region, including 2 gm/bhp-hr for less than 300 hp and 1 gm/bhp-hr greater than 300 hp, that are below some of the existing and future engine emissions identified in the draft PEA. The mitigation program should identify steps taken to meet these 4CAQTF recommendations.

Specific Air Quality Technical Support Document Comments

- 1) Absolute ozone modeled results for the various modeling scenarios should be presented in the Final PEA. Values should be presented graphically in maps for the entire domain.
- 2) Location information for the maximum incremental ozone modeled results for the various modeling scenarios should be presented in the Final PEA. Values should be presented graphically in maps for the entire domain.
- 3) While the assumption of balancing decreasing production with new wells seems reasonable, EPA is concerned that additional compression or gas plant stations may be necessary. If additional gas compression infrastructure-related activities are required, EPA expects additional NEPA analysis for these sources.
- 4) EPA has also promulgated New Source Performance Standards (NSPS) for compression ignition engines (40 CFR, Part 60, Subpart IIII). A discussion should be presented in the Final PEA for applicable engines under this rule.
- 5) At DPEA Section 2.5 Conclusions, the statement “There is very little opportunity to reduce emissions from natural gas fired engines below NSPS Levels” is misleading as there are many examples of engines that surpass the control requirements of this NSPS.

Responses to U.S. Environmental Protection Agency, Region 8 Comment Letter

Date Comment Received: June 5, 2009

Comment Letter Author: Larry Svoboda, Director, NEPA Program, Office of
Ecosystems Protection and Remediation

Comment Number and Beginning Phrase	Responses to Comments
<p>EPA, Cover Letter: read the last two full paragraphs on page 3 for context. The comment begins with: "...to describe the implementing mechanism" for driving these technology-based requirements..."</p>	<p>Comment noted – no changes in text.</p> <p>As indicated in the PEA, the Tribal Council conditioned the proposed 80 acre infill on the utilization of technology based limitations for new and existing compressor installations. In order to obtain the support of the Tribe for infill applications involving the tribal mineral estate, operators agreed, either by letter agreement or as a component of their infill applications before the COGCC to utilize the best available emission control technology for new compressors and to evaluate and upgrade existing compression installations within 5 years. Accordingly, the Tribe has the ability to enforce the technology based design elements both as a contractual matter under the letter agreements or as a term of the 80 acre infill orders issued by the COGCC. In addition, the Southern Ute Indian Tribe/State of Colorado Environmental Commission is in the process of developing a minor source air quality program which, depending upon the final rules and regulations of the program, may integrate the PEA design elements and streamline implementation of the existing air quality commitments through a permitting mechanism.</p>
<p>EPA, General Air Quality Technical Comment-1: "The AEROMOD model was used..."</p>	<p>Text changes and a table were added to PEA Section 4.2.5.</p> <p>The TSD presented PM10 and PM2.5 impacts from construction. The PM10 modeling was originally performed as part of the 1999 SUIT EIS using construction emission inventories and the EPA ISC dispersion model. As part of the PEA, PM2.5 emissions were developed from construction activities. PM2.5 impacts were then computed by ratioing the ISC PM10 construction modeling results by the ratio of PM2.5 to PM10 emissions.</p>
<p>EPA General Air Quality Technical Comment-2: "The CAMx model was used to quantify..."</p>	<p>Changes were made to the text in PEA Section 4.2.7 and in TSD Appendix G Section 7.2.1.</p> <p>The following figures present predicted ozone design values (annual fourth highest daily maximum 8-hour average concentration) in each 4 x 4 km model surface grid cell over the 4 km modeling domain (NM, CO, AZ, UT state and county boundaries are shown in each map). Figure 1 (see end of this comment table) presents design values for the 2005 base case, the 2018 base case (no action) and the 2018 full infill scenario (proposed action).</p> <p>Figure 2 presents the difference in design values between the 2018 base case (no action) and the 2005 base case, the 2018 full infill scenario and the 2005 base case and the difference between no action and full infill scenario. (Day on which design values shown in top two figures occurs varies from one grid cell to the next, thus these maps represent a composite of many days. As a result, design values from which the differences shown in Figure 2 are computed are not matched in time. For example, the 2018 full infill scenario design value may occur on a different date than the 2018 base</p>

Comment Number and Beginning Phrase	Responses to Comments
	<p>case design value in any given grid cell and the two dates can differ from one grid cell to the next.) The difference plots are not paired in time. (Day on which design values shown in top two figures occurs varies from one grid cell to the next, thus these maps represent a composite of many days. As a result, design values from which the differences shown in Figure 2 are computed are not matched in time. For example, the 2018 full infill scenario design value may occur on a different date than the 2018 base case design value in any given grid cell and the two dates can differ from one grid cell to the next.) Several important conclusions can be reached from the difference plots. First, for the 2018 minus 2005 base case there is a general reduction in predicted ozone design values over the region. The same trend is observed for the difference between the 2018 infill development and the 2005 base case. The maximum predicted increase in design value for the 2018 infill case minus the 2018 no action is 0.03 ppb as indicated by the dark brown shaded cells just north of the AZ – CO border. In addition, over the majority of the modeling domain differences in predicted ozone design values between these two scenarios are negligible (less than ± 0.08 ppb).</p>
<p>EPA, General Comment 3 Mitigation for Ozone Precursor Emissions: “The Final PEA should include a mitigation program that ...”</p>	<p>Text changes and a footnote have been added to PEA Section 4.2.8.</p> <p>The 4CAQTF did not make any recommendations regarding the specific level of emission control on natural gas fired engines associated with natural gas production. Rather, the analysis focused on a host of possible mitigation options and technical issues associated with the specified options. The cited recommendation was only one possible option that was presented in the 4CAQTF report and the report drew no conclusions regarding the level of mitigation.</p> <p>The PEA did include a mitigation option with respect to natural gas fired engines.</p> <p>a) Natural Gas Fired Engines In the development of the PEA air quality analysis, a mitigation option was developed and included in the analysis to accelerate the implementation of the 1 g/hp-hr NSPS emission limit on engines greater than 500 hp.</p> <p>b) Drilling Rig Engines The air quality analysis was based on the very conservative assumption that half of the diesel drilling rigs would be Tier 0 and the other half would be Tier 2. Since the air quality analysis was completed, the SUIT has decided to implement a mitigation strategy requiring all prime mover diesel drilling rig engines to achieve Tier 2 emission standards (i.e., drilling rig engines for new wells, not work overs or recompletion rigs).</p>
<p>EPA, Specific Air Comments – 4: “Absolute ozone modeled results for the various...”</p>	<p>See EPA General Air Quality Technical Comment 2 above.</p>
<p>EPA, Specific Air Comments-5: “Location information for the maximum incremental ozone...”</p>	<p>See EPA General Air Quality Technical Comment 2 above.</p>
<p>EPA, Specific Air Comments-6: “While the</p>	<p>Comment noted – no changes in text.</p> <p>This programmatic NEPA document forecasts anticipated gas field compression</p>

Comment Number and Beginning Phrase	Responses to Comments
assumption of balancing decreasing production with new wells...”	<p>requirements through the year 2027. EPA has expressed a concern that should unanticipated additional compression or gas plant stations be necessary, additional NEPA documentation be undertaken.</p> <p>Should additional gas plant stations become necessary as a result of the proposed action and require federal action, site specific NEPA documents will be produced as appropriate.</p> <p>Anticipated compression requirements are used in the PEA to predict future air quality impacts in order to ascertain whether the proposed action will result in a significant impact on the human environment warranting preparation of an EIS. In the event that installed compression horsepower¹ attributable to the proposed action will exceed that predicted in the PEA, the preparation of a supplemental NEPA analysis will be undertaken as appropriate.</p>
EPA, Specific Air Comments-7: “EPA has also promulgated New Source...”	<p>Text changes and a table were added to PEA Section 3.2.6.</p> <p>The only engines under the PEA to which 40CFR, Part 60, Subpart IIII is applicable to is drilling rig diesel engines. It is not applicable to natural gas fired compressor engines that are spark ignited.</p>
EPA, Specific Air Comments-8: “At DPEA Section 2.5 Conclusions...”	<p>Comment noted – no changes in text.</p> <p>The statement “There is very little opportunity to reduce emissions from natural gas fired engines below NSPS Levels” is accurate as it pertains to the operation of natural gas fired engines associated with oil and gas field operations. There are three properties regarding the use of natural gas fired engines that make this application unique: 1) they operate at remote unattended facilities; 2) they operate under short term variable loads; and 3) they operate on field gas as opposed to natural gas. As part of the 4CAQTF, a detailed evaluation and the level of engine control that could be anticipated for oil and gas operations was conducted. The following presents information from the 4CAQTF report as well information that was collected as part of the Kansas State NSCR engine testing program that was conducted in the Four Corners Area.</p> <p>Selective Catalytic Reduction (SCR) on Lean Burn Engines</p> <p>There is very little information in the literature regarding the incremental NOx emission reduction of SCR beyond lean burn technology for remote unattended oil and gas operations because there have been very limited installations of this technology for oil and gas compressor engines.</p> <p>Review of CARB databases regarding NOx engine emissions does not provide any data regarding actual installations of SCR on lean burn engines for oil and gas operations. There is some very limited performance testing on SCR with lean burn engines that operate on pipeline natural gas (as opposed to field gas) for cogeneration facilities. Such emission data for cogeneration facilities is not applicable to oil and gas compressor engines. This is because cogeneration facilities tend to operate at a continuous load and have personnel present to operate the equipment. The CARB databases also provide testing of oil and gas SCR for high emitting 2 cycle engines (removal rates in the range of approximately 50 to 85 percent). These installations are not comparable to adding SCR to a well controlled engine (California Environmental Protection Agency Air Resources Board, 2001, “Determination of Reasonably Available Control Technology”).</p>

¹Compressor capacity in excess of the level quantified for the 2005 base case.

Comment Number and Beginning Phrase	Responses to Comments
	<p>The limited data that does exist suggests that there may only be a small incremental reduction in NOx emissions beyond lean burn technology and this reduction would result at a very high incremental cost. This technology should be considered an emerging technology and merits additional testing for this unique application (California Environmental Protection Agency Air Resources Board, 2001, "Determination of Reasonably Available Control Technology).</p> <p>In conclusion, the application of SCR for oil and gas operations is not a technology that can be used to reduce emissions to levels below NSPS.</p> <p>Lean Burn Currently, a large percentage of engines operating in the Four Corners Area that have a capacity of greater than 500 hp use lean burn technology and achieve, on average, a NOx emission rating of less than 2 g/hp-hr. Lean burn engines have this lower NOx rating without using a catalyst or any other form of emissions after-treatment. Some lean burn engines incorporate an Air Fuel Ratio Control installed at the engine manufacturing plant. Typically, lean burn engines have a HP rating above 300 HP. This reflects today's manufacturing emphasis.</p> <p>In conclusion, this technology will not achieve continuous emissions less than NSPS (1 g/hp-hr).</p> <p>Non-Selective Catalytic Reduction (NSCR) There are issues associated with the use of NSCR retrofits on existing small engines operating at reduced loads:</p> <ul style="list-style-type: none"> • A problem maintaining sufficient flue gas inlet temperature for correct oxygen sensor operation and the resulting effectiveness of the catalysts • On engines with carburetors, there is difficulty maintaining the AFR at a proper setting • On older engines the linkage and fuel control may not provide an accurate air/ fuel mixture • If the AFR drifts low (i.e., richer), ammonia formation will increase in proportion to the NOx reduction but not necessarily in equal amounts. <p>The 4CAQTF Cumulative Effects report quantified NOx emission reduction for rich burn engines in the size range of 300 to 500 hp. "... In new applications, laboratory data shows that NSCR can exceed 90% NOx reduction and in some cases possibly 95%. Because mitigation is being considered on a fleet of older existing engines, it may not be possible to achieve a 90% plus level of performance reliably in the field. Field tests to address this and other issues are being planned by Kansas State and are expected to start soon. Based on what we know now, lab data and existing compliance data from an inventory of over 200 retrofitted operating engines in southern CA., it was assumed that a well designed NSCR retrofit kit could reliably achieve NOx reduction in the range of 70% to 90%, Applying NSCR retrofits on the identified 11 "dirty engines" could reduce the NOx emissions to 1.8 g/hp-hr (an ~ 450 tons/yr reduction) at the low end and 5.5 g/hp-hr at the high end (an ~ 590 ton/y reduction)." (Cumulative Effects Section Four Corners Task Force Report of Mitigation Options, 2007)</p> <p>The following data (Tables 1 and 2 and the end of the comment table) were developed</p>

Comment Number and Beginning Phrase	Responses to Comments
	<p>by the Kansas State University NSCR study (Nuss-Warren, Sarah, Mohamed Toema, and Kirby S. Chapman, 2009, VARIATIONS IN LONG-TERM EMISSIONS DATA FROM NSCR-EQUIPPED NATURAL GAS-FUELED ENGINE, Kansas State University, National Gas Machinery Laboratory). The following tables present data on the ability of NSCR to reliably control NOx emissions on a continuous basis. What is important to recognize from this data is that the NSCR system was not able to control both NOx and CO to stringent emission limits. Emissions were not consistent from day to day or even over a few hours as the raw emissions can vary significantly within a short period of time. If CO emissions are not controlled, NSCR can achieve emissions less than 0.5 g/hp-hr 49 percent of the time for engine 1 (57 hp) and 80 percent of the time for engine 2 (23 hp) . However, for engine 1 emissions greater than 2 g/hp-hr occurred 22 percent of the time and for engine 2 emissions greater than 2 g/hp-hr occurred 7 percent of the time.</p> <p>The Kansas State study also found that emissions were not consistent from day to day or even over a few hours; the volumetric emission concentrations varied significantly within a short period of time. These variations caused either increasing or decreasing levels of one or both emission species. The data indicate a fairly tight operating window for simultaneous control of both NOx and CO to low levels (e.g. < 500 ppm). The NSCR/AFRC systems were able to simultaneously control both species to low levels for only a small fraction of time. Additionally, high emission levels (e.g. > 500 ppm) drifted back to low emission levels (e.g. < 500 ppm) with no intervention on a number of occasions. It was also found that for the majority of the monitored operation, one species was much more effectively controlled than the other, suggesting the AFRC was not able to consistently control to a tight operating window.</p> <p>The Kansas State results are similar to those of Arney et al., who found that they were unable to show simultaneous effective control of both NOx and CO at California BACT limits of 0.15 g/hp-hr NOx and 0.6 g/hp-hr CO over the course of a few weeks (Arney, G., McGivney, D., Beshouri, G., and Ashton, G., 2007, "Detection of Excess Emission Conditions for Rich Burn Engines Equipped with Non-Selective Catalytic Reduction Systems Operating at California Best Available Control Technology Limits," Proceedings of the 2007 Gas Machinery Conference, Oct. 1-3, Dallas, TX.).</p> <p>In conclusion, while NSCR can reduce NOx emissions to low levels, current control systems are not capable of continuously maintaining such low levels. Thus, from an operational basis, achieving lower NOx than NSPS emissions is not practical at this time.</p>

Figure 1. Ozone Design Values in the Four Corners Area for Different Emission Scenarios as Part of the SUI PEA.

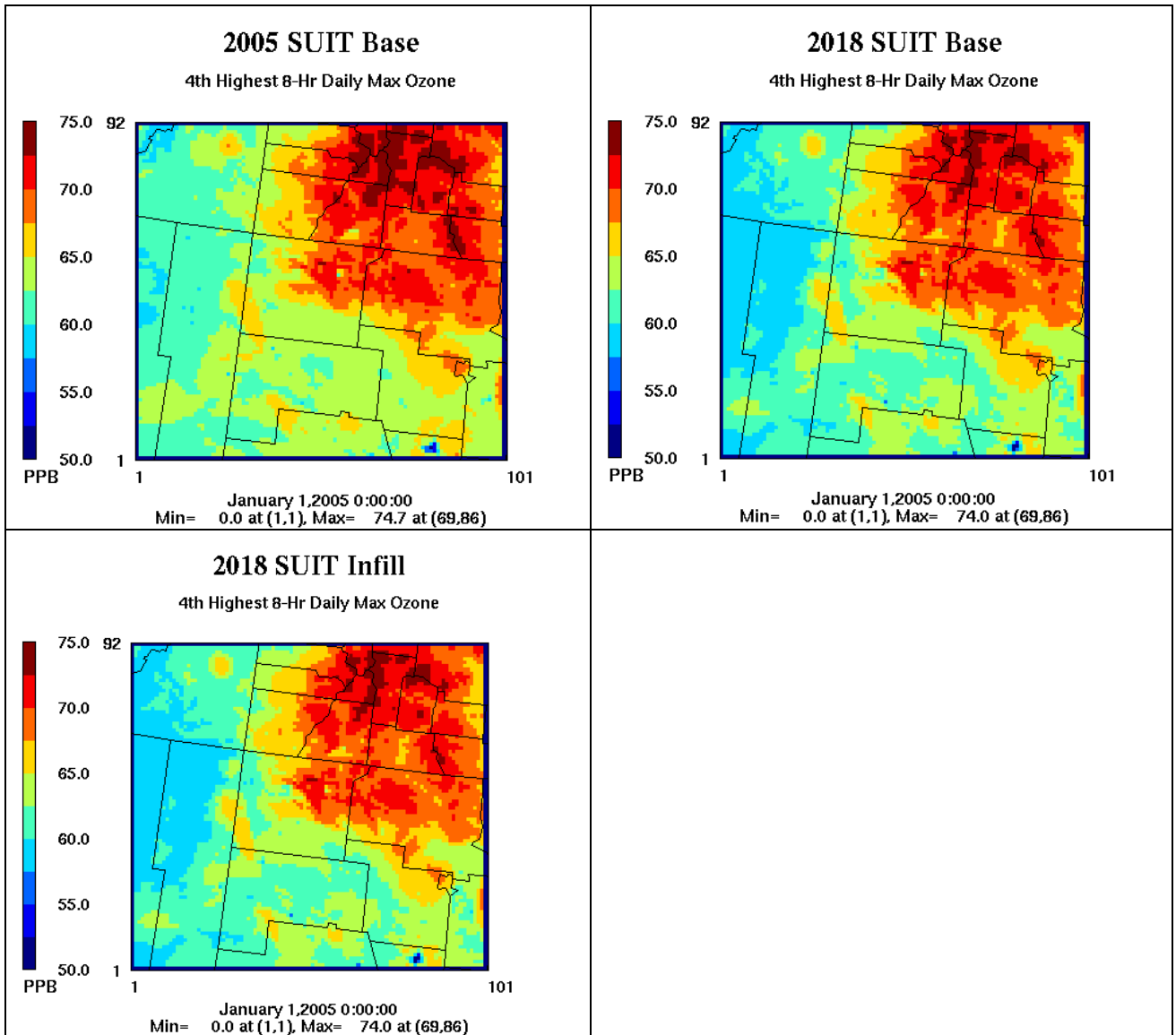


Figure 2. Difference in Ozone Design Values in the Four Corners Area for Different Emission Scenarios as Part of the SUIT PEA.

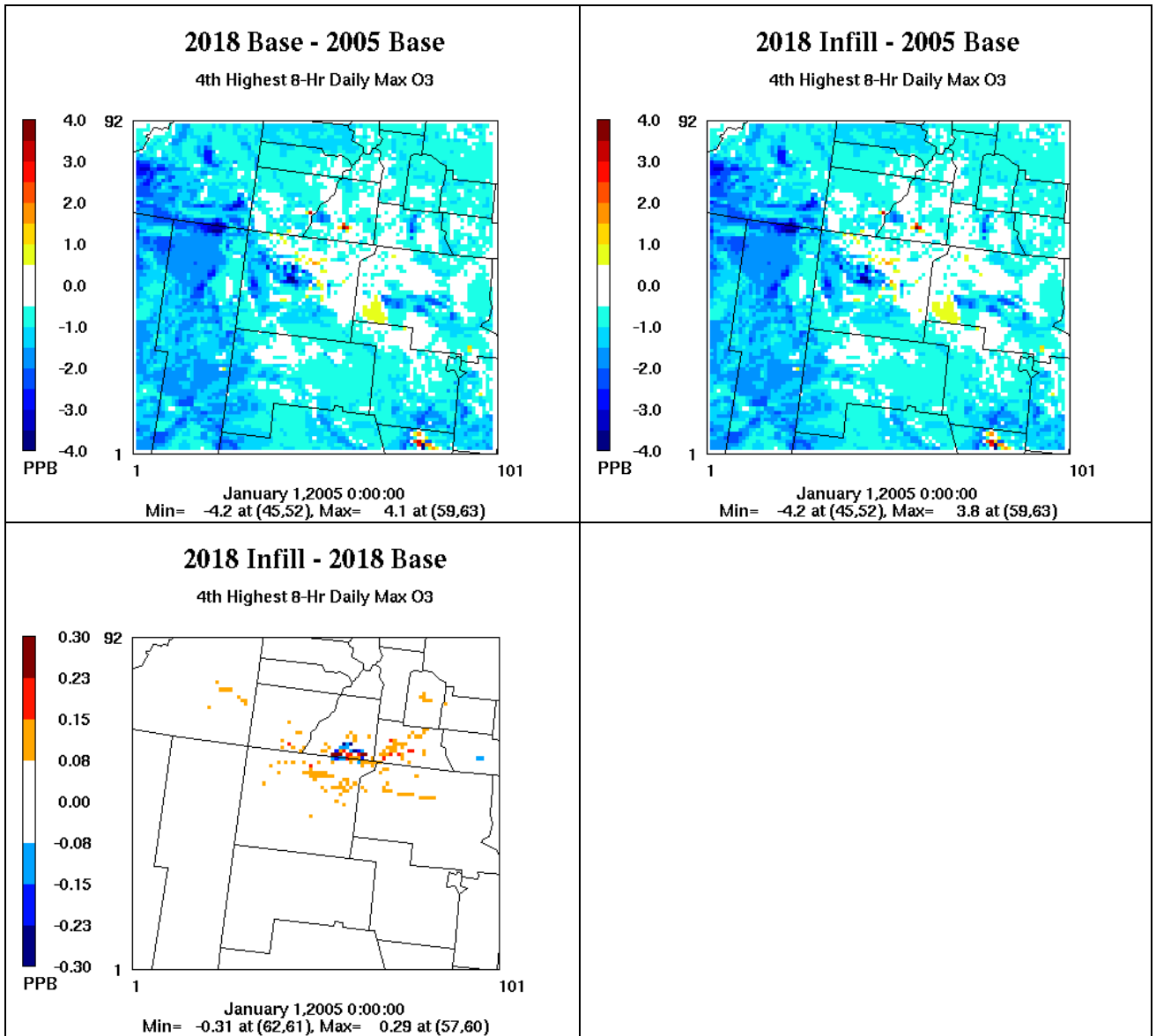


TABLE 1. PERCENT OF TIME AT EMISSIONS LEVEL FOR ENGINE 1 FROM OCT. 17, 2007 TO AUG. 15, 2008

	CO < 2 g/hp-hr	2 < CO < 4 g/hp-hr	CO > 4 g/hp-hr	All CO levels
NO _x < 0.5 g/hp-hr	18 (+4 or -3)%	16 (+2 or -3)%	15 (± 3)%	49 (+7 or -9)%
0.5 < NO _x < 1 g/hp-hr	8 (+9 or -2)%	1 (+7 or -0.2)%	7 (+7 or -1)%	16 (+23 or -3)%
1 < NO _x < 2 g/hp-hr	6 (+2 or -0.5)%	2 (+0.4 or -0.2)%	5 (+2 or -0.4)%	13 (+4 or -1)%
NO _x > 2 g/hp-hr	17 (+0.2 or -0.1)%	0.4 (+0.1 or -0.02)%	4.8 (+0.1 or -10 ⁻³)%	22.2 (+0.5 or -0.06)%
All NO _x levels	49 (+2 or -1)%	19 (+2 or -1)%	31.6 (+0.6 or -0.2)%	100.0%

TABLE 2. PERCENT OF TIME AT EMISSIONS LEVEL FOR ENGINE 2 FROM NOV. 31, 2007 TO JULY 12, 2008

	CO < 2 g/hp-hr	2 < CO < 4 g/hp-hr	CO > 4 g/hp-hr	All CO levels
NO _x < 0.5 g/hp-hr	16 (+ 1 or - 3)%	5 (± 1)%	59 (+ 1 or -10)%	80 (+1 or -13)%
0.5 < NO _x < 1 g/hp-hr	4 (+ 3 or -1)%	0.3 (+0.9 or -0.1)%	1 (+ 10 or - 0.3)%	5 (+13 or - 1)%
1 < NO _x < 2 g/hp-hr	5.8 (+ 0.8 or - 0.9)%	0.4 (± 0.1)%	1.7 (+ 0.2 or +0.3)%	8 (± 1)%
NO _x > 2 g/hp-hr	6.9 (+ 0.7 or - 0.5)%	0.13 (± 0.03)%	0.13 (± 0.03)%	7.1 (+ 0.7 or - 0.5)%
All NO _x levels	32.3 (± 0.5)%	6 (- 1)%	62 (± 1)%	100.0%



KELLIE C. HOTTER • COMMISSIONER

PHONE 970.382.6219 • FAX 970.382.6299 • TDD 970.382.6218

June 4, 2009

Mr. Richard Rymerson
BLM Minerals Chief
SUIT Draft PEA Comments
P.O. Box 2508
Durango, CO 81302

Dear Mr. Rymerson,

Thank you for the opportunity to comment on the Draft Programmatic Environmental Assessment (PEA) for the 80-Acre Infill Development on the Southern Ute Indian Reservation. The County appreciates the addition in the PEA of updated traffic counts and reference to guidance set forth by the county's planning districts. 3-66 and 3-69

We also appreciate the attention paid by the Southern Ute Indian Tribe (SUIT) to environmental issues. Thus, our comments are primarily related to land use impacts associated with wells installed on fee surface and roads and transportation.

As you prepare the final PEA, we offer the following comments:

1. Section 2.3.1. The SUIT has entered into an MOU with the county, in addition to the other entities discussed. Please include discussion regarding the existence and intent of this MOU.
2. Section 2.4.2, page 2-19. Air quality is impacted by increased use of gravel roads. Dust inhibitors will decrease the impacts but will not eradicate them. That road dust is factor in air quality is addressed in Section 3.5.2 of Appendix G - Air Quality Impact Assessment Technical Support Document. Please quantify and address the impacts dust from increased road use will have on air quality.
3. Section 3.12 and 4.84. Health and safety will be impacted by roads. Please quantify and address increased dust and accidents associated with increased use of gravel and narrow paved roads.
4. Section 3.7. Please include the following items in evaluation of traffic and transportation impacts:
 - a. Consideration of impacts at intersections

- b. Demonstration of how truck traffic is evaluated. Heavy trucks are typically equivalent to 3 or 4 passenger vehicles when evaluating their impacts at a road intersection. Traffic tables showing on a quantitative level how truck traffic and average daily trips (ADTs) are computed is needed to evaluate the impacts.
 - c. Substantive discussion should be provided in regard to the increased road degradation associated with the heavy trucks.
5. Section 3.7.3. Accident information includes injuries as well as fatalities. Please include all accident data and a substantive analysis of the data.
6. The Final Environmental Impact Study Executive Summary (page 6) recognizes increased gas production will result in degradation of road surfaces, increased accidents, and increased travel. Please quantify these impacts within the PEA and address how they will be mitigated.
7. Management of road maintenance and improvements are critical components of the county's MOUs with operators both outside of and on fee land within the SUIT exterior boundaries. Please address how the increased road maintenance and public safety improvements that will be required from an increased number of wells and production activity will be handled between the SUIT and the county.

Thank you again for the opportunity to provide comments.

Sincerely,



Kellie Hotter
Chair, La Plata County Commissioners

Responses to La Plata County Comment Letter

Date Comment Received: June 4, 2009

Comment Letter Author: Kellie Hotter, Chair, La Plata County Commissioners

Comment Number and Beginning Phrase	Responses to Comments
LPCo – 1: “Section 2.3.1. The SUIT has entered into an MOU with the county...”	<p>The following text has been added to Section 2.1.2:</p> <p>“In January 2005, the SUIT signed an MOU with La Plata County to establish a protocol for consultation between the county, the Tribe and affected land users regarding development of Tribally-owned oil and gas facilities on non-Indian fee land within the exterior boundaries of the Reservation, including consideration of the performance standards of the La Plata County Oil and Gas Regulations. The La Plata County Oil and Gas Regulations require approval by the county planning department prior to construction, installation, and operation of oil and gas facilities within the unincorporated areas of the county. This approval ensures that set performance standards are met to minimize conflicts between differing land uses and users by addressing issues such as sound emissions, visual impacts, water resources, and impacts on residences, agricultural, and other commercial enterprises. The SUIT is not subject to the La Plata County Oil and Gas Regulations, but does share a common concern for ensuring that development of oil and gas facilities is done in a manner that minimizes conflicts.”</p>
LPCo – 2: “Section 2.4.2, page 2-19. Air quality is impacted by increased use of gravel roads...”	<p>Comment noted – no changes in text.</p> <p>Air quality impacts from fugitive dust from road traffic are very localized and maximum impacts are adjacent to the roadway. The air quality analysis presents screening level modeling of potential impacts. Air quality impacts are minimized by best management practices and include 1) reduction of traffic, 2) use of water or chemical surfactants to reduce emissions and 3) enforcement of speed limits.</p>
LPCo - 3: “Section 3.12 and 4.84. Health and safety will be impacted by roads...”	<p>This issue is addressed in Section 3.12.1 of the PEA – “public health and safety associated with oil and gas well pad construction and natural gas well operational activities”. Text Added: “(including increased travel on public roads)”.</p> <p>This issue was not quantified in the 2002 EIS, and therefore will not be quantified in the PEA as there is no incremental increase in the volume of traffic on public roads associated with the proposed action. The current levels of dust generation and potential accidents would continue with approval of the Proposed Action.</p>
LPCo – 4a: “Section 3.7 – Consideration of impacts at intersections...”	<p>Impacts at intersections are generally considered as accidents or level of service (LOS). Both these items are discussed in Section 4.7 of the PEA.</p> <p>The following text was added for clarification (in italics) in Section 4.7.5: “Therefore, the traffic volumes would not create any additional impacts to the current transportation network, <i>roadway congestion or accident rates</i>”.</p>
LPCo – 4b: “Demonstration of how truck traffic is evaluated...”	<p>Comment noted – no changes in text.</p> <p>The evaluation of truck traffic was completed in the 2002 EIS and/or in the Tiffany EA (BLM 1996 reference from 2002 EIS). Those methodologies were</p>

Comment Number and Beginning Phrase	Responses to Comments
	adopted in the PEA Section 3.7.4 p. 3-69 of PEA.
LPCo – 4c: “Substantive discussion should be provided in regard to the increased road degradation...”	<p>Comment noted – no changes in text.</p> <p>Increased road degradation from heavy trucks is specifically disclosed in second paragraph of Section 4.7.3 of the PEA</p>
LPCo – 5: “Section 3.7.3. Accident information includes injuries as well as fatalities...”	<p>Comment noted – no changes in text.</p> <p>The analysis provided in Section 4.7 of the PEA demonstrates that there will be no change in accident rates as a result of implementation of the Proposed Action. Therefore additional analysis of data that will not be affected by the proposed action is not warranted.</p>
LPCo – 6: “The Final Environmental Impact Study Executive Summary (page 6)...”	<p>Comment noted – no changes in text.</p> <p>The Executive Summary referred to in the comment is from the 2002 EIS. The impacts to transportation, accidents and travel are disclosed in Section 4.7 of the PEA</p>
LPCo – 7: Management of road maintenance and improvements are critical components of the county’s MOUs with operators...”	<p>Comment noted – no changes in text.</p> <p>This comment is related to existing mitigation measures (county and operator MOUs) that are in place to address wear on county roads. The PEA concludes that there will be no impacts (less than perceivable) to traffic and transportation in the study area (Section 4.7.6) and therefore no design features or mitigation are recommended (Section 2.4 PEA).</p>



La Plata County **Energy Council**

June 4, 2009

SUIT Draft PEA Comments
P.O. Box 2508
Durango, CO 81302

Reference: Draft Programmatic Environmental Assessment
80 Acre Infill Oil and Gas Development
Southern Ute Indian Reservation April 2009

Dear Sir/Madam:

The La Plata County Energy Council is a non-profit trade organization that promotes safe and environmentally responsible natural gas development in La Plata County, Colorado on fee lands, tribal lands and federal lands. Our forty individual and company members work to build community relations, increase public understanding, and address public issues relative to the industry. On behalf of The La Plata County Energy Council (LPCEC), we provide comments on the Programmatic Environmental Assessment (PEA) proposed actions for 80-acre infill oil and gas development on the Southern Ute Indian Reservation. The LPCEC additional supports comments submitted by our individual members.

The La Plata County Energy Council supports the Proposed Action as it follows current practices of minimizing surface location size, utilization of existing disturbance, access and pipeline routes and addresses wildlife, air quality, biological, cultural, visual and water resources, as well as noise, healthy and safety and socioeconomics. However, we offer the following general comments:

- *Page 3-66, La Plata County* – In mid-2007, the La Plata County Board of County Commissioners initiated a strategic planning process for La Plata County called the “La Plata County Compass.” Community meetings were held to discuss the County’s role in Colorado local and regional government, and to provide input on issues of importance to La Plata County citizens. The following core strategies were identified: economic vitality; sustainable development; transportation; healthy natural environment; organizational excellence; and thriving families and healthy community. An additional consideration is the La Plata County Core Strategy - Economic Vitality -Objectives: Business attraction, enhancement and retention and monitor and prioritize tax funding mechanisms.

A non-profit trade organization promoting safe and responsible natural gas development in La Plata County.

PO Box 3833 Durango CO 81302 - Voice 970.382.6686 – www.EnergyCouncil.org

- Additionally, it should be noted that in April and May of 2009, La Plata County began a major update of the existing Comprehensive Community Plan. The update has begun and will continue through the Winter of 2010.
- *Page 3-86, Table 3-25. 2005 Property Tax Sources.* It should be noted that now more than ever, these additional wells are important to maintain a constant drilling program over time, and thus a reliable and sustainable supply of natural gas for consumers and reliable and sustainable tax revenue for La Plata County. Using the La Plata County Assessor's Office abstracts and Schedule S-10 Audit for La Plata County, the top 10 contributors to taxes in the entire county come from energy operators. From 2006 to 2008, production has declined approximately 5.4%. Our share of the percentage of taxes paid has fallen from 65% to 54% from 2006 to 2008. Alternative 1 would be detrimental for our community.

The members of the La Plata County Energy Council believe that operators and transporters can develop and transport resources that America needs in a manner that shows the highest regard for wildlife and the environment and we appreciate the opportunity to provide input on this comprehensive Programmatic Environmental Assessment for 80-Acre Infill Drilling on the Southern Ute Indian Reservation. We support 80 acre infill development (Alternative 2).

Sincerely,

Christi Zeller
Executive Director

Responses to La Plata Energy Council Comment Letter

Date Comment Received: June 4, 2009

Comment Letter Author: Christi Zeller, Executive Director

Comment Number and Beginning Phrase	Responses to Comments
LEPC – 1: “Page 3-66, La Plata County – In mid-2007, the La Plata County Board...”	Additional text has been added to Section 3.6.4 to update this section based on the comment letter.
LEPC-2: “Additionally, it should be noted that in April and May of 2009, La Plata County began...”	Additional text has been added to Section 3.6.4 to update this section based on the comment letter.
LEPC-3: “Page 3-86, Table 3-25. 2005 Property Tax Sources.”	Comment noted – no change made in text.