

**RESOLUTION  
OF THE  
SOUTHERN UTE INDIAN TRIBAL COUNCIL  
June 16, 2015**

**WHEREAS**, authority is vested in the Southern Ute Indian Tribal Council by the Constitution adopted by the Southern Ute Indian Tribe and approved November 4, 1936, and amended October 1, 1975, and August 27, 1991, to act for the Southern Ute Indian Tribe; and

**WHEREAS**, pursuant to Article VII, Section 1(c) of the Constitution, the Tribal Council is empowered to manage any portion of the Southern Ute Indian Reservation, including the granting of rights to use the natural resources of the Tribe; and

**WHEREAS**, pursuant to Article VII, Section 1(n) of the Constitution, the Tribal Council has the power “[t]o protect and preserve the property, wildlife and natural resources of the tribe, and to regulate the conduct of trade and the use and disposition of tribal property upon the reservation”; and

**WHEREAS**, the Tribe has a significant interest in regulation of hydraulic fracturing operations on the Reservation based on the Tribe’s interest in both oil and gas development and environmental protection; and

**WHEREAS**, the historic well stimulation practice of hydraulic fracturing, in which rock is fractured by a hydraulically pressurized liquid made of water, sand, and chemicals, has been conducted on the vast majority of wells on the Reservation and is necessary for the continued development of oil and gas resources including potential development of low permeability shale formations on the Reservation; and

**WHEREAS**, on March 26, 2015, the Secretary of the Interior, acting by and through her Assistant Secretary – Land and Minerals Management and the Bureau of Land Management (“BLM”), published in the Federal Register a final rule regulating hydraulic fracturing, entitled “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands” (“BLM’s Hydraulic Fracturing Rule” or “Rule”). 80 Fed. Reg. 16128 (Mar. 26, 2015) (to be codified at 43 C.F.R. Part 3160); and

**WHEREAS**, BLM’s Hydraulic Fracturing Rule is to become effective on June 24, 2015; and

**WHEREAS**, throughout the Secretary’s rulemaking process, the Tribe expressed concerns about and opposition to aspects of the Rule, including concerns about certain technical requirements and opposition to inevitable delays to the already slow-moving energy development process caused by requiring operators to file and obtain additional approvals before engaging in oil and gas operations; and

**WHEREAS**, the Tribal Council remains concerned that additional delays will make oil and

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gas development on tribal lands less attractive to operators, who likely will instead seek development on adjacent private and nearby state lands, leading to a decline in oil and gas development on Indian land or potential drainage of tribal mineral resources, which would, in turn, jeopardize the Tribe's ability to receive royalties and other income streams required by the Tribe to provide much needed services and benefits to tribal members; and

**WHEREAS**, Indian tribes organized under the Indian Reorganization Act of 1934 (25 U.S.C. § 461 *et seq.*) are empowered by federal regulation (25 CFR § 211.29) to supersede the regulations of the Secretary of the Interior governing lease operations; and

**WHEREAS**, the Tribe's Department of Energy has recommended approval of tribal hydraulic fracturing regulations set forth in the attached Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations; and

**WHEREAS**, the Tribal Council has determined that establishing hydraulic fracturing regulations is important to ensure that wells are properly constructed to protect water supplies, to make certain that the fluids that flow back to the surface as a result of hydraulic fracturing operations are managed in an environmentally responsible way, and to provide public disclosure of the chemicals used in hydraulic fracturing fluids; and

**WHEREAS**, the Tribal Council has further determined that hydraulic fracturing regulations can be established in a manner that avoids the pre-approval delays inherent in BLM's Hydraulic Fracturing Rule; and

**WHEREAS**, it is the Tribal Council's intent that the Tribe's hydraulic fracturing regulations reflect the particular interests of the Tribe, yet remain compatible with the State of Colorado's hydraulic fracturing regulations, with which most Reservation operators currently comply; and

**WHEREAS**, the enactment of this Resolution without additional approval by the Secretary of the Interior is authorized by the Tribe's inherent and constitutional powers, including those constitutional sections cited above, and is further authorized by 25 CFR § 211.29.

**NOW, THEREFORE BE IT RESOLVED**, that the Southern Ute Indian Tribal Council hereby approves the attached Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations, which regulations are incorporated herein by reference.

**BE IT FURTHER RESOLVED**, that, as allowed under 25 CFR § 211.29, the Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations supersede the BLM's Hydraulic Fracturing Rule.

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**BE IT FURTHER RESOLVED**, that the Tribe's Department of Energy is directed to notify Reservation oil and gas operators of this Resolution and is authorized and designated to act as the entity within the Tribe's governmental organization that is primarily responsible for monitoring and ensuring compliance with the Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations.

**BE IT FURTHER RESOLVED**, that the requirements of the Southern Ute Indian Tribe – Hydraulic Fracturing and Chemical Disclosure Regulations shall constitute "applicable regulations governing lease operations", the violation of which can result in, among other available legal remedies, lease forfeiture under Tribal Ordinance No. 86-01 adopted by the Tribal Council on November 5, 1985.

**BE IT FURTHER RESOLVED**, that the Chairman of the Southern Ute Tribal Council, or in his absence, the Vice-Chairman, or, absent both, a duly appointed Acting Chairman, is delegated the authority to execute all documents necessary to carry out the purpose of this Resolution.

This resolution was duly adopted on the 16<sup>th</sup> day of June, 2015.



Clement J. Frost, Chairman  
Southern Ute Indian Tribal Council

**C E R T I F I C A T I O N**

This is to certify that there were ( 4 ) of the regularly elected Southern Ute Indian Tribal Council members present at the above meeting, at which ( 3 ) voted for, and ( 0 ) against, it being a quorum and the above resolution was passed, the Chairman not being permitted to vote in this instance due to a Constitutional provision.



Ms. Heather Pardo, Recording Secretary  
Southern Ute Indian Tribal Council

## SOUTHERN UTE INDIAN TRIBE

### HYDRAULIC FRACTURING AND CHEMICAL DISCLOSURE REGULATIONS

(Approved June 16, 2015 by the Southern Ute Indian Tribal Council,  
Resolution No. 2015-98)

**I. Applicability.** These regulations apply to hydraulic fracturing treatments performed on or after June 23, 2015 on lands subject to the Tribe's regulatory authority.

**II. Notice of Intent to Conduct Hydraulic Fracturing Treatment.** Operators shall give at least 48 hours advance written notice of intent to the Tribe's Department of Energy of a hydraulic fracturing treatment at any well. Such notice shall be provided on a form approved by the Tribe's Department of Energy. The Tribe's Department of Energy shall provide prompt electronic notice of such intention to other interested governmental entities, including but not limited to the United States Bureau of Land Management.

**III. Protection of Usable Water and Other Minerals.** In conducting hydraulic fracturing treatments, operators must isolate all usable water and other mineral-bearing formations and protect them from contamination. For these regulations:

*Isolate* means using cement to protect, separate, or segregate usable water and mineral resources.

*Usable water* means generally those waters containing up to 5,000 parts per million of total dissolved solids. Usable water includes, but is not limited to: (i) Underground water that supplies any public water system and (ii) an aquifer which contains a sufficient quantity of groundwater to supply a public water system and currently supplies drinking water for human consumption. The following geologic zones are deemed not to contain usable water: (i) zones from which an operator is authorized to produce hydrocarbons; and (ii) aquifers exempted under 40 CFR 144.7.

#### **IV. Cement Operations.**

**A. Casing and cement program to protect hydrocarbon formations and groundwater.** The casing and cement program for each well must prevent oil, gas, and water from migrating from one formation to another behind the casing. Groundwater bearing zones penetrated during drilling must be protected from the infiltration of hydrocarbons or water from other formations penetrated by the well.

**B. Alternate aquifer protection by stage cementing.** In areas where fresh water aquifers are of such depth as to make it impractical or uneconomical to set the full amount of surface casing necessary to comply fully with the requirement to cover or isolate all fresh water aquifers as required herein, the operator may, at its option, comply with this requirement by stage

cementing the intermediate and/or production string so as to accomplish the required result. If unanticipated fresh water aquifers are encountered after setting the surface pipe they shall be protected or isolated by stage cementing the intermediate and/or production string with a solid cement plug extending from fifty (50) feet below each fresh water aquifer to fifty (50) feet above the fresh water aquifer or by other methods approved by the Manager of the Tribe's Department of Energy in each case.

**C. Surface and intermediate casing cementing.** The operator shall ensure that all surface and intermediate casing cement required under these regulations shall be of adequate quality to achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five degrees Fahrenheit (95 °F) and at eight hundred (800) psi confining pressure. All surface and intermediate casing shall be cemented with a continuous column from the bottom of the casing to the surface. Cement placed behind the surface and intermediate casing shall be allowed to set a minimum of eight (8) hours, or until three hundred (300) psi calculated compressive strength is developed, whichever occurs first, prior to commencing drilling operations. If the surface casing cement level falls below the surface, to the extent safety or aquifer protection is compromised, remedial cementing operations shall be performed.

**D. Production casing cementing.** The operator shall ensure that all cement required under these regulations placed behind production casing shall be of adequate quality to achieve a minimum compressive strength of at least three hundred (300) psi after twenty-four (24) hours and of at least eight hundred (800) psi after seventy-two (72) hours both measured at eight hundred (800) psi at either ninety-five degrees Fahrenheit (95 °F) or at the minimum expected downhole temperature. After thorough circulation of a wellbore, cement shall be pumped behind the production casing at least fifty (50) feet above the bottom of the intermediate casing. This requirement does not apply to portions of production casing located with the target formation. Cement placed behind the production casing shall be allowed to set seventy-two (72) hours, or until eight hundred (800) psi calculated compressive strength is developed, whichever occurs first, prior to the undertaking of any completion operation.

**E. Production and intermediate casing pressure testing.** The installed production casing or, in the case of a production liner, the intermediate casing, shall be adequately pressure tested for the conditions anticipated to be encountered during completion and production operations.

**F. Protection of aquifers and production stratum and suspension of drilling operations before running production casing.** If drilling operations are suspended before production string is run, the Manager of the Tribe's Department of Energy shall be notified immediately and the operator shall take adequate and proper precautions to assure that no alien water enters oil or gas strata, nor potential fresh water aquifers during such suspension period or periods. If alien water is found to be entering the production stratum or to be causing significant adverse environmental impact to fresh water aquifers during completion testing or after the well has been put on production, the condition shall be promptly remedied.

**G. Remedial cementing during recompletion.** The Manager of the Tribe's Department of Energy may request a condition of approval for Application for Permit-to-Drill, to require

remedial cementing during recompletion operations consistent with the provisions for protecting aquifers and hydrocarbon bearing zones in these regulations.

**H. Wellbore collision prevention.** An operator will perform an anti-collision evaluation of all active (producing, shut in, or temporarily abandoned) offset wellbores that have the potential of being within 150 feet of a proposed well prior to drilling operations for the proposed well. Notice shall be given to all offset operators prior to drilling.

**I. Fracture stimulation setback.**

(1) No portion of a proposed wellbore's treated interval shall be located within 150 feet of an existing (producing, shut-in, or temporarily abandoned) or permitted oil and gas wellbore's treated interval belonging to another operator without the signed written consent of the operator of the encroached upon wellbore. The signed written consent shall be attached to the Application for Permit-to-Drill for the proposed wellbore.

(2) The distance between wellbores measurement shall be based upon the directional survey for drilled wellbores and the deviated drilling plan for permitted wellbores, or as otherwise reflected in the well records of the Tribe's Department of Energy, the United States Bureau of Land Management, or the Colorado Oil and Gas Conservation Commission. The distance shall be measured from the perforation or mechanical isolation device.

**V. Bradenhead Monitoring During Well Stimulation Operations.**

The placement of all stimulation fluids shall be confined to the objective formations during treatment to the extent practicable.

During stimulation operations, bradenhead annulus pressure shall be continuously monitored and recorded on all wells being stimulated.

If at any time during stimulation operations the bradenhead annulus pressure increases more than 200 psig, the operator shall verbally notify the Manager of the Tribe's Department of Energy as soon as practicable, but no longer than 24 hours following the incident. A form Field Operations Notice, Notice of High Bradenhead Pressure During Stimulation shall be submitted by the end of the first business day following the event. Within fifteen (15) days after the occurrence, the operator shall submit a Sundry Notice, giving all details, including corrective actions taken.

If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded.

The operator shall keep all well stimulation records and pressure charts on file and available for inspection by the Tribe for a period of at least five (5) years. An operator may seek a variance from these bradenhead monitoring, recording, and reporting requirements under appropriate circumstances.

**VI. Recovered Fluids Management.**

**A. Use of tanks required.** Except as provided below, all fluids recovered between commencement of hydraulic fracturing operations and approval of a produced water disposal plan must be stored in rigid enclosed, covered, or netted and screened above-ground tanks. The tanks may be vented unless applicable regulations require vapor recovery or closed-loop systems. The tanks must not exceed a 500 barrel (bbl) capacity unless approved in advance by the Manager of the Tribe's Department of Energy.

**B. Lined pits allowed only upon approval in specific circumstances.** The Manager of the Tribe's Department of Energy may approve an application to use lined pits only if the applicant demonstrates that use of a tank as described above is infeasible for environmental, public health or safety reasons and only if, at a minimum, all of the following conditions apply:

- (1) The distance between the lined pit and intermittent or ephemeral water sources is at least 300 feet.
- (2) The distance between the lined pit and perennial water sources is at least 500 feet.
- (3) No usable groundwater is present within 50 feet of the lined pit.
- (4) The distance between the lined pit and the location expected to be publicly occupied is greater than 300 feet.
- (5) The lined pit is not constructed in fill or an unstable area.
- (6) The construction of the lined pit would not adversely impact the hydrologic functions of a 100-year floodplain.
- (7) The lined pit's use and construction complies with all other applicable laws.
- (8) The lined pit is constructed with a durable, leak-proof synthetic material and equipped with a leak detection system.
- (9) The lined pit is regularly inspected and maintained to ensure there is no fluid leakage into the environment. The operator must document all inspections.

## **VII. Post-Completion Required Disclosures.**

**A. Vendor and service provider disclosures.** A service provider who performs any part of a hydraulic fracturing treatment and a vendor who provides hydraulic fracturing additives directly to the operator for a hydraulic fracturing treatment shall, except for information claimed to be a trade secret, furnish the operator with the information needed for the operator to comply with its disclosure requirements under these regulations. Such information shall be provided as

soon as possible within 30 days following the conclusion of the hydraulic fracturing treatment and in no case later than 90 days after the commencement of such hydraulic fracturing treatment.

### **B. Operator disclosures.**

(1) Within 60 days following the conclusion of a hydraulic fracturing treatment, and in no case later than 120 days after the commencement of such hydraulic fracturing treatment, the operator of the well must complete the chemical disclosure registry form and post the form on the *FracFocus* chemical disclosure registry, including:

- i. the operator name;
- ii. the date of the hydraulic fracturing treatment;
- iii. the county in which the well is located;
- iv. the API number for the well;
- v. the well name and number;
- vi. the longitude and latitude of the wellhead;
- vii. the true vertical depth of the well;
- viii. the total volume of water used in the hydraulic fracturing treatment of the well or the type and total volume of the base fluid used in the hydraulic fracturing treatment, if something other than water;
- ix. each hydraulic fracturing additive used in the hydraulic fracturing fluid and the trade name, vendor, and a brief descriptor of the intended use or function of each hydraulic fracturing additive in the hydraulic fracturing fluid;
- x. each chemical intentionally added to the base fluid;
- xi. the maximum concentration, in percent by mass, of each chemical intentionally added to the base fluid; and
- xii. the chemical abstract service number for each chemical intentionally added to the base fluid, if applicable.

## **VIII. Drilling Completion Report.**

**A.** A Final Drilling Completion Report shall be submitted within 60 days of rig release after drilling, sidetracking, or deepening a well to total depth. In the case of continuous, sequential drilling of multiple wells on a pad, the Final Drilling Completion Report shall be submitted for all the wells within 60 days of rig release for the last well drilled on the pad.

**B. Information Requirements.** The Final Drilling Completion Report shall include the following information:

(1) A cement job summary for every casing string set, except for those with verification by a cement bond log as required by permit conditions or otherwise, shall be attached to the form.

(2) All logs run, open-hole and cased-hole, electric, mechanical, mud, or other, shall be reported and copies submitted as specified here:



i. A digital image file (PDF, TIFF, PDS, or other format approved by the Manager of the Tribe's Department of Energy) of every log run shall be attached to the form. A paper copy may be submitted in lieu of the digital image file and shall be so noted on the report.

ii. A digital data file (LAS, DLIS, or other format approved by the Manager of the Tribe's Department of Energy) of every log run, except for mud logs and cement bond logs, shall be attached to the report.

(3) All drill stem tests shall be reported and test results shall be attached to the report.

(4) All cores shall be reported and the core analyses attached to the report. If core analyses are not yet available, the Operator shall note this on the report and provide a copy of the analyses as soon as it is available, via a Sundry Notice.

(5) Any directional survey shall be attached to the report.

(6) The latitude and longitude coordinates of the "as drilled" well location shall be reported on the report. The latitude and longitude coordinates shall be in decimal degrees to an accuracy and precision of five decimals of a degree using the North American Datum (NAD) of 1983 (e.g.; latitude 37.12345, longitude -104.45632). If GPS technology is utilized to determine the latitude and longitude, all GPS data shall meet the necessary requirements and the Position Dilution of Precision (PDOP) reading, the GPS instrument operator's name and the date of the GPS measurement shall also be reported on the report.

**IX. Completed Interval Report.** A Completed Interval Report shall be submitted within 30 days after a formation is completed (successful or not); after a formation is temporarily abandoned or permanently abandoned; after a formation is recompleted, re-perforated or re-stimulated; and after a formation is commingled. The details of fracturing, acidizing, or other similar treatment, including the volumes of all fluids involved, shall be reported to the Tribe's Department of Energy.

**X. Enforcement.** These regulations constitute "applicable regulations governing lease operations", the violation of which can result in, among other available legal remedies, lease forfeiture under Tribal Ordinance No. 86-01 adopted by the Tribal Council on November 5, 1985. The Tribe shall enforce compliance with these regulations including, if necessary, through the procedures under Tribal Ordinance No. 86-01, a civil action in a court of competent jurisdiction, or both.