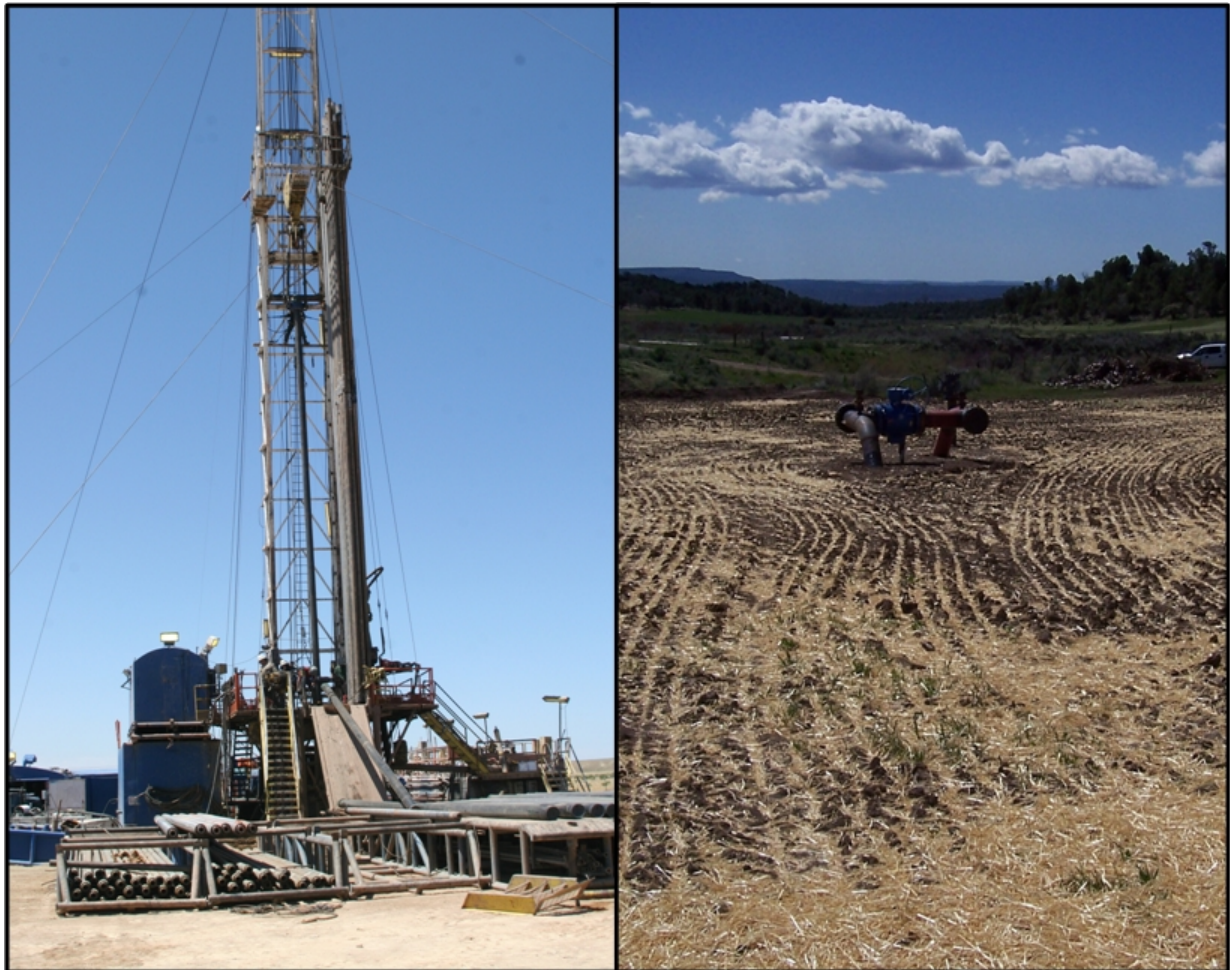


**Exploration & Production Operator's
Compliance Manual**
for
Energy Development Projects
on the
Southern Ute Indian Reservation



Revision Date July 15, 2015

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1 ACRONYMS

APD – Application for Permit to Drill
API – American Petroleum Institute
AQP – Southern Ute Indian Tribe Environmental Programs Division Air Quality Program
BIA – US Department of the Interior, Bureau of Indian Affairs
BLM – US Department of the Interior, Bureau of Land Management
CAA - Clean Air Act
CDP – Central Delivery Point including pipelines, compressor stations, water transfer stations, communications towers, and disposal wells
CFR – Code of Federal Regulations
CERCLA – Comprehensive Emergency Response, Compensation, and Liability Act
CO – Carbon monoxide
COGCC – Colorado Oil & Gas Conservation Commission
DOE – SUIT Department of Energy
DNA – Determination of NEPA Adequacy
DNR – SUIT Department of Natural Resources
E&P – Exploration and Production
EA – Environmental Assessment
EIS – Environmental Impact Statement
EP – Tribal Environmental Programs
EPA – US Environmental Protection Agency
MNSR – Minor New Source Review
MOU – Memorandum of Understanding
NEPA – National Environmental Policy Act
NESHAP – National Emission Standard for Hazardous Air Pollutants
NO_x – Nitrogen oxides
NPDES– National Pollutant Discharge Elimination System
NSPS – New Source Performance Standards
O&G – Oil and Gas
PEA – Programmatic Environmental Assessment
PM - Particulate matter, total
PM₁₀, Particulate matter less than 10 micrometers in size
PM_{2.5} – Particulate matter less than 2.5 micrometers in size
PPN– Proposed Project Notification
PTE – Potential to Emit
PTS– Permission to Survey
ROW – Right-of-Way
SO₂ – Sulfur dioxide
SUIT – Southern Ute Indian Tribe
SPCC – Spill Prevention, Control and Countermeasure
SWPPP– Stormwater Pollution Prevention Plan
TERO– Tribal Employment Rights Organization
TPY – Tons per year
Tribe/Tribal – Southern Ute Indian Tribe
VOC – Volatile organic compound

2 DEFINITIONS

CERCLA Reportable Quantity Spill – Spill at or above quantity for specific chemical, product or waste (hazardous substance) listed under 40 CFR Part 302.

Energy Development Projects – Oil and gas (O&G) projects including pipelines, O&G wells, compressor stations, water transfer stations, central delivery points (CDP), metering stations, and well pad access roads.

Federal Action – Under NEPA, it includes federal projects or projects that are federally funded or approved, including projects on Tribal land.

Fee Land – Privately owned land on the Reservation.

Off-Lease – Energy development project that extends from one lease to another lease. Examples of off-lease projects include, but are not limited to: 1) well drilling on tribal surface and fee minerals, 2) well drilling on tribal surface and tribal minerals, but directional drilling to fee minerals, and 3) a CDP project on tribal surface that benefits any off-lease operations.

Southern Ute Indian Reservation (Reservation) – The Reservation includes all of the land located within the exterior boundaries of the Southern Ute Indian Reservation.

Split Estates – Land surface ownership and mineral rights are held by separate owners.

Tribal Land – Property held in trust by the United States for the Tribe and tribal purchased land (land owned by the Tribe in its own name in fee status), but not including allotted lands¹.

3 LIMITATIONS

This Compliance Manual is not a regulation. This document provides guidance to Exploration and Production (E&P) Operators on the processes for obtaining 1) authorization to drill an oil and gas (O&G) well, and 2) right-of-way (ROW) easements and surface leases on the Reservation². This document also provides stormwater, air permit, and spill response compliance guidance for E&P Operators on the Reservation. The document does not, however, substitute for laws and regulations, nor is it a regulation itself. In the future, regulatory agencies may change their applicable requirements and the Southern Ute Indian Tribe (SUIT) may modify procedures or change the guidance provided in this manual. Nothing in this guidance document shall be construed to be a contract or guarantee by the Southern Ute Indian Tribe, also referred to as the Tribe or Tribal.

Additionally, this document assists operators in determining whether there is federal, state, or tribal jurisdiction over spills that occur within the external boundaries of the Reservation. Operators must know and comply with any applicable rules and regulations of any federal, state, or tribal agency having regulatory authority regarding spill notification, response, and remediation, such as the US Environmental Protection Agency, Bureau of Land Management, Bureau of Indian Affairs, Colorado Oil and Gas Conservation Commission, and Colorado Department of Public Health and Environment, any one of whom, depending on the circumstances, may have regulatory authority and the ability to issue citations for non-compliance and conduct enforcement actions. Compliance with this manual does not constitute a defense to any enforcement action for failure to comply with any applicable requirement. To the extent there may be a dispute as to which agency has regulatory authority over a spill in a certain circumstance, this manual is for assistance purposes only and does not reflect and should not be construed as the Tribe's official legal position.

¹ For projects on allotted land, contact the BIA directly.

² Additionally, Reservation Crossing Permits, which are required for contractors to access the Reservation, are not discussed in this document. Please contact the Tribal DNR Lands Division for Crossing Permits.

4 INTRODUCTION

The purpose of this manual is twofold:

- To provide E&P Operators interested in conducting business within the exterior boundaries of the Reservation guidance on complying with various regulations; and
- To provide E&P Operators with an understanding of the involvement of regulatory agencies in permitting energy development projects.

Due to the complex nature of ownership of the land surface and minerals, and federal agencies' regulations and Tribal requirements within the Reservation, an E&P Operator must take all the necessary steps to obtain approval for energy development projects on the Reservation.

It is our hope that this manual will assist E&P Operators in planning and scheduling projects, as well as understanding the nature of doing business on the Reservation.

Detailed flowcharts are provided in Section 13 to assist operators in determining which agencies have jurisdiction and the federal and Tribal rules and regulations with which operators must comply, depending on the ownership of the surface and mineral rights. Notwithstanding the guidance provided in this manual, operators are responsible for determining which rules and regulations apply to their operations and for complying with all applicable requirements.

5 AUTHORIZATION PROCESS FOR O&G WELL DRILLING

5.1 Tribal and Federal Agency Jurisdiction

The drilling of an O&G well requires the review and approval of various federal agencies and Tribal departments. The Tribal and federal jurisdiction depends on the ownership of minerals rights and land surface for the subject property or lease. Flowchart 1 shows the Tribal and regulatory agencies that have jurisdiction under the four types of estate ownership, including split estates.

The Tribal authorization process for drilling an O&G well on the Reservation applies only where the Tribe is the surface land owner. This document does not provide guidance for drilling an O&G well where the land surface is non-Indian fee-owned³ (not owned by the Tribe) or allotted land.⁴

Flowchart 1⁵ also provides applicable Tribal and federal regulatory requirements required to obtain authorization to drill an O&G well on the Reservation depending on the type of estate ownership. These requirements are discussed in Section 5.2.

5.2 Notification & Authorization Process for O&G Well Drilling

The process required to obtain authorization to drill an O&G well on the Reservation is detailed and involves various Tribal departments as well as federal and state regulatory agencies. As such, Flowchart 2 is provided to assist the E&P Operator in understanding the authorization process, and the coordination amongst parties involved.

³ For property that is fee-owed surface with Tribal-owned minerals, please contact the BLM.

⁴ For allotted land, contact BIA.

⁵ Flowcharts are provided within this document.

In some cases, facilities associated with an O&G well serve only the purpose contemplated by the underlying lease. These situations are considered “on-lease” and require limited federal involvement. In other cases, facilities associated with an O&G well serve a purpose not contemplated by the underlying lease. An example of an off-lease situation would be an O&G well located on Tribal Trust land that is directionally drilled into a neighboring fee minerals lease, and produces only from that fee minerals lease. These situations are considered off-lease and require additional steps associated with federal approval. Where the differences in process between on-lease and off-lease situations exist, the differences are noted below.

In general, compliance steps that are required, as indicated below, for O&G well drilling on the Reservation include the following:

1. Permission to Survey (PTS)

A Permission to Survey (PTS) is required for O&G well drilling on the Reservation where the Tribe is the surface land owner. An operator must submit a detailed written application to the SUI Department of Energy (DOE) for consideration. The PTS application can be downloaded from the SUI DOE website (www.suitdoe.com). If acceptable, SUI DOE will sign the application to indicate Tribal consent to the surveying activities. For on-lease situations, SUI DOE will return the consented application to the operator. For off-lease situations, SUI DOE will submit the signed application to the U.S. Department of Interior, Bureau of Indian Affairs (BIA). After BIA approves the PTS application, it will return a signed copy to the operator.

An E&P Operator cannot perform a survey until the operator receives the permission to survey approval from SUI DOE for on-lease situations or from the BIA and SUI DOE for off-lease situations. An approved PTS application is valid for two years from the date of BIA approval, or for on-lease situations, from the date the Tribe signs the application. As stated in the PTS application, an operator must contact the Tribe's Lands Division ten (10) days before conducting surveying activities.

a. Proposed Project Notification (PPN)

For on-lease situations, SUI DOE submits the PTS package to SUI DNR, with a copy to BIA and the E&P Operator, to begin the PPN review process. For off-lease situations, the BIA submits the PTS package to SUI DNR, with a copy to SUI DOE and the E&P Operator, to begin the PPN review process. The PPN process includes a 10-day Tribal review period and requires that an On-site be conducted.

b. Survey Requirements

Surveys must be conducted to include, at a minimum, the following information:

- i. Well Location: Scale >1:24,000; two 200-foot directional reference stakes; the exterior pad dimensions (flat pad); pits, cuts, fills, edge of disturbance; referenced catch points; and off location facilities including temporary use areas (TUAs).
- ii. Roads & Pipeline: Center-line flagging with reference points; stakes must be visible from one to the next; slope staking may be required in un-even terrain.

Additional survey requirements are included in the *SUIT Standard Operating Procedures for Field On-Sites and Survey Plats*, which can be downloaded from the SUIT DOE website (www.suitdoe.com).

2. On-site

Once the E&P Operator has surveyed the project area, the operator must provide the survey plats to SUIT DOE. SUIT DOE will coordinate and schedule the On-site for any project located on Tribal Trust or Tribally-owned fee lands. The On-site is attended by personnel representing various federal and Tribal entities, depending on jurisdiction (see Flowchart 1). The E&P Operator must contract an archaeologist and biologist that meet the *Southern Ute Indian Tribe Non-Disturbing Cultural Inventory and Monitoring Permit Policy* and Tribal Employment Rights Organization (TERO) requirements, who will attend the On-site and conduct cultural resource and threatened and endangered species surveys, respectively.

Survey findings and recommendations will then be provided in a cultural resources report and biological assessment (BA). The cultural resources report will be forwarded to the BIA archaeologist to obtain clearances to proceed with the project. The BA will be reviewed by Tribal DNR Wildlife Division, in consultation with the U.S. Fish and Wildlife Service if necessary, and site-specific stipulations will be developed to address any threatened or endangered species issues associated with the project. Finally, the SUIT DNR Range Division will generate a Range Report which includes site-specific stipulations.

3. Application for Permit to Drill (APD)

A federal APD is required by the U.S. Department of Interior, Bureau of Land Management (BLM) for all O&G wells that are completed in and produce Tribal Trust or allotted minerals. An API number from the Colorado Oil and Gas Conservation Commission (COGCC) should also be obtained for all O&G well drilling activities on the Reservation (see Flowchart 1).

4. National Environmental Policy Act (NEPA)

NEPA is required for all federal actions including, but not limited to, drilling O&G wells that involve Tribal land or minerals. The O&G Development on the Southern Ute Indian Reservation Environmental Impact Statement (SUIT EIS) was completed in July 2002. The SUIT EIS approved the development of conventional O&G formations and Fruitland CBM at a 160-acre spacing on the Reservation. A Programmatic Environmental Assessment (PEA) was completed in August 2009. The PEA provides approval for 80-acre infill wells on Tribal land and minerals within the Reservation. For any well that involves Tribal land or minerals, site-specific NEPA, including either a DNA prepared by the BLM or an EA prepared by a third party contractor, is required. The BLM, in consultation with the Tribe, determines the type of NEPA document required for individual well drilling projects that involve Tribal or allotted minerals.

5. Off-Lease Operations

A Surface lease and Tribal Resolution is required for all off-lease operations involving Tribal Trust Land, including split estates and situations where the Tribal minerals and land surface are separate leases (i.e. when directional drilling is being performed). This process is described in detail in Section 6 of this document and in Flowchart 3.

6 AUTHORIZATION PROCESS FOR RIGHTS-OF-WAY AND SURFACE LEASE PROJECTS

6.1 Tribal and Federal Agency Jurisdiction

Proposed rights-of-way (ROW) and surface lease projects require the review and approval of various federal agencies and Tribal departments. ROW projects include, but are not limited to, pipelines; access roads; communication lines; and electrical lines. Surface lease projects include, but are not limited to CDPs, compressor facilities; disposal wells; water transfer facilities; communication towers; and off-lease well pads.

The Tribal authorization process for ROW and surface lease projects on the Reservation applies only when the SUI is the surface land owner⁶. This manual does not provide guidance for ROW or surface lease projects, where the surface is fee-owned (not owned by the Tribe).

6.2 Notification & Authorization Process for ROW and Surface Lease Projects

The process required to obtain authorization to proceed with a ROW or surface lease project on the Reservation is detailed and involves various Tribal departments as well as federal and state regulatory agencies. As such, Flowchart 4 is provided to assist the E&P Operator in understanding the authorization process, and the coordination amongst the parties involved.

In some cases, oil and gas facilities are constructed within the boundaries of a specific lease and serve only the purposes contemplated in that lease. These projects are considered “on-lease” and require limited federal involvement. An example of an on-lease ROW would be a pipeline that gathers natural gas from wells located within one lease only, and is installed and operated by the operator of the associated lease.

In other cases, oil and gas facilities serve multiple leases and/or are constructed outside of the boundaries of the lease served. These projects are considered “off-lease” and require BIA approval of a Grant of Easement for ROW or surface lease. An example of an off-lease ROW would be a pipeline that traverses and gathers gas from wells located on multiple leases.

The authorization process for an on-lease ROW is different than the process for an off-lease ROW. Where the process associated with an on-lease ROW differs from an off-lease ROW, the difference in process is noted below.

In general, compliance steps that are required, as indicated below, for ROW and surface lease projects on the Reservation include the following:

1. Permission to Survey (PTS)

A PTS is required for ROW and surface lease projects on the Reservation where the Tribe is the surface land owner. An operator must submit a detailed written application to the SUI DOE for consideration. If acceptable, SUI DOE will sign the application to indicate Tribal consent to the surveying activities. For on-lease situations, SUI DOE will return the consented application to the operator. For off-lease situations, SUI DOE will submit the signed application to the BIA.

⁶ However, notification of measurement of natural gas is required if any contribution of gas is tribally owned, even if the land is fee-owned. Please see Section 6.2.5 for details.

After BIA approves the application, it will return a signed copy to the operator. An E&P Operator cannot perform a survey until the operator receives the permission to survey approval from SUIT DOE, for on-lease situations, or from the BIA and SUIT DOE for off-lease situations. An approved PTS application is valid for two years from the date of BIA approval, or for on-lease situations, from the date the Tribe signs the application. As stated in the PTS application, an operator must contact Lands Division 10 days prior to conducting surveying activities.

a. Proposed Project Notification (PPN)

For on-lease situations, SUIT DOE submits the PTS package to SUIT DNR, with a copy to BIA and the E&P Operator, to begin the PPN review process. For off-lease situations, the BIA submits the PTS package to SUIT DNR, with a copy to SUIT DOE and the E&P Operator, to begin the PPN review process. The PPN process includes a 10-day Tribal review period and requires that an On-site be conducted.

b. Survey Requirements

Surveys must be conducted to include, at a minimum, the following information:

- i. Well Location: Scale >1:24,000; two 200-foot directional reference stakes; the exterior pad dimensions (flat pad); pits, cuts, fills, edge of disturbance; referenced catch points; and off location facilities including temporary use areas (TUAs).
- ii. Roads & Pipelines: Center-line flagging with reference points; stakes must be visible from one to the next; slope staking may be required in un-even terrain.

Additional survey requirements are included in the *SUIT Standard Operating Procedures for Field On-Sites and Survey Plats*, which can be downloaded from the SUIT DOE website (www.suitdoe.com).

2. On-site

Once the E&P Operator has surveyed the project area, the operators must provide the survey plats to SUIT DOE. SUIT DOE will coordinate and schedule the On-site for any project located on Tribal Trust or Tribally-owned fee lands. The On-site is attended by personnel representing various federal and Tribal entities, including the BIA and SUIT DNR. The E&P Operator must contract an archaeologist and biologist that meet the *Southern Ute Indian Tribe Non-Disturbing Cultural Inventory and Monitoring Permit Policy* and TERO requirements, who will attend the On-site and conduct cultural resources and threatened and endangered species surveys, respectively.

Survey findings and recommendations will then be provided in a cultural resources report and BA. The cultural resources report will be forwarded to the BIA archaeologist to obtain clearances to proceed with the project. The BA will be reviewed by Tribal DNR Wildlife Division in consultation with the U.S. Fish and Wildlife Service if necessary, and site-specific stipulations will be developed to address any threatened or endangered species issues associated with the project. Finally, the SUIT DNR Range Division will generate a Range Report which includes site-specific stipulations.

3. Tribal Resolution for Surface Lease and ROW Easement

A Tribal Resolution is required for all Surface Leases and off-lease ROW Easements involving Tribal Trust land. A Surface Lease or off-lease ROW also requires BIA approval. The resolution process is provided in Flowchart 5.

For on-lease ROW situations, an "On-lease Facilities Form" approved by the SUI DOE is required, but a Grant of Easement for ROW approved by the BIA is not required.

4. National Environmental Policy Act (NEPA)

The NEPA process is required for all federal actions including surface lease projects and off-lease ROW projects that involve Tribal Land or minerals. The SUI EIS was completed in July 2002. The SUI EIS approved the current O&G development program on the Reservation. For development of surface lease and off-lease ROW projects within the Reservation, E&P Operators will need to complete a site specific environmental assessment (EA), BA, and cultural resource survey. For on-lease ROW projects, E&P Operators will need to complete a BA and cultural resource survey.

5. Notification of Measurement of Gas (Royalties)

Per [43 CFR 3160](#) *Onshore Oil and Gas Operations* and BLM Onshore Order Number 5, E&P Operators must notify SUI DOE (Accounting Department) if any contribution of the natural gas being compressed at the proposed facility is tribally owned. This requirement applies even if the land surface is fee-owned. E&P Operators must measure and report natural gas including lease-use (fuel) gas.

7 STORMWATER

O&G construction activities and operations have the potential to contribute pollutants to stormwater. Stormwater runoff from areas disturbed by O&G activities and operations can cause erosion and be contaminated with sediment. Stormwater pollution can result when stormwater runoff comes into contact with industrial and construction materials, such as production fluids and other chemicals that have been spilled, improperly disposed of, or stored outdoors. Implementation of best management practices (BMPs) can reduce erosion, sedimentation and stormwater pollution from O&G construction activities and operations.

Under the 2005 Energy Policy Act, O&G construction activities on Tribal land are currently exempt from obtaining a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges associated with construction activities except in very limited instances. Facilities that have a discharge of a CERCLA (Comprehensive Emergency Response, Compensation, and Liability Act) reportable quantity release or that contribute pollutants (other than non-contaminated sediment) that result in a violation of a water quality standard are required to obtain and maintain NPDES permit coverage for stormwater for the entire operating life of the facility from the Environmental Protection Agency (EPA).

However, the SUIT is requesting that all E&P Operators conducting business on lands subject to the Tribe's jurisdiction adhere to the *Southern Ute Indian Tribe Stormwater Recommendations* ([SUIT Stormwater Recommendations](#)). The *SUIT Stormwater Recommendations* request that the operator submit a Notice of Intent (NOI) to the Southern Ute Water Quality Program and prepare a Stormwater Pollution Prevention Plan (SWPPP) prior to any project activity.

8 AIR QUALITY PERMIT

Oil & Gas operations have the potential to emit air pollutants from a variety of activities and equipment. E&P operations are performed at well sites, compressor stations, central delivery points, treating sites, and processing plants. Each operation at these locations is subject to an assortment of Clean Air Act (CAA) regulations and permitting requirements.

The Title V Operating Permit Program, developed under Title V of the CAA, was delegated to the Southern Ute Indian Tribe by the EPA on March 2, 2012. The Part 70 Operating Permit program affects major sources of air pollution within the exterior boundaries of the Reservation. A "major source", for Part 70 permitting, is defined as a source having the potential to emit (PTE) either 100 tons per year (tpy) of any criteria air pollutant, 10 tpy of any single hazardous air pollutant (HAP), or 25 tpy of any combination of hazardous air pollutants. A major source located within the exterior boundaries of the Reservation is required to submit an application to obtain a Part 70 Operating Permit from the SUIT Environmental Programs Division, Air Quality Program (AQP) within one year of becoming a Part 70 source.

On September 6, 2013, the EPA also granted the Tribe automatic delegation to implement and enforce specific New Source Performance Standards (NSPS), also known as Clean Air Act Section 111, and National Emission Standards for Hazardous Air Pollutants (NESHAP), also known as Clean Air Act Section 112. These NSPS and NESHAP subparts generally apply to oil and gas operations within the exterior boundaries of the Reservation and were adopted, unchanged, into the Reservation Air Code (RAC) as Parts 2 and 3.

The SUIT AQP is responsible for the permitting, compliance, and civil enforcement of the Part 70 Operating Permit program and delegated NSPS and NESHAP subparts. However, the SUIT AQP is currently only responsible for ensuring compliance with NSPS and NESHAP subparts for sources that have been issued a Part 70 Operating Permit by the Tribe. Sources located within the exterior boundaries of the Reservation and subject to a NSPS or NESHAP subpart that *do not* have a Part 70 operating permit issued by the Tribe will continue to be subject to compliance monitoring under EPA authority. For more information on the Part 70 Operating Permit Program and the delegation of Clean Air Act Sections 111 and 112 to the SUIT, visit: <http://www.southernute-nsn.gov/environmental-programs/air-quality/title-v-operating-permit-programs/>.

Construction of new sources and modifications at existing sources may also trigger preconstruction permitting requirements under the EPA's New Source Review programs; named the Tribal Minor New Source Review (MNSR), and Prevention of Significant Deterioration (PSD) permitting programs. The Tribal MNSR program captures facilities with a PTE of less than 250 tpy of any criteria air pollutant while the PSD program captures facilities with a PTE of 250 tpy or greater of any criteria air pollutant. Regulatory oversight of preconstruction authorizations under these programs remains with the EPA. However, new major sources, major modifications at existing major sources, and new minor sources with a PTE above Part 70 permitting thresholds (PTE>100 tpy) would also require permitting requirements under the SUIT's Part 70 Operating Program. Starting in September 2014, anyone intending to construct or modify an existing minor source will be required to obtain a Tribal MNSR permit from EPA's Region 8 if the PTE emissions meet any of the following:

- >10 tpy of carbon monoxide (CO), nitrogen oxides (NO_x), or sulfur dioxide (SO₂); or
- >5 tpy of volatile organic compounds (VOCs) or PM₁₀, (PM less than 10 micrometers in size); or
- >3 tpy of PM_{2.5} (PM less than 2.5 micrometers in size).

For more information on the EPA's Tribal MNSR program, visit <http://www2.epa.gov/region8/tribal-minor-new-source-review-permitting>. The SUI AQP is currently working to develop a Tribal MNSR program on the Reservation. Once this program is approved by EPA, Tribal MNSR permits will need to be obtained from the SUI AQP.

In many cases, a new or existing source may trigger regulatory requirements under the EPA's 40 CFR Part 60 New Source Performance Standards (NSPS) and not be subject to any permitting requirements. Several NSPS subparts potentially affect operations at new Oil and Gas E&P sources including, but not limited to, Subpart IIII for Stationary Compression Ignition Internal Combustion Engines, Subpart JJJJ for Stationary Spark Ignition Internal Combustion Engines, and Subpart OOOO for Crude Oil and Natural Gas Production, Transmission and Distribution.

In particular, NSPS Subpart OOOO (promulgated on August 16, 2012) affects Oil and Gas E&P operations. The new rule impacts new hydraulically fractured natural gas wells, refractured natural gas wells, natural gas well completions, new or modified pneumatic controllers, storage vessels, glycol dehydrators, and new or modified compressors. As of May 2013, notifications and reporting required under NSPS Subpart OOOO for non-permitted facilities are to be sent to EPA Region 8. Sources with Part 70 Operating Permits must submit notifications and reports as required by their permits.

National Emission Standards for Hazardous Air Pollutants (NESHAP) may also be triggered by a new or existing source that does not have permitting requirements. Common Oil and Gas NESHAP regulations include, but are not limited to, Subpart HH for Oil and Natural Gas Production Facilities and Subpart ZZZZ for Stationary Reciprocating Internal Combustion Engines.

9 SPILL RESPONSE AND REPORTING

The Tribe requests that E&P Operators comply with applicable regulatory requirements including taking measures to prevent, control, and cleanup spills, developing and implementing a Spill Prevention, Control, and Countermeasure (SPCC) Plan, installing appropriate Best Management Practices (BMPs) to prevent releases, and promptly responding during emergency situations as required by applicable regulations (e.g., EPA regulations (40 C.F.R. § 112)).

In addition to complying with applicable regulatory requirements, including reporting spills to the requisite federal and state agencies, the Tribe requests that Operators report a spill of any kind (produced water, condensate, chemicals, etc.) to the Tribe, if the spill:

- Exceeds or is equal to one barrel (42 gallons) outside of secondary containment or five barrels (210 gallons) within secondary containment;
- Threatens to impact a residence or occupied structure, livestock, or a public byway.
- Flows into or threatens live water, an irrigation ditch, or a dry arroyo (Waters of the U.S.);
- Has the potential to reach groundwater; or
- Meets a hazardous substance Reportable Quantity under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The following table is provided to assist in determining the need for reporting a spill on the Reservation:

Table 1 – Spills for which the Tribe Requests Notification

DESCRIPTION/CRITERIA			NOTIFICATIONS
	No	Yes	
Is the spill greater than or equal to one barrel (42 gallons) outside of secondary containment or five barrels (210 gallons) within secondary containment?	No report	▶	To SUIT DOE Prompt verbal notification to SUIT DOE (970-563-5550) as soon as practicable followed by a written report within 24 hours to spill@sudoe.us . SUIT DOE then notifies the following agencies, as necessary: <ul style="list-style-type: none"> • SUIT DNR, Lands & Range Divisions • SUIT, Environmental Programs Division • SUIT, Office of Risk Management
Does spill threaten to impact a residence or occupied structure , livestock , or a public byway ?	No report	▶	
Did spill reach or threaten surface water , a dry arroyo , irrigation ditch , or a storm sewer that leads to surface water?	No report	▶	
Does spill have the potential to reach groundwater ?	No report	▶	
Did the spill meet the reporting criteria of any federal agency (i.e. EPA's CERCLA reportable quantity, USDOT's pipeline release reporting criteria, BLM's spill reporting criteria)?	No Report	▶	

Tribal notification should be made to the SUIT DOE in accordance with this manual, the Application for Permit to Drill (APD) stipulations, and any other lease stipulations and conditions outlined in the lease agreement. Use the [Southern Ute Indian Tribe](#)

[Department of Energy Exploration & Production Spill/Release Report](#) form to report a spill that took place on the Reservation. The spill report must be accompanied by a topographic or aerial map showing the release location and extent.

The operator is solely responsible for making non-tribal notifications that might be required, including notifications to the BIA, National Response Center, EPA, BLM, COGCC, and CDPHE. Flowcharts 6 and 7 are provided at the end of this document to assist operators with determining who to contact in the event of a spill or release.

While some spills may not meet the reporting criteria detailed above, all spills require removal of free liquids and cleanup of impacted soils.

10 REFERENCES

Reference	Link to Webpage
SUIT Standard Operating Procedures (SOP) for Field On-Sites and Survey Plats	http://www.suitdoe.com/Documents/SUITSOPforFieldOn-sitesandSurveyPlats.pdf
SUIT DNR Permission to Survey (PTS) and Proposed Project Notification (PPN) Presentation	http://www.suitdoe.com/Documents/DNRPPNGermaineSanchez.pdf
SUIT Stormwater Recommendations	http://www.suitdoe.com/Documents/SUITStormwaterRecommendations.pdf
SUIT Department of Energy Exploration & Production Spill/Release Report	http://www.suitdoe.com/Documents/SpillReportTemplate-OnReservation.pdf
25 CFR 169 – Rights-of-Ways Over Indian Lands	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title25/25cfr169_main_02.tpl
40 CFR 60 – Standards of Performance for New Stationary Sources	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr60_main_02.tpl
SUIT Part 70 Operating Permit Program	http://www.southernute-nsn.gov/air-quality/part-70
40 CFR 49 – EPA Tribal Minor New Source Review Permitting (EPA R8 website)	http://www.epa.gov/region8/air/permitting/tmnsr.html
43 CFR 3160 – Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Orders, Approval of Operations	http://www.gpo.gov/fdsys/granule/CFR-2011-title43-vol2/CFR-2011-title43-vol2-part3160/content-detail.html
BLM Onshore Order Number 5 – Measurement of Gas	http://www.blm.gov/pgdata/etc/medialib/blm/co/programs/oil_and_gas.Par.79178.File.dat/ord5.pdf

11 POINTS OF CONTACT

Agency	POC	Title	Phone Number(s)
BIA	Priscilla Bancroft	Superintendent	970-563-4511 970-563-1224
	Jim Friedley	NEPA Coordinator	970-563-4571
	Waylon Denny	SW Region Division Chief Environmental Safety & Cultural Resources Management	505-563-3547
BLM	John Pecor	Petroleum Engineer (Minerals Staff Chief)	970-385-1356
	Ryan Joyner	Physical Scientist	970-385-1242
	Rodney Brashear	Supervisory Petroleum Engineer Technician	970-385-1347
SUIT DOE	Dee Olguin	Department Manager	970-563-5571
	Karen Spray	E&P Manager	970-563-5556
	Chandler Marechal	Land Manager	970-563-5563
	Adam Red	GIS Specialist	970-563-5570
SUIT DNR	Lena Atencio	Director	970-563-0125
SUIT DNR Lands Div.	Germaine Ewing	Division Head	970-563-0100 x2228 970-563-0126
SUIT DNR Range Div.	Jason Mietchen	Division Head	970-563-0100 x3512 970-563-4780/4571
	Doug Krueger	Range Technician	970-563-0100 x3515 970-749-5662
SUIT DNR Wildlife Div.	Steve Whiteman	Division Head & SUIT NEPA Coordinator	970-563-0100 x2413 970-563-0130
SUIT Environmental Programs Division	Tom Johnson	Division Head	970-563-0100 x2229 970-563-0135
	Curtis Hartenstine	Water Quality Program Manager	970-563-0100 x2217 970-563-0135
	Mark Hutson	Air Quality Program Manager	970-563-0100 x2206 970-563-0135
TERO	Floyd Jameson	Compliance Officer	970-563-0100 x2292

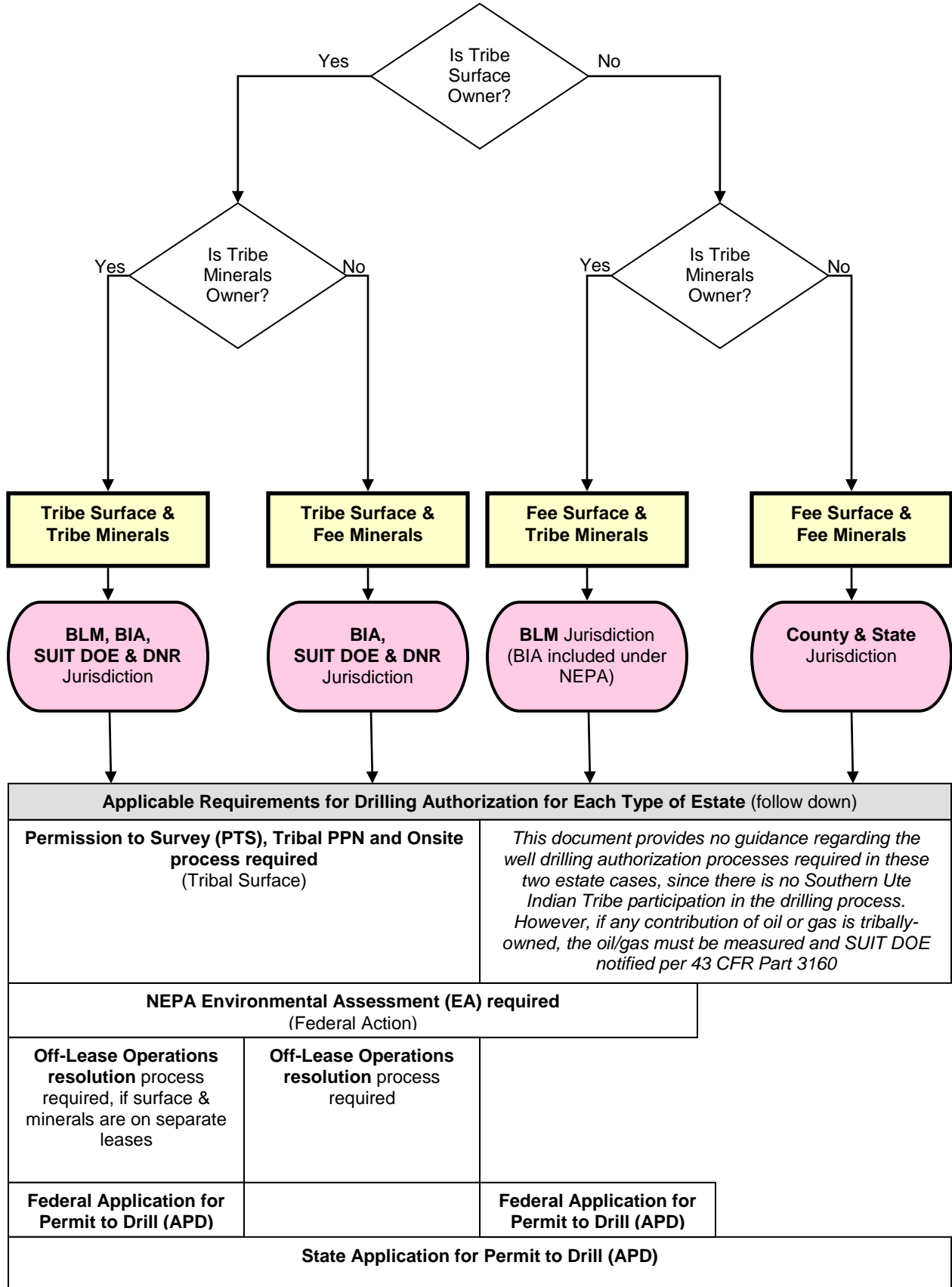
12 REVISIONS

Revision Date	Page(s)	Change(s)
20 March 2008	All	<ul style="list-style-type: none"> • First Edition Approved
05 August 2008	12	<ul style="list-style-type: none"> • Updated Points of Contact
05 August 2008	11	<ul style="list-style-type: none"> • Clarified spill reporting criteria regarding any other agency required notifications
22 October 2008	12	<ul style="list-style-type: none"> • Added links to web pages
22 October 2008	All	<ul style="list-style-type: none"> • Added hyperlink to www.suitdoe.com website in footer
19 August 2009	13	<ul style="list-style-type: none"> • Updated Points of Contact
03 May 2010	17 & 21	<ul style="list-style-type: none"> • Included requirement for Environmental Assessment in diagramed process
03 May 2010	13	<ul style="list-style-type: none"> • Updated Points of Contact
03 May 2010	12	<ul style="list-style-type: none"> • Updated links to webpages for 25 CFR 169 and 40 CFR 71
31 August 2010	13	<ul style="list-style-type: none"> • Updated Points of Contact
01 May 2013	3	<ul style="list-style-type: none"> • Update Acronyms list
01 May 2013	7	<ul style="list-style-type: none"> • Updated NEPA section regarding completion of the PEA
01 May 2013	11-12	<ul style="list-style-type: none"> • Updated status of CAA jurisdiction on the Reservation
01 May 2013	13	<ul style="list-style-type: none"> • Updated Points of Contact
15 November 2013	All	<ul style="list-style-type: none"> • Revised document
26 November 2013	12-13	<ul style="list-style-type: none"> • Updated Air Quality Section
23 June 2014	16	<ul style="list-style-type: none"> • Updated Points of Contact
15 July 2015	4, 14,15, 17, Flowcharts	<ul style="list-style-type: none"> • Updated limitations section • Updated spill response and reporting section • Updated Points of Contact • Added Flowcharts 6 and 7 for spill response

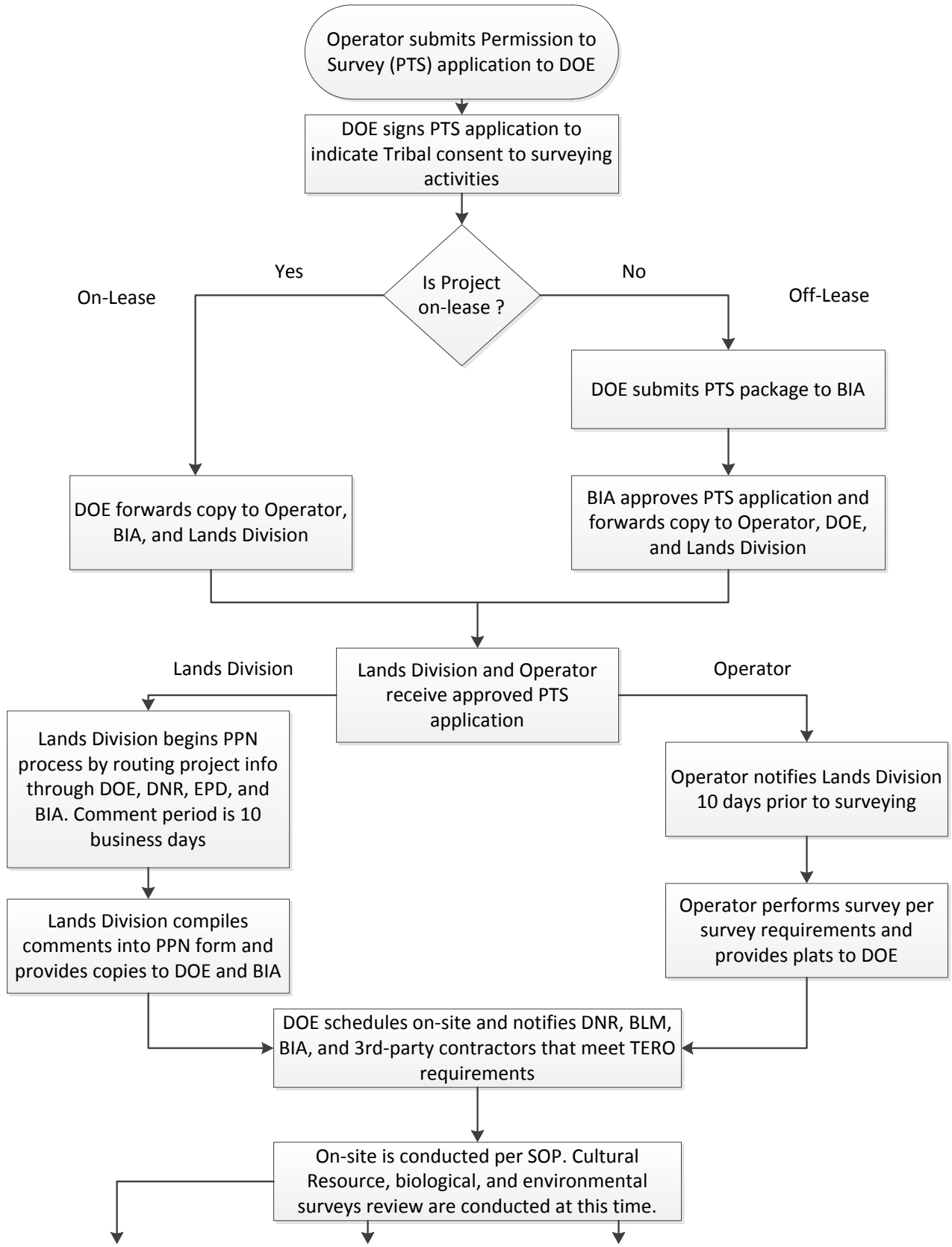
13 FLOWCHARTS

Detailed flowcharts are provided on the following pages to assist in determining which agencies have jurisdiction and the federal and Tribal rules and regulations with which operators must comply when proposing to drill an O&G well or applying for a Surface Lease or ROW easement, depending on the ownership of the surface and mineral rights.

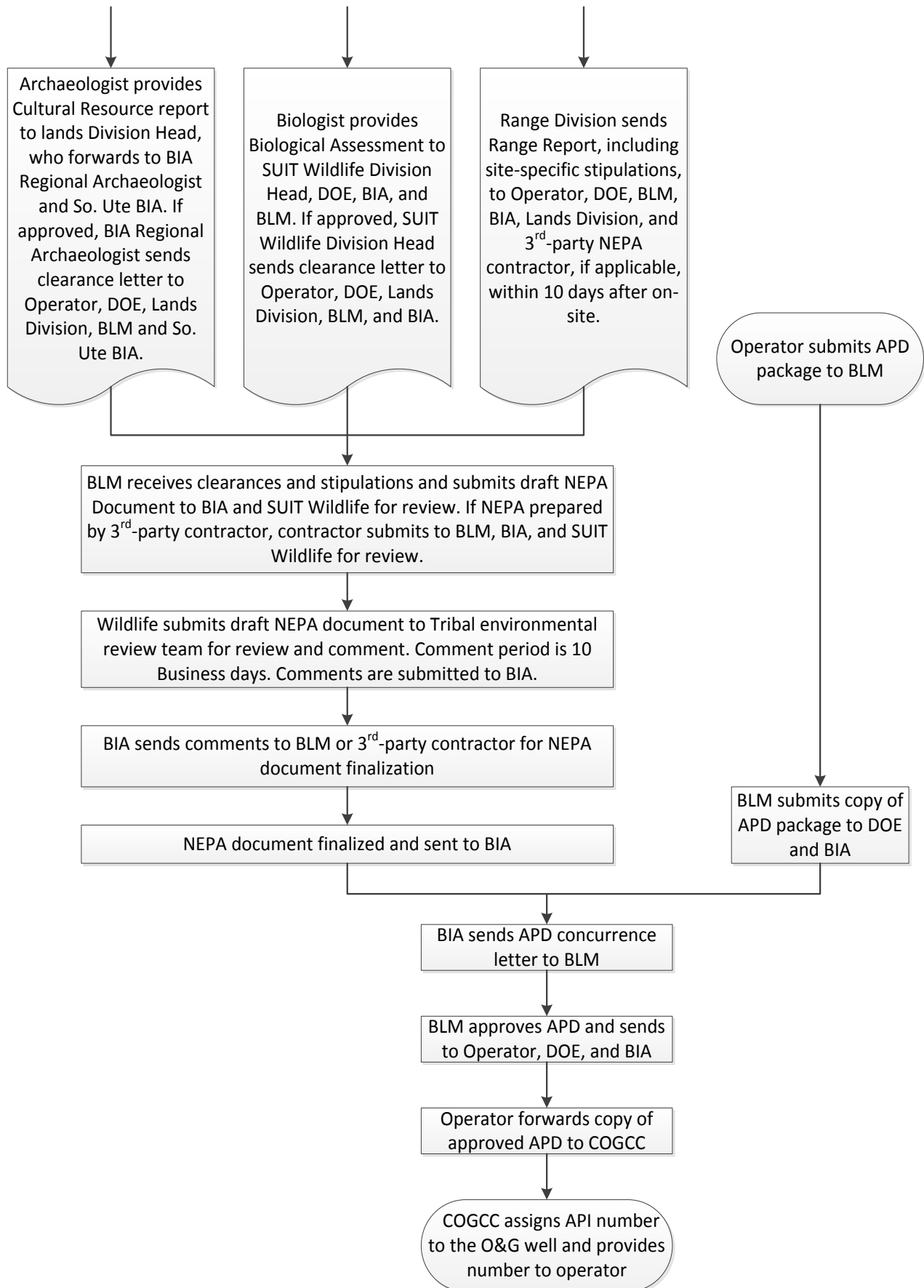
Flowchart 1: Estate Compliance Decision Tree for O&G Well Drilling on Southern Ute Indian Reservation



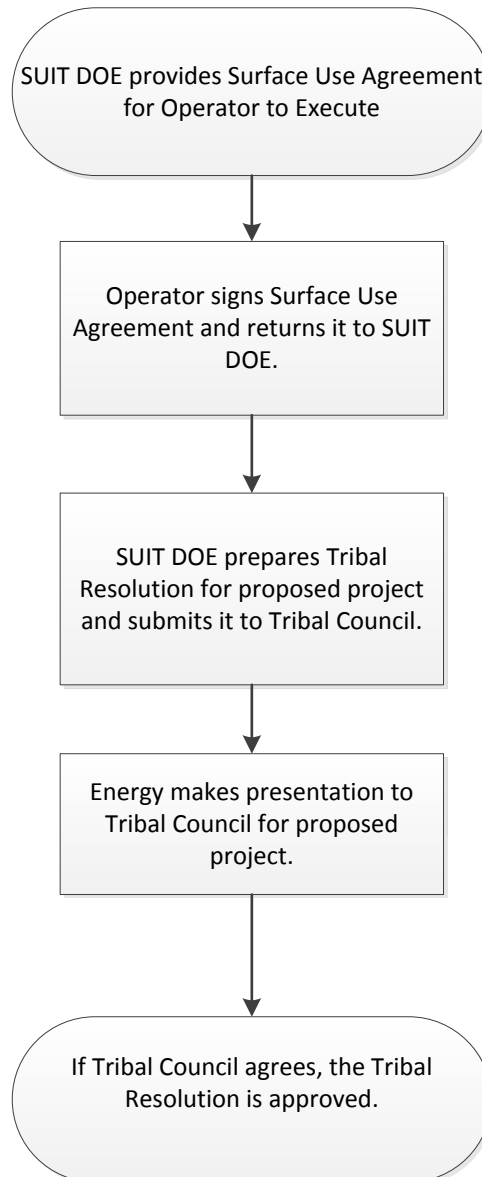
Flowchart 2: Authorization Process for O&G Well Drilling on Southern Ute Indian Reservation



Flowchart 2: Authorization Process for O&G Well Drilling on Southern Ute Indian Reservation (Con't)

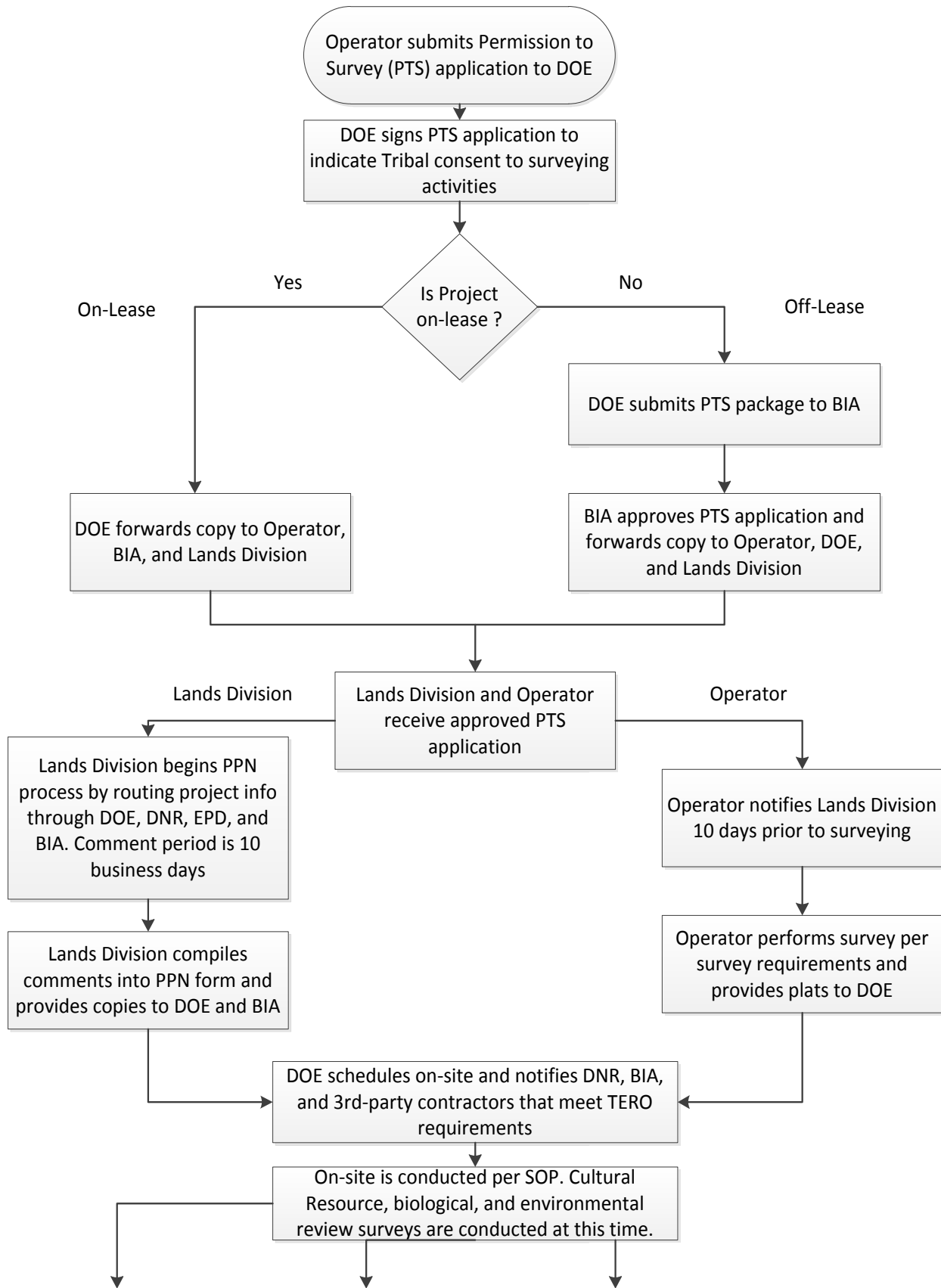


Flowchart 3: Resolution Flowchart for Off-Lease* Operations on the Southern Ute Indian Reservation

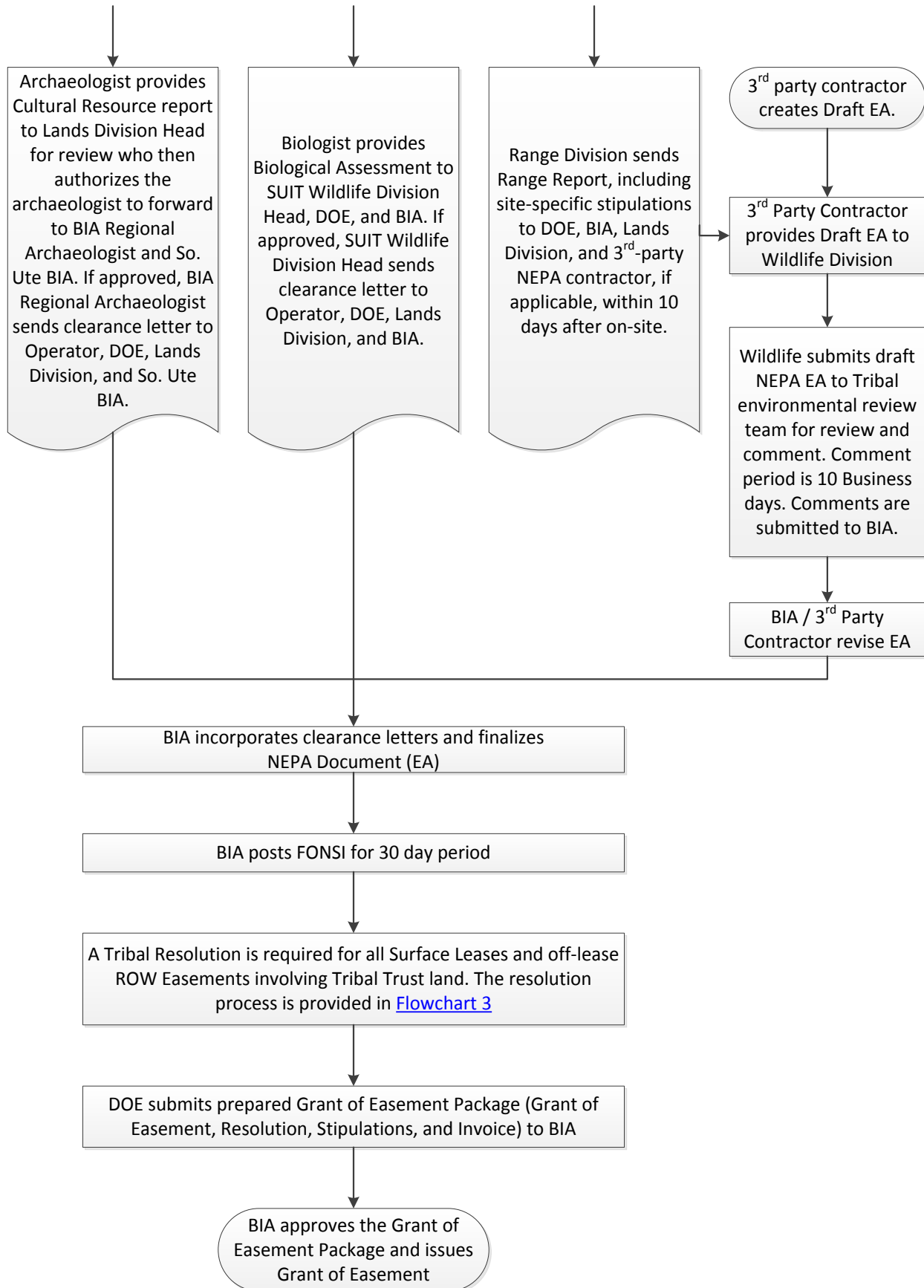


*Please refer to the definition of *Off-Lease* under *Section 2 Definitions* of this manual.

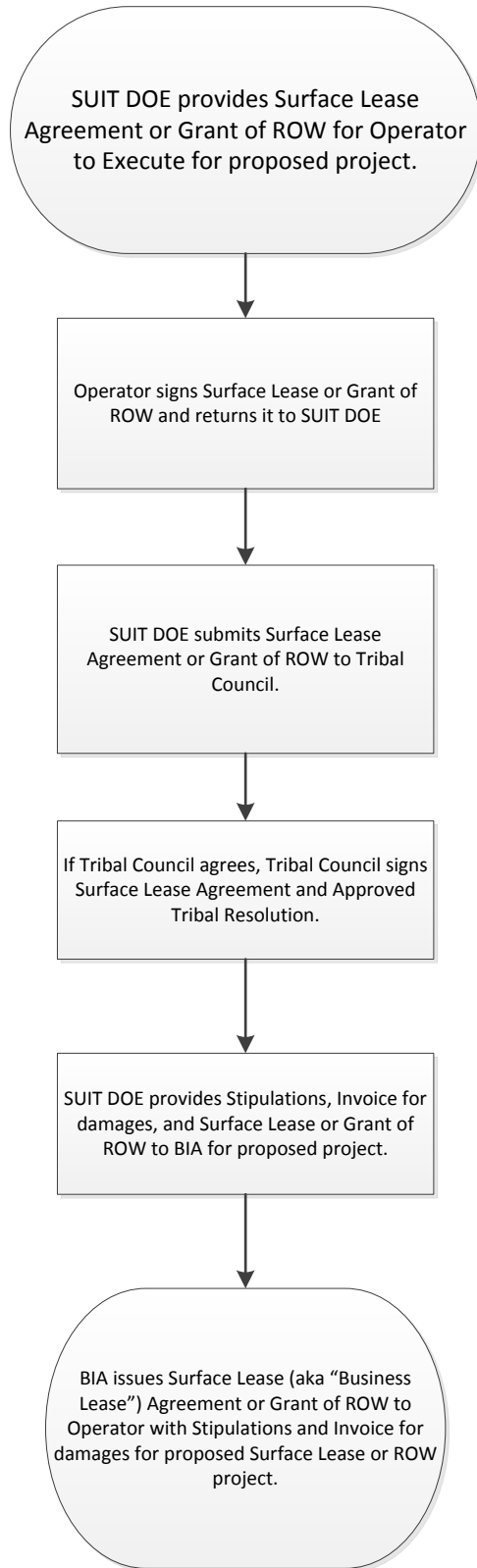
Flowchart 4: Authorization Process for Rights-of-Way and Surface Lease Projects on Southern Ute Indian Reservation



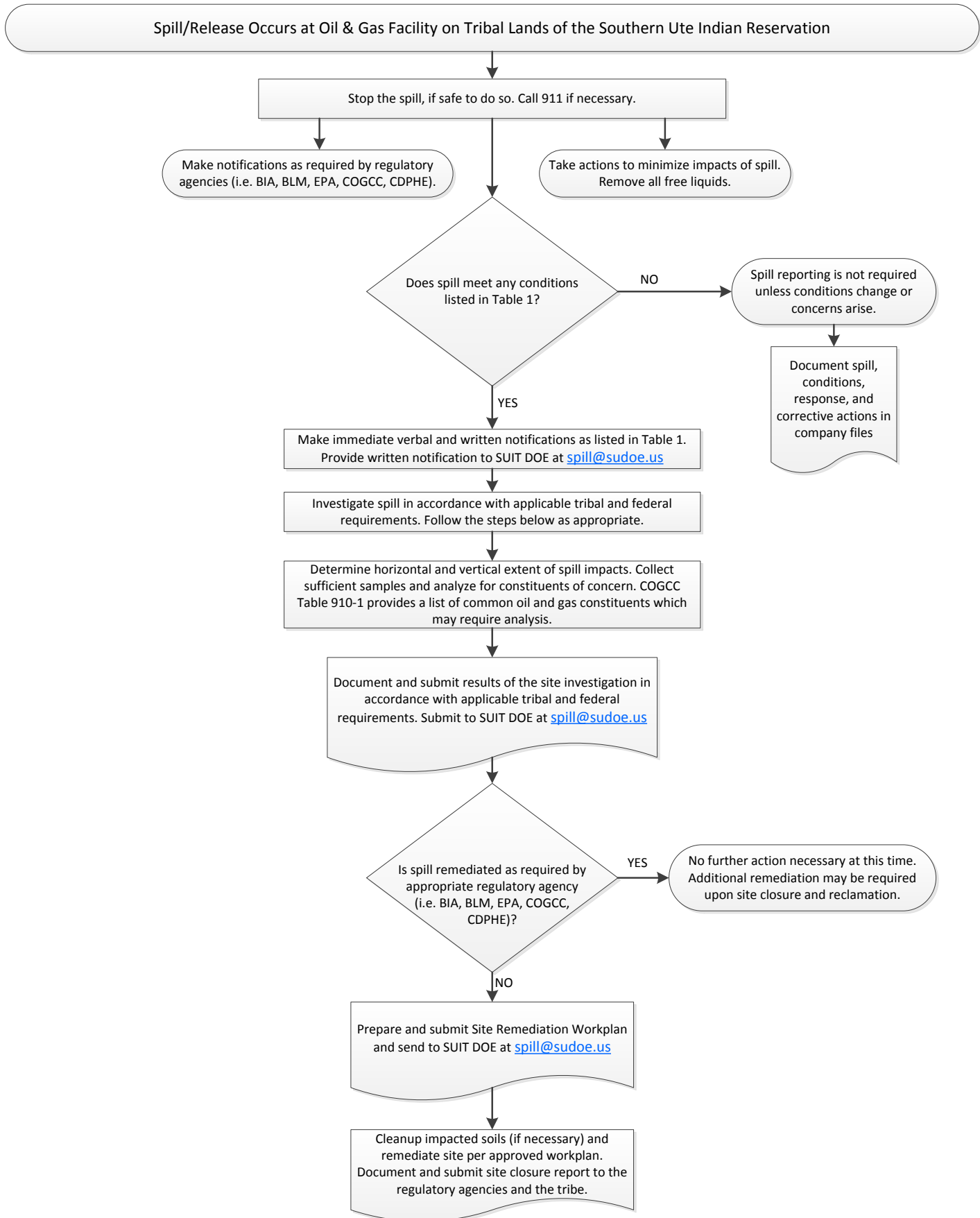
Flowchart 4: Authorization Process for Rights-of-Way and Surface Lease Projects on Southern Ute Indian Reservation (Con't)



Flowchart 5: Surface Lease and ROW Easement on the Southern Ute Indian Reservation



Flowchart 6 - Spill/Release Reporting and Response



Flowchart 7 – Spill Reporting and Response Contacts Based on Land Ownership Status

