



News Release

Bureau of Land Management Colorado and Southern Ute Indian Tribe

FOR IMMEDIATE RELEASE: Nov. 4, 2016

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BLM, Southern Ute Indian Tribe sign settlement of fracking rule litigation

WASHINGTON, DC – The Department of Justice, the Bureau of Land Management and the Southern Ute Indian Tribe today finalized an agreement on the regulation of hydraulic fracturing on Southern Ute land in southwestern Colorado. Under the terms of the settlement agreement, the Southern Ute Indian Tribe will serve as the primary regulatory authority for hydraulic fracturing on Southern Ute lands, working cooperatively with the BLM in administering the oil and gas resources on that land.

The BLM published its final hydraulic fracturing rule on March 26, 2015. The rule updates the BLM's pre-existing oil and gas regulations, including those related to hydraulic fracturing, to address advances in innovation and technology associated with modern-day hydraulic fracturing operations. The rule aims to ensure wellbore integrity, water quality protection, and public disclosure of chemicals used in the hydraulic fracturing process. The rule also contains a provision that allows laws of Indian tribes and states to apply instead of the BLM's rule if the tribal or state provision meets or exceeds the objectives of the relevant provision of the BLM's rule. Implementation of the BLM's final hydraulic fracturing rule is on hold pending the outcome of other litigation currently in the U.S. Court of Appeals for the 10th Circuit in Denver, Colo. That litigation does not involve the Southern Ute Indian Tribe, but does include the Ute Tribe of the Uintah and Ouray Reservation in Utah.

In 2015, the Southern Ute Indian Tribe adopted its own rules governing hydraulic fracturing and filed a separate lawsuit challenging the BLM's hydraulic fracturing rule. The Tribe has since adopted additional provisions further strengthening the protection of Southern Ute lands during hydraulic fracturing operations.

The Tribe's position has been that its rules supersede the BLM's rule and apply without the BLM's approval. Without resolving that issue, the settlement agreement recognizes that the Southern Ute's revised regulations meet or exceed the objectives of the BLM's rule, and govern hydraulic fracturing operations on Southern Ute lands. As part of the settlement, the BLM and the Southern Ute Indian Tribe developed a Memorandum of Agreement that will govern their cooperation in the administration of oil and gas resources in one of the most active regions of tribal oil and gas development in the United States.

"We recognize the expertise of the Southern Ute Indian Tribe in cooperatively developing and regulating oil and gas development on their lands," said Assistant Secretary for Land and Minerals Management Janice Schneider. "This expertise is reflected in the rules the Tribe has put in place. Today's agreement paves the way for a new level of collaboration between the BLM and the Southern Ute Indian Tribe in administering the Tribe's oil and gas resources."

"This agreement is a positive step forward in the cooperative management of oil and gas resources on tribal lands, one which recognizes the Southern Ute Tribe's capacity to regulate hydraulic fracturing as an exercise of

sovereignty,” said Assistant Attorney General John C. Cruden for the Justice Department’s Environment and Natural Resources Division.

Southern Ute Tribal Chairman Clement Frost stated, “We filed a lawsuit against the Department of the Interior challenging the BLM rule because we felt that tribal input had been ignored. Once we had the chance to sit across the table from each other in meaningful discussion, we recognized that we shared many of the same goals, including the exercise of sovereignty by the Tribe over Southern Ute lands. We are glad that we have resolved this dispute in a government-to-government manner.”

The parties will now submit the signed settlement documents to the U.S. District Court in Colorado and jointly seek dismissal of the pending legal action, which has been inactive during the parties’ negotiations.

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