

CHAPTER 285

GOVERNMENT - STATE

HOUSE BILL 96-1367

BY REPRESENTATIVES Dyer, Berry, Foster, Snyder, Acquafresca, Chlouber, DeGette, Entz, Friednash, George, Keller, Lamm, Lyle, Mace, Reeser, Schwarz, Taylor, and Tucker;
also SENATORS Alexander, Norton, Wells, Feeley, Bishop, Schroeder, Tebedo, and Wham.

AN ACT

CONCERNING THE APPROVAL OF THE TAXATION COMPACT BETWEEN THE SOUTHERN UTE INDIAN TRIBE, LA PLATA COUNTY, AND THE STATE OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 61
Taxation Compact Between the
Southern Ute Indian Tribe, La Plata County,
and the State of Colorado**

**PART 1
APPROVAL AND TEXT
OF COMPACT**

24-61-101. Compact as basis for payments - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS IN THE INTEREST OF THE STATE OF COLORADO FOR THE GENERAL ASSEMBLY TO ACT TO ASSIST IN THE RESOLUTION OF A DISPUTE BETWEEN THE STATE, THE COUNTY OF LA PLATA, AND THE SOUTHERN UTE INDIAN TRIBE CONCERNING THE IMPOSITION OF TAXES AND CHARGES ON PROPERTY AND PROPERTY INTERESTS OWNED OR HELD BY THE SOUTHERN UTE INDIAN TRIBE WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) IT IS WITHIN THE AUTHORITY OF THE GENERAL ASSEMBLY PURSUANT TO SECTION 4 OF THE ENABLING ACT OF COLORADO TO APPROVE SPECIAL PROVISIONS WITH RESPECT TO TAXES AND CHARGES THAT THE STATE COULD OTHERWISE SEEK TO IMPOSE UPON PROPERTY AND PROPERTY INTERESTS OWNED OR HELD BY THE SOUTHERN UTE INDIAN TRIBE; AND

(c) IN APPROVING THE SPECIAL PROVISIONS SET FORTH IN THE TAXATION COMPACT DESCRIBED IN THIS ARTICLE 15, THE STATE DOES NOT WAIVE ITS CLAIMS, CONCEDE ITS RIGHTS, OR OTHERWISE IMPAIR ITS POSITION WITH RESPECT TO ITS AUTHORITY TO LEVY TAXES AND OTHER CHARGES ON PROPERTY AND PROPERTY INTERESTS OWNED OR HELD BY THE SOUTHERN UTE INDIAN TRIBE EXCEPT AS SPECIFICALLY SET FORTH IN SAID TAXATION COMPACT AND ACKNOWLEDGES THAT THE SOUTHERN UTE INDIAN TRIBE HAS SIMILARLY NOT IMPAIRED ITS POSITION TO CHALLENGE SUCH AUTHORITY EXCEPT AS SPECIFICALLY SET FORTH IN SAID TAXATION COMPACT.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, FOR THE DURATION OF THE TAXATION COMPACT SET FORTH IN THIS ARTICLE 15, WITH RESPECT TO THE TAXES AND CHARGES IMPOSED PURSUANT TO ARTICLE 29 OF THIS TITLE CONCERNING SEVERANCE TAXES, ARTICLE 60 OF TITLE 34, C.R.S., CONCERNING THE CONSERVATION LEVY AND ENVIRONMENTAL RESPONSE FUND SURCHARGE, AND ARTICLE 1 OF THIS TITLE CONCERNING AD VALOREM PROPERTY TAXES, THE PAYMENTS ESTABLISHED PURSUANT TO SAID TAXATION COMPACT ON PROPERTY DESCRIBED IN SAID TAXATION COMPACT SHALL BE MADE AS AN ALTERNATIVE TO SAID TAXES, CHARGES, SURCHARGES, AND LEVIES.

24-61-102. Taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of Colorado. THE GENERAL ASSEMBLY HEREBY APPROVES THE TAXATION COMPACT BETWEEN THE SOUTHERN UTE INDIAN TRIBE, LA PLATA COUNTY, AND THE STATE OF COLORADO, REFERRED TO IN THIS SECTION AS THE "TAXATION COMPACT", DATED MARCH 18, 1996, AND SIGNED BY ROY ROMER, GOVERNOR OF THE STATE OF COLORADO; LEONARD C. BURCH, CHAIRMAN OF THE SOUTHERN UTE INDIAN TRIBAL COUNCIL; FRED W. KLATT, III, CHAIRMAN OF THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS; CRAIG LARSON, LA PLATA COUNTY ASSESSOR; AND ED MURRAY, LA PLATA COUNTY TREASURER. SAID COMPACT IS AS FOLLOWS:

TAXATION COMPACT

between

**THE SOUTHERN UTE INDIAN TRIBE, LA PLATA COUNTY and
THE STATE OF COLORADO**

THIS AGREEMENT ("TAXATION COMPACT") IS ENTERED INTO THIS 18TH DAY OF MARCH, 1996, BY, BETWEEN AND AMONG THE STATE OF COLORADO, ON BEHALF OF ITSELF, ITS POLITICAL SUBDIVISIONS, OFFICES, AND OFFICIALS ("THE STATE"), THE SOUTHERN UTE INDIAN TRIBE, BY AND THROUGH THE SOUTHERN UTE INDIAN TRIBAL COUNCIL ("THE TRIBE"), AND THE COUNTY OF LA PLATA, BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY AND THE LA PLATA COUNTY ASSESSOR AND TREASURER ("COUNTY").

Article One Recitals.

1.01. Litigation.

THE PARTIES TO THIS TAXATION COMPACT HAVE BEEN ENGAGED IN PROTRACTED LITIGATION REGARDING THE AUTHORITY OF THE COUNTY AND THE STATE TO TAX THE REAL OR PERSONAL PROPERTY OWNED OR ACQUIRED BY THE TRIBE WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION ("RESERVATION"). THAT LITIGATION ("THE LITIGATION") HAS NOT PROVIDED THE PARTIES WITH DEFINITIVE ANSWERS REGARDING THE SCOPE OF SUCH TAXING AUTHORITY OR THE SCOPE OF TRIBAL IMMUNITY FROM SUCH TAXATION ("THE DISPUTE"). IN THE ABSENCE OF AGREEMENT, THE PARTIES WILL BE COMPELLED TO REINSTITUTE LITIGATION AND TO INCUR SUBSTANTIAL LITIGATION COSTS AND COMMITMENTS OF TIME AND ENERGY TO SUCH DISPUTES.

1.02. Intergovernmental Agreement.

PRIOR TO REILING THE LITIGATION, THE PARTIES TO THIS TAXATION COMPACT ENTERED INTO GOOD FAITH NEGOTIATIONS IN AN EFFORT TO RESOLVE THE DISPUTE AMICABLY IN A MANNER CONSISTENT WITH THE RESPECTIVE INTERESTS OF THE PARTIES. IN FURTHERANCE OF THE NEGOTIATION EFFORTS, THE PARTIES ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT CONCERNING TAXATION NEGOTIATIONS WHICH ADDRESSED PROCEDURES FOR MAINTAINING THE STATUS QUO AND PRESERVING THE LEGAL POSITIONS OF THE PARTIES PENDING NEGOTIATION.

1.03. Principal Individual Interests.

DURING THE NEGOTIATIONS, THE TRIBE HAS REQUESTED RECOGNITION OF ITS CLAIMED IMMUNITY FROM STATE AND COUNTY TAXATION WITH RESPECT TO ANY INTERESTS IN REAL OR PERSONAL PROPERTY IT OWNS OR MAY ACQUIRE WITHIN THE BOUNDARIES OF THE RESERVATION, REGARDLESS OF WHETHER SUCH PROPERTY IS HELD IN TRUST FOR ITS BENEFIT BY THE UNITED STATES OF AMERICA. THE COUNTY HAS TAKEN THE POSITION THAT INTERESTS IN REAL OR PERSONAL PROPERTY OWNED OR ACQUIRED BY THE TRIBE WITHIN THE BOUNDARIES OF THE RESERVATION ARE SUBJECT TO AD VALOREM PROPERTY TAXES IN CIRCUMSTANCES WHERE THOSE REAL OR PERSONAL PROPERTY INTERESTS WITHIN THE RESERVATION HAVE BEEN PREVIOUSLY TAXED TO OR ARE TAXABLE IN NON-TRIBAL OWNERSHIP. THE COUNTY HAS REITERATED ITS CONCERN THAT RECOGNITION OF TAXING IMMUNITY TO THE TRIBE WITH RESPECT TO ANY INTEREST IN REAL OR PERSONAL PROPERTY OWNED OR ACQUIRED BY THE TRIBE WHEN THAT PROPERTY HAS BEEN TAXED OR TAXABLE UNDER NON-TRIBAL OWNERSHIP WILL HAVE AN ADVERSE ECONOMIC IMPACT ON THOSE GOVERNMENTAL INSTITUTIONS WHICH RELY UPON GENERAL AD VALOREM PROPERTY TAX REVENUE TO CARRY OUT GOVERNMENTAL FUNCTIONS, PARTICULARLY IF TRIBAL ACQUISITION EFFORTS CONTINUE TO ESCALATE. THE STATE'S POSITION IS THAT REAL PROPERTY ACQUIRED BY THE TRIBE AND NOT PLACED OR HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR THE BENEFIT OF THE TRIBE IS SUBJECT TO TAXATION. THE STATE HAS ATTEMPTED TO ASSIST IN THE IDENTIFICATION OF GOVERNMENTAL MECHANISMS THAT COULD BE EMPLOYED BY THE PARTIES TO SETTLE THEIR DISPUTE REASONABLY IN A MANNER THAT WILL MINIMIZE ADVERSE ECONOMIC CONSEQUENCES RESULTING FROM POSSIBLE RECOGNITION OF THE TRIBE'S CLAIMED IMMUNITY. AS USED HEREIN, THE WORDS "TAX" AND "TAXES" INCLUDES AD VALOREM AND SEVERANCE TAXES AS WELL AS THE OIL AND GAS CONSERVATION LEVY AND THE ENVIRONMENTAL RESPONSE FUND SURCHARGE.

1.04. Mutual Interests.

EACH OF THE PARTIES SEEKS TO AVOID FURTHER LITIGATION IN A MANNER

CONSISTENT WITH THE BEST INTERESTS OF THE RESPECTIVE CONSTITUENTS OF EACH GOVERNMENT. FURTHER, IN RECOGNITION OF THE FACT THAT THERE ARE MANY SUBSTANTIVE AREAS THAT REQUIRE MUTUAL COOPERATION OF THE PARTIES, INCLUDING SOCIAL ISSUES, ECONOMIC DEVELOPMENT, LAND USE AND ENVIRONMENTAL PROTECTION, THE PARTIES SEEK TO IMPROVE THEIR GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS FOR THE PRESENT AND THE FUTURE.

1.05. Educational Equalization.

THE PARTIES ACKNOWLEDGE THAT THE STATE MAINTAINS AS PART OF ITS SYSTEM OF PUBLIC SCHOOL FINANCING A PROGRAM WHICH IS INTENDED TO PROVIDE EQUALIZATION IN FUNDING FOR STUDENTS IN THE VARIOUS PUBLIC SCHOOL DISTRICTS THROUGHOUT THE STATE AS REFLECTED IN, INTER ALIA, "THE PUBLIC SCHOOL FINANCE ACT OF 1994" (ARTICLE 54, OF TITLE 22, C.R.S.). THE PUBLIC SCHOOL FINANCE SYSTEM ALSO ESTABLISHES A STATE PUBLIC SCHOOL FUND WHICH IS AVAILABLE TO PROVIDE RELIEF TO INDIVIDUAL SCHOOL DISTRICTS IN THE EVENT THAT UNFORESEEN DIFFICULTIES IN MAINTAINING ASSESSMENT LEVELS OF PROPERTY WITHIN ANY SUCH DISTRICT OR IN COLLECTING PROPERTY TAXES IS ENCOUNTERED. SEE SECTION 22-54-117, C.R.S. BASED ON THE STATUS OF PUBLIC SCHOOL FINANCING, THE PARTIES ACKNOWLEDGE THAT THE LEVEL OF FINANCING AVAILABLE FOR EDUCATING PUBLIC SCHOOL STUDENTS WITHIN THE BOUNDARIES OF THE RESERVATION WILL NOT BE ADVERSELY AFFECTED IN A MATERIAL WAY SO LONG AS A SYSTEM OF STATE-WIDE EQUALIZATION OF STUDENT FUNDING IS MAINTAINED BY THE STATE.

1.06. Settlement.

BASED UPON THE FOREGOING, THE PARTIES HAVE AGREED TO SETTLE THE DISPUTE, SUBJECT TO THE FULFILLMENT OF CERTAIN CONDITIONS HEREINAFTER SET FORTH, AND EACH PARTY FINDS THAT THE SETTLEMENT REFLECTED IN THIS TAXATION COMPACT IS IN FURTHERANCE OF THE INDIVIDUAL AND MUTUAL INTERESTS OF THE PARTIES.

Article Two Conditions Precedent.

2.01. Legislative Ratification.

AS A CONDITION PRECEDENT TO IMPLEMENTATION OF THIS TAXATION COMPACT, THE PARTIES AGREE THAT THE COLORADO GENERAL ASSEMBLY AND THE GOVERNOR OF THE STATE OF COLORADO MUST APPROVE, AND THE OFFICE OF THE COLORADO ATTORNEY GENERAL MUST REVIEW, THIS TAXATION COMPACT AND PERMIT THE COUNTY AND THE STATE TO PERFORM THE COVENANTS HEREIN CONTAINED. IF SUCH AUTHORIZATION IS NOT OBTAINED PRIOR TO THE CLOSE OF THE 1996 LEGISLATIVE SESSION, THIS TAXATION COMPACT SHALL BECOME NULL AND VOID, UNLESS OTHERWISE AGREED BY THE PARTIES.

2.02. Statutory Amendment.

AS AN ADDITIONAL CONDITION PRECEDENT, THE PARTIES AGREE THAT SUCH AMENDMENTS TO EXISTING STATE STATUTES NEEDED TO IMPLEMENT THE TERMS OF THIS TAXATION COMPACT SHALL BE ENACTED PRIOR TO THE CLOSE OF THE 1996 LEGISLATIVE SESSION. IF SUCH AMENDMENTS ARE NOT SO ENACTED, THEN THIS TAXATION COMPACT SHALL BECOME NULL AND VOID.

2.03. Tribal Enactment.

AS AN ADDITIONAL CONDITION PRECEDENT, THE PARTIES AGREE THAT THE TRIBE, PRIOR TO EXPIRATION OF THE 1996 LEGISLATIVE SESSION OF THE COLORADO GENERAL ASSEMBLY, THROUGH ITS TRIBAL COUNCIL, SHALL HAVE ENACTED SUCH RESOLUTIONS OR ORDINANCES PERMITTING THE IMPLEMENTATION OF THIS TAXATION COMPACT, INCLUDING, BUT NOT LIMITED TO: AUTHORIZATION FOR ISSUING ANNUAL TRIBAL DECLARATIONS OF REAL PROPERTY ACQUIRED BY THE TRIBE, AS PROVIDED IN ARTICLE FIVE, INFRA; AUTHORIZATION FOR ISSUING ANNUAL PAYMENTS, AS PROVIDED IN ARTICLE SIX, INFRA; A MECHANISM FOR REQUIRING NON-INDIANS CONSTRUCTING FACILITIES ON TRIBAL LAND TO REPORT TO THE COUNTY ASSESSOR NOTICE OF COMPLETION OF SUCH FACILITIES, AS PROVIDED IN ARTICLE EIGHT, INFRA; AND A SYSTEM FOR THE RECOGNITION OF COUNTY LIENS VALIDLY OBTAINED UNDER STATE LAW AGAINST THE PROPERTY OF NON-INDIANS, AS WELL AS, A SYSTEM FOR FORECLOSURE OF SUCH LIENS, AS PROVIDED IN ARTICLE TEN, INFRA.

2.04. Federal Approval.

TO THE EXTENT THAT THE TAXATION COMPACT CONSTITUTES AN AGREEMENT WITH AN INDIAN TRIBE RELATED TO LAND OWNED BY AN INDIAN TRIBE, IT IS ARGUABLE THAT THE VALIDITY OF SUCH TAXATION COMPACT IS DEPENDENT UPON OBTAINING THE APPROVAL OF THE SECRETARY OF THE INTERIOR OF THE UNITED STATES OR HIS AUTHORIZED REPRESENTATIVE PURSUANT TO 25 U.S.C. SEC. 81. ACCORDINGLY, AS AN ADDITIONAL CONDITION PRECEDENT, PRIOR TO THE CLOSE OF THE 1996 LEGISLATIVE SESSION OF THE COLORADO GENERAL ASSEMBLY, THE PARTIES MUST OBTAIN THE WRITTEN APPROVAL OF THE SECRETARY OF THE INTERIOR, OR HIS AUTHORIZED REPRESENTATIVE, OF THIS TAXATION COMPACT, OR, ALTERNATIVELY, A WRITTEN STATEMENT FROM SUCH DULY AUTHORIZED OFFICIAL INDICATING THAT SUCH WRITTEN APPROVAL IS NOT NECESSARY OR REQUIRED UNDER FEDERAL LAW.

2.05. Intergovernmental Agreement Operative.

UNTIL SUCH TIME THAT EACH OF THE CONDITIONS SET FORTH ABOVE IN PARAGRAPHS 2.01, 2.02, 2.03, AND 2.04 HAS BEEN SATISFIED, THE PARTIES AGREE TO HONOR AND CARRY OUT THE PROVISIONS OF THE INTERGOVERNMENTAL AGREEMENT CONCERNING TAXATION NEGOTIATIONS REFERENCED IN PARAGRAPH 1.02, ABOVE, AND THE PARTIES HEREBY EXPRESSLY EXTEND THE DURATION OF SAID INTERGOVERNMENTAL AGREEMENT CONCERNING TAXATION NEGOTIATIONS UNTIL THE EARLIER OF: (a) THE CLOSE OF THE 1996 LEGISLATIVE SESSION OF THE COLORADO GENERAL ASSEMBLY; OR (b) THE SATISFACTION OF THE REFERENCED CONDITIONS. IN THE EVENT THAT EACH OF THE AFOREMENTIONED CONDITIONS IS NOT SATISFIED IN THE TIME PROVIDED, THEN, UPON THE CLOSE OF THE LEGISLATIVE SESSION, THE INTERGOVERNMENTAL AGREEMENT CONCERNING TAXATION NEGOTIATIONS SHALL TERMINATE, UNLESS OTHERWISE EXTENDED BY THE PARTIES IN WRITING.

Article Three Tribal Immunity From Taxation.

3.01. Trust Property.

THE PARTIES ACKNOWLEDGE THAT HISTORICALLY NEITHER THE STATE NOR THE COUNTY HAS ATTEMPTED TO TAX REAL OR PERSONAL PROPERTY LOCATED WITHIN THE RESERVATION WHEN SUCH PROPERTY HAS BEEN OWNED BY THE UNITED STATES OF AMERICA IN TRUST FOR THE BENEFIT OF THE TRIBE ("TRUST PROPERTY"). SUCH EXEMPT PROPERTY HAS INCLUDED: SURFACE ESTATES; SUBSURFACE ESTATES; TRIBAL LANDOWNER ROYALTY INTERESTS IN MINERAL LEASES ISSUED BY THE TRIBE IN

ACCORDANCE WITH FEDERAL LAWS AND REGULATIONS; AND ANY OTHER INTERESTS ACQUIRED BY THE TRIBE IN TRUST PROPERTY. THE PARTIES ACKNOWLEDGE THAT IN THE ABSENCE OF EXPRESS CONSENT FROM THE UNITED STATES CONGRESS, THE TRIBE, OR AS OTHERWISE DETERMINED BY THE COURTS, TRUST PROPERTY IS EXEMPT FROM STATE AND LOCAL TAXATION. THIS TAXATION COMPACT IS NOT INTENDED TO AND DOES NOT ADDRESS WHETHER THERE IS EXPRESS CONSENT FROM THE UNITED STATES CONGRESS AND THE TRIBE FOR THE TAXATION OF TRUST PROPERTY; HOWEVER, THE STATE AND COUNTY AGREE TO TREAT SUCH TRUST PROPERTY AS EXEMPT FROM STATE AND COUNTY TAXATION FOR THE DURATION OF THIS TAXATION COMPACT.

3.02. Tribal Reacquisitions of Interests in Trust Property.

THE PARTIES ACKNOWLEDGE THAT A DECLINE IN THE COUNTY'S ASSESSED VALUE WILL OCCUR WHEN THE TRIBE REACQUIRES INTERESTS IN REAL OR PERSONAL PROPERTY ON TRUST PROPERTY UNDER ARTICLE 3.01 IN CIRCUMSTANCES WHEN THOSE PROPERTY INTERESTS HAVE BEEN PREVIOUSLY HELD BY AND TAXABLE TO NON-TRIBAL PARTIES. WHILE THE COUNTY AND STATE AGREE THAT INTERESTS SO ACQUIRED BY THE TRIBE WILL BE TREATED AS NOT SUBJECT TO TAXATION UNDER ARTICLE 3.01, THE TRIBE AND STATE AGREE TO ASSIST THE COUNTY IN EXPLORING FUTURE COOPERATIVE EFFORTS TO MITIGATE THE NEGATIVE REVENUE IMPACTS THAT MAY RESULT FROM THESE TRIBAL ACQUISITIONS ON TRUST LANDS. THOSE COOPERATIVE EFFORTS WILL INCLUDE JOINT EFFORTS AT SEEKING FEDERAL OR STATE ASSISTANCE AS REQUIRED TO MITIGATE THOSE REVENUE IMPACTS AND OTHER JOINT REVENUE RAISING EFFORTS ACCEPTABLE TO THE TRIBE, THE STATE AND THE COUNTY.

3.03. Non-Trust Tribal Property.

SO LONG AS THIS TAXATION COMPACT REMAINS IN FULL FORCE AND EFFECT, THE STATE AND COUNTY SHALL NOT SEEK TO TAX ANY PROPERTY, REAL OR PERSONAL, OWNED OR ACQUIRED BY THE TRIBE AND HELD BY THE TRIBE IN NON-FEDERAL-TRUST STATUS; PROVIDED THAT SAID PROPERTY IS LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION. TRIBAL PROPERTY INTENDED BY THIS PARAGRAPH TO BE TREATED AS NON-TAXABLE INCLUDES, BUT IS NOT LIMITED TO THE FOLLOWING:

- a. REAL PROPERTY SURFACE ESTATES;
- b. REAL PROPERTY SUBSURFACE ESTATES;
- c. MINERAL LEASE WORKING INTERESTS;
- d. MINERAL LEASE ROYALTY INTERESTS;
- e. MINERAL LEASE PRODUCTION PAYMENTS;
- f. TRIBAL INCOME;
- g. VEHICLES AND MOBILE HOMES;
- h. BUILDINGS OR IMPROVEMENTS;
- i. EQUIPMENT;

j. SECURITY INTERESTS;

k. OTHER REAL OR PERSONAL PROPERTY.

3.04. Tribal Activities.

SO LONG AS THIS TAXATION COMPACT REMAINS IN FULL FORCE AND EFFECT, THE STATE AND THE COUNTY SHALL NOT SEEK TO IMPOSE ON THE TRIBE, ANY ACTIVITY UNDERTAKEN BY THE TRIBE, OR TRIBAL PROPERTY, REAL OR PERSONAL, LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION THE FOLLOWING TAXES: AN AD VALOREM TAX (ARTICLE 1 OF TITLE 39, C.R.S.); CONSERVATION LEVY OR ENVIRONMENTAL RESPONSE FUND CHARGE (SECTION 34-60-122, C.R.S.); OR SEVERANCE TAX (ARTICLE 29 OF TITLE 39, C.R.S.).

3.05. Partial Interests.

SO LONG AS THIS TAXATION COMPACT REMAINS IN FULL FORCE AND EFFECT, THE FOREGOING LIMITATIONS ON STATE AND COUNTY TAXATION SHALL APPLY TO PARTIAL OR UNDIVIDED INTERESTS OWNED BY THE TRIBE, WHETHER SUCH INTERESTS ARISE FROM PARTNERSHIPS, JOINT VENTURES, OR OTHERWISE; PROVIDED THAT PRIOR TO SUCH LIMITATION BECOMING APPLICABLE, THE TRIBE SHALL FILE WITH THE COUNTY AND THE STATE DEPARTMENT OF REVENUE, A DECLARATION OF THE NAME OF THE PARTNERSHIP OR JOINT VENTURE, TOGETHER WITH A STATEMENT LISTING THE PARTNERS OR VENTURERS, THE OWNERSHIP INTEREST OF SAID PARTNERS OR VENTURERS, AND A SCHEDULE OF THE ON-RESERVATION PROPERTY SUBJECT TO ANY SUCH PARTNERSHIP OR JOINT VENTURE.

3.06. Reports and Declarations by Third Parties.

SO LONG AS THIS TAXATION COMPACT REMAINS IN FULL FORCE AND EFFECT, ANY PERSON OR ENTITY, OTHER THAN THE TRIBE, REQUIRED TO SUBMIT REPORTS OR DECLARATIONS RELATED TO THE ASSESSED VALUE OF PROPERTY LOCATED WITHIN THE RESERVATION OWNED BY THE TRIBE, OR ANY PERSON OR ENTITY OTHERWISE REQUIRED TO WITHHOLD AND REMIT TAXES OR ESTIMATED TAXES ATTRIBUTABLE TO INTERESTS OWNED BY THE TRIBE SHALL BE PERMITTED TO REPORT SUCH TRIBAL INTERESTS AS EXEMPT AND SHALL NOT BE REQUIRED TO WITHHOLD ANY TAXES OR ESTIMATED TAXES WITH RESPECT TO SUCH TRIBAL OWNERSHIP INTERESTS IN SUCH PROPERTY OR INCOME.

3.07. State Legislative Amendments.

THE TRIBE MAINTAINS THAT THE FOREGOING LIMITATIONS ON STATE AND COUNTY TAXATION ARE MANDATED BY FEDERAL STATUTES AND CASE LAW AND THAT THE STATE AND COUNTY ARE BOUND BY SUCH RULES FOR DECISION UNDER THE UNITED STATES CONSTITUTION, REGARDLESS OF THE PROVISIONS OF STATE LAW. THE COUNTY HAS TAKEN THE POSITION THAT INTERESTS IN REAL OR PERSONAL PROPERTY OWNED OR ACQUIRED BY THE TRIBE WITHIN THE BOUNDARIES OF THE RESERVATION ARE SUBJECT TO AD VALOREM PROPERTY TAXES IN CIRCUMSTANCES WHERE THOSE REAL OR PERSONAL PROPERTY INTERESTS WITHIN THE RESERVATION HAVE BEEN PREVIOUSLY TAXED TO OR ARE TAXABLE IN NON-TRIBAL OWNERSHIP. THE STATE'S POSITION IS THAT REAL PROPERTY ACQUIRED BY THE TRIBE AND NOT PLACED OR HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR THE BENEFIT OF THE TRIBE IS SUBJECT TO TAXATION. IN ORDER TO CARRY OUT THE TERMS OF THIS TAXATION COMPACT, THE PARTIES COVENANT JOINTLY TO SEEK LEGISLATIVE AMENDMENT TO EXISTING STATE STATUTORY LAW CONFIRMING THAT THROUGHOUT THE DURATION OF THIS TAXATION

COMPACT, THE LIMITATION ON STATE AND COUNTY TAXATION SET FORTH ABOVE IN THIS ARTICLE WILL BE RECOGNIZED BY THE STATE. SPECIFICALLY, THE PARTIES SHALL SEEK LEGISLATIVE ENACTMENTS NECESSARY TO IMPLEMENT THIS TAXATION COMPACT, INCLUDING THE FOLLOWING:

ADD A NEW SECTION TO ARTICLE 3 OF TITLE 39, C.R.S., (OR SOME OTHER APPROPRIATE DESIGNATION) WHICH PROVIDES ESSENTIALLY AS FOLLOWS:

TAXATION COMPACT WITH THE SOUTHERN UTE INDIAN TRIBE.

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE TAXATION COMPACT DATED MARCH 18, 1996, ENTERED INTO BY AND BETWEEN THE COUNTY OF LA PLATA, THE SOUTHERN UTE INDIAN TRIBE, AND THE GOVERNOR, IS IN THE BEST INTERESTS OF THE STATE OF COLORADO AND SETTLES IN A SATISFACTORY MANNER A TAXATION DISPUTE WHICH HAS BEEN AND WOULD OTHERWISE CONTINUE TO BE A MATTER OF EXTENSIVE LITIGATION.

(2) THE GENERAL ASSEMBLY HEREBY RATIFIES SAID TAXATION COMPACT SUBJECT TO THE CONDITIONS AND COVENANTS THEREIN CONTAINED.

(3) LIMITED TO THE DURATION OF SAID TAXATION COMPACT, WITH RESPECT TO THE TAXES AND THE CHARGES IMPOSED BY ARTICLE 29 OF TITLE 39, C.R.S. (I.E., SEVERANCE TAX) AND ARTICLE 60 OF TITLE 34, C.R.S. (I.E., CONSERVATION LEVY AND ENVIRONMENTAL RESPONSE FUND SURCHARGE), AND WITH RESPECT TO AD VALOREM TAXES (ARTICLE 1 OF TITLE 39, C.R.S.), THE SOUTHERN UTE INDIAN TRIBE AND ALL PROPERTY, REAL AND PERSONAL, OWNED BY THE TRIBE AND LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION SHALL BE DEEMED AS EXEMPT FROM TAXATION AS MORE PARTICULARLY SET FORTH IN SAID TAXATION COMPACT.

(4) THE STATE PROPERTY TAX ADMINISTRATOR, WHOSE DUTIES, POWERS, AND AUTHORITY ARE DESCRIBED IN ARTICLE 2 OF TITLE 39, C.R.S., SHALL HAVE THE AUTHORITY TO RESOLVE DISPUTES SUBMITTED TO THE ADMINISTRATOR FOR RESOLUTION PURSUANT TO AND IN THE MANNER PRESCRIBED BY THE TAXATION COMPACT DATED MARCH 18, 1996, BETWEEN THE COUNTY OF LA PLATA, THE SOUTHERN UTE INDIAN TRIBE, AND THE STATE OF COLORADO.

(5) ANY STATUTORY CHANGE NECESSARY CONCERNING THE SCHOOL BONDED INDEBTEDNESS PROVISIONS OF SAID TAXATION COMPACT.

SHOULD THE GENERAL ASSEMBLY OF THE STATE FAIL TO ENACT SUCH STATUTORY AMENDMENTS DEEMED BY THE PARTIES AS NECESSARY TO CARRY OUT THE TERMS OF THIS TAXATION COMPACT BY THE CLOSE OF THE 1996 LEGISLATIVE SESSION, THE TAXATION COMPACT SHALL TERMINATE FOR FAILURE OF SATISFACTION OF CONDITIONS PRECEDENT, UNLESS OTHERWISE EXTENDED IN WRITING BY THE PARTIES.

3.08. Limitation on Scope.

NOTHING IN THIS ARTICLE THREE SHALL BE CONSTRUED AS AFFECTING IN ANY MANNER THE TAX LIABILITY OF ANY ENTITY OTHER THAN THE SOUTHERN UTE INDIAN TRIBE. NOTHING IN THIS TAXATION COMPACT SHALL PREVENT THE OIL AND GAS COMMISSION FROM CHARGING ITS CONSERVATION LEVY AND ENVIRONMENTAL

RESPONSE FEE AGAINST ANY NON-INDIANS OPERATING WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION.

Article Four
Real and Personal Property Interests
Subject to Taxation on the Reservation.

THE PARTIES ACKNOWLEDGE THAT CERTAIN NON-INDIAN REAL AND PERSONAL PROPERTY INTERESTS WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION, INCLUDING THE INTERESTS OF NON-INDIAN PARTNERS OR VENTURERS WITH THE TRIBE, ARE GENERALLY SUBJECT TO STATE AND LOCAL TAXATION; HOWEVER, THE TRIBE MAINTAINS THAT THOSE TAXES MAY BE LEGALLY OBJECTIONABLE IN CIRCUMSTANCES WHERE CONGRESS HAS EXPRESSLY GRANTED AN EXEMPTION FROM SUCH TAXATION OR IMPOSITION OF THE TAX POSES A SERIOUS AND DEMONSTRABLE THREAT TO THE ECONOMIC OR POLITICAL SECURITY OF THE TRIBE. THE TRIBE AGREES NOT TO INTERPOSE ANY OBJECTION FOR THE DURATION OF THIS TAXATION COMPACT TO STATE AND LOCAL TAXATION OF NON-INDIAN REAL AND PERSONAL PROPERTY INTERESTS LOCATED WITHIN THE RESERVATION BOUNDARIES UNDER CURRENT CIRCUMSTANCES (I.E., SO LONG AS PRESENT LEVELS OF STATE AND LOCAL TAXATION OF SUCH INTERESTS DO NOT CHANGE SIGNIFICANTLY). SPECIFICALLY, THOSE NON-INDIAN REAL AND PERSONAL PROPERTY INTERESTS FOR WHICH THE TRIBE DOES NOT ASSERT EXEMPTION FROM STATE AND LOCAL TAXATION UNDER THIS TAXATION COMPACT INCLUDE:

- a. REAL PROPERTY SURFACE ESTATES;
- b. REAL PROPERTY SUBSURFACE ESTATES;
- c. MINERAL LEASE WORKING INTERESTS;
- d. MINERAL LEASE ROYALTY INTERESTS;
- e. MINERAL LEASE PRODUCTION PAYMENTS;
- f. VEHICLES AND MOBILE HOMES;
- g. BUILDINGS OR IMPROVEMENTS;
- h. EQUIPMENT;
- i. SECURITY INTERESTS;
- j. OTHER REAL OR PERSONAL PROPERTY;
- k. ANY OIL AND GAS PRODUCTION AND INTEREST.

Article Five
Tribal Declaration of Real Property Acquisition.

5.01. Tribal Declaration.

FOLLOWING ACQUISITION BY THE TRIBE OF ANY INTEREST IN REAL PROPERTY

LOCATED WITHIN THE BOUNDARIES OF THE RESERVATION, IN ORDER TO BE ENTITLED TO THE BENEFITS OF THIS TAXATION COMPACT RELATIVE TO SUCH INTEREST, THE TRIBE SHALL FILE A DECLARATION OF SUCH ACQUISITION WITH THE COUNTY ASSESSOR, WHICH DECLARATION SHALL CONTAIN: A LEGAL DESCRIPTION OF THE REAL PROPERTY INTEREST ACQUIRED, INCLUDING A GEOGRAPHICAL DESCRIPTION AND A STATEMENT OF THE INTEREST ACQUIRED; IDENTIFICATION OF THE GRANTOR OF SUCH INTEREST; THE DATE OF CLOSING OF THE ACQUISITION TRANSACTION; AND, WITH RESPECT TO INTERESTS ACQUIRED BY THE TRIBE IN NON-TRUST REAL PROPERTY, A STATEMENT OF TRIBAL INTENT OF WHETHER OR NOT APPLICATION IS TO BE MADE BY THE TRIBE TO THE UNITED STATES OF AMERICA TO PLACE OWNERSHIP OF SUCH ACQUIRED INTEREST INTO TRUST STATUS. IF THE TRIBE SUBSEQUENTLY APPLIES TO HAVE SUCH INTEREST PLACED INTO FEDERAL TRUST STATUS, THE TRIBE SHALL SO NOTIFY THE COUNTY ASSESSOR IN WRITING, AND THE TRIBE SHALL FURTHER NOTIFY THE COUNTY ASSESSOR IN WRITING IF AND WHEN SUCH TRUST STATUS IS CONFERRED.

5.02. Assessor's Annual Compilation.

NO LATER THAN THE THIRTY-FIRST DAY OF JANUARY OF EACH YEAR DURING WHICH THE TAXATION COMPACT IS IN FORCE, THE COUNTY ASSESSOR SHALL PREPARE A COMPILATION OF ALL TRIBALLY DECLARED REAL PROPERTY INTERESTS WITHIN THE RESERVATION ACQUIRED DURING THE PRECEDING CALENDAR YEAR BY THE TRIBE, WHICH INTERESTS HAVE NOT BEEN IDENTIFIED BY THE TRIBE AS HAVING BEEN TAKEN INTO TRUST STATUS BY THE UNITED STATES OF AMERICA. FOR EACH SUCH PARCEL OR INTEREST LISTED ON SAID COMPILATION, THE COUNTY ASSESSOR SHALL PREPARE A SCHEDULE SHOWING WITHIN WHICH TAXING DISTRICTS SUCH PARCEL OR INTEREST IS LOCATED, TOGETHER WITH A STATEMENT OF THE MILL LEVY ATTRIBUTABLE TO SAID INTERESTS BY TAXING DISTRICT AS REPORTED ON THE LAST APPLICABLE TAX OR ASSESSMENT NOTICE, AND A STATEMENT OF THE ASSESSED OR ESTIMATED ASSESSED VALUE OF SUCH PARCEL OR INTEREST BASED ON THE LAST APPLICABLE ASSESSMENT NOTICE. IF TRIBALLY ACQUIRED INTERESTS HAVE BEEN SHOWN ON A PREVIOUSLY ISSUED ANNUAL COMPILATION UNDER THIS PARAGRAPH FOR THE IMMEDIATELY PRECEDING YEAR, WITHOUT SUBSEQUENT NOTIFICATION BY THE TRIBE OF EITHER A CHANGE IN OWNERSHIP OR TRUST STATUS OF SUCH INTERESTS, THE COUNTY ASSESSOR SHALL CARRY FORWARD SUCH INTERESTS ON THE THEN CURRENT ANNUAL COMPILATION WITH SUCH UPDATED SCHEDULES OF MILL LEVY BY TAXING DISTRICT FOR THE PARTICULAR CARRIED-FORWARD INTEREST OR PARCEL. FOR EACH SUCH LISTED PARCEL OR INTEREST, THE COUNTY ASSESSOR SHALL ALSO SUBMIT, WITH THE ASSISTANCE OF THE COUNTY TREASURER, A STATEMENT OF THE AMOUNT OF AD VALOREM TAX REVENUE THAT WOULD HAVE BEEN COLLECTED DURING SAID APPLICABLE ANNUAL PERIOD, OR PART THEREOF DURING WHICH THE TRIBE OWNED A LISTED INTEREST, BUT FOR THE TRIBE'S OWNERSHIP. UPON COMPLETION OF THE ANNUAL COMPILATION, THE COUNTY ASSESSOR SHALL PROMPTLY FORWARD THE SAME TO THE DESIGNATED REPRESENTATIVE OF THE TRIBE.

5.03. Tribal Valuation Protest.

NO LATER THAN FORTY-FIVE DAYS FOLLOWING ITS RECEIPT OF THE COUNTY ASSESSOR'S ANNUAL COMPILATION OF TRIBALLY ACQUIRED INTERESTS, VALUATION, AND STATEMENT OF TAX REVENUE, THE TRIBE MAY SUBMIT TO THE COUNTY ASSESSOR A PROTEST OF THE VALUATION ESTIMATE OR STATEMENT OF TAX REVENUE FOR ANY PARCEL OR INTEREST WHICH THE TRIBE BELIEVES IS OVERSTATED IN THE ANNUAL COMPILATION. SAID PROTEST SHALL BE ACCOMPANIED BY WRITTEN JUSTIFICATION SETTING FORTH THE BASIS FOR THE PROTEST. SUCH JUSTIFICATION MAY

INCLUDE, FOR EXAMPLE, RECORDS OF ACTUAL PRODUCTION AND SALES VALUE OF OIL AND GAS OR COALBED METHANE USING VALUATION CRITERIA SIMILAR TO THAT EMPLOYED BY THE STATE IN VALUING NON-INDIAN OIL AND GAS PROPERTIES. SHOULD THE COUNTY ASSESSOR AND THE TRIBE NOT BE ABLE TO REACH AGREEMENT AS TO THE PROPER VALUATION OR STATEMENT OF TAX REVENUE TO BE ASSIGNED TO ANY SUCH PARCEL OR INTEREST, THEN SAID DISPUTE SHALL BE SUBMITTED TO THE STATE PROPERTY TAX ADMINISTRATOR FOR RESOLUTION. THE STATE PROPERTY TAX ADMINISTRATOR SHALL EMPLOY SUCH PROCEDURES HE OR SHE DEEMS FAIR AND REASONABLE FOR HEARING THE DISPUTE, PROVIDED THAT IN ANY EVENT, BOTH THE ASSESSOR AND THE TRIBE SHALL HAVE AN EFFECTIVE OPPORTUNITY TO STATE THEIR RESPECTIVE POSITIONS. THE STATE PROPERTY TAX ADMINISTRATOR SHALL ISSUE A RULING RESOLVING SAID DISPUTE NO LATER THAN THE FIRST DAY OF JUNE OF ANY SUCH YEAR, WHICH RULING SHALL BE BINDING AND FINAL. IN NO EVENT SHALL THE STATE PROPERTY TAX ADMINISTRATOR BE PERMITTED TO REACH A FINDING OF VALUATION OR A STATEMENT OF TAX REVENUE GREATER THAN THAT ORIGINALLY ESTIMATED BY THE COUNTY ASSESSOR AS SET FORTH IN THE ANNUAL COMPILATION.

Article Six Annual Tribal Payment in Lieu of Taxation.

6.01. Voluntary Payment.

IN CONSIDERATION FOR THE COVENANTS HEREIN CONTAINED, THE TRIBE AGREES DURING EACH YEAR THAT THIS TAXATION COMPACT IS IN FULL FORCE AND EFFECT TO MAKE A VOLUNTARY PAYMENT TO THE COUNTY AS MORE PARTICULARLY DESCRIBED BELOW.

6.02. Non-Public School Share and Bonded Indebtedness.

THE TRIBE HEREBY AGREES TO REMIT TO THE COUNTY NO LATER THAN THE FIFTEENTH DAY OF JUNE OF EACH YEAR A VOLUNTARY PAYMENT IN LIEU OF TAXES WHICH SHALL BE EQUAL TO THE NON-PUBLIC SCHOOL SHARE OF ANNUAL REAL PROPERTY AD VALOREM TAXES, PLUS THE PORTION OF ANNUAL REAL PROPERTY AD VALOREM TAXES THAT ARE ATTRIBUTABLE TO PUBLIC SCHOOL BONDED INDEBTEDNESS, FOR NON-TRUST REAL PROPERTY OWNED OR ACQUIRED BY THE TRIBE WITHIN THE RESERVATION THAT OTHERWISE WOULD HAVE BEEN ASSESSED AND COLLECTED BUT FOR ACQUISITION OR OWNERSHIP OF SUCH REAL PROPERTY BY THE TRIBE. THE PARTIES AGREE THAT THE COLORADO STATUTORY DEFINITIONS FOR THE TERMS "REAL PROPERTY" AND "PERSONAL PROPERTY" PRESENTLY CONTAINED IN ARTICLE 1 OF TITLE 39, C.R.S., SHALL APPLY FOR PURPOSES OF THIS SECTION OF THIS TAXATION COMPACT; PROVIDED HOWEVER, THE PARTIES AGREE THAT REGARDLESS OF HOW THEY ARE TREATED UNDER COLORADO LAW, MOBILE HOMES OWNED OR ACQUIRED BY THE TRIBE SHALL BE CONSIDERED PERSONAL PROPERTY FOR PURPOSES OF THIS SECTION OF THIS TAXATION COMPACT.

6.03. How Determined and Reported.

THE AMOUNT OF SAID VOLUNTARY PAYMENT WILL BE COMPUTED BASED ON THE TOTAL SUM OF TAXES THAT WOULD HAVE BEEN COLLECTED FOR EACH PARCEL OR INTEREST LISTED ON THE COUNTY ASSESSOR'S ANNUAL COMPILATION FOR ALL NON-PUBLIC SCHOOL TAXING DISTRICTS. TOGETHER WITH THE TRIBE'S VOLUNTARY PAYMENT, THE TRIBE SHALL SUBMIT A SCHEDULE SETTING FORTH THE AMOUNT OF VOLUNTARY PAYMENT BEING MADE FOR EACH PARCEL OR INTEREST CONTAINED ON THE COUNTY ASSESSOR'S ANNUAL COMPILATION.

6.04. Previously Acquired Non-Trust Real Property.

THE PARTIES ACKNOWLEDGE THAT THE COUNTY ASSERTS A CLAIM FOR SEVENTY-SEVEN THOUSAND SIXTY-FIVE DOLLARS AND EIGHTY-FOUR CENTS (\$77,065.84) IN TAXES DUE ON NON-TRUST REAL PROPERTY ACQUIRED BY THE TRIBE FROM AND PREVIOUSLY TAXABLE TO NON-TRIBAL PARTIES FOR THE PERIOD OF TIME PRIOR TO THE 1996 TAX YEAR (I.E., PRIOR TO AND INCLUDING DECEMBER 31, 1995). THE TRIBE AGREES TO PAY THE COUNTY SEVENTY-SEVEN THOUSAND SIXTY-FIVE DOLLARS AND EIGHTY-FOUR CENTS (\$77,065.84) IN FULL SATISFACTION OF ANY CLAIMS THAT THE COUNTY MAY HAVE AGAINST THE TRIBE RELATING TO THESE CLAIMS. ADDITIONALLY, PRIOR TO DECEMBER 31, 1996, THE TRIBE AGREES TO PROVIDE TO THE COUNTY ASSESSOR, IN A FORMAT CONSISTENT WITH THAT DESCRIBED IN SECTION 5.01, SUPRA, A LISTING OF REAL PROPERTY INTERESTS OWNED BY THE TRIBE, NOT HELD IN TRUST, ACQUIRED BY THE TRIBE PRIOR TO THE EFFECTIVE DATE OF THIS TAXATION COMPACT FOR WHICH THE TRIBE IS ENTITLED TO EXEMPTION FROM TAXATION UNDER THE PROVISIONS OF SECTION 3.03, SUPRA.

**Article Seven
Tribal Oil and Gas Operations;
Reporting and Remittance for Non-Indian Parties.**

7.01. Red Willow Production Company.

THE PARTIES ACKNOWLEDGE THAT THE TRIBE SERVES AS THE OPERATOR OF OIL, GAS, AND COALBED METHANE WELLS WHICH PRODUCE MINERALS ASSOCIATED WITH BOTH TRUST AND NON-TRUST MINERAL INTERESTS LOCATED WITHIN THE RESERVATION. SUCH OPERATIONS HAVE BEEN CONDUCTED BY THE TRIBE UNDER THE NAME RED WILLOW PRODUCTION COMPANY, WHICH IS WHOLLY OWNED BY THE TRIBE. WHILE IN MOST INSTANCES SUCH OPERATIONS INVOLVE MINERAL LEASES ISSUED BY THE TRIBE PURSUANT TO FEDERAL LAW, THERE ARE SITUATIONS IN WHICH THE UNDERLYING LEASES HAVE BEEN ISSUED OR COULD HAVE BEEN ISSUED BY NON-INDIAN MINERAL INTEREST HOLDERS. IN EITHER INSTANCE, HOWEVER, NON-OPERATING INTEREST HOLDERS TYPICALLY INCLUDE NON-INDIANS WHO OWN WORKING INTERESTS OR OVERRIDING ROYALTY INTERESTS IN THE APPLICABLE LEASES. THE PARTIES ACKNOWLEDGE THAT NOTHING IN THIS TAXATION COMPACT SHALL PRECLUDE THE COLLECTION OF LAWFUL AND APPLICABLE TAXES AND CHARGES ON PROPERTY AND INTERESTS OWNED BY THE TRIBE AND LOCATED OUTSIDE THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION.

7.02. State and County Reporting Requirements.

UNDER EXISTING STATE LAW, WELL OPERATORS ARE REQUIRED TO SUBMIT TO STATE AND COUNTY OFFICIALS REPORTS RELATED TO THE CONDUCT OF WELL PRODUCTION ACTIVITIES AND THE DISPOSITION OF PRODUCED SUBSTANCES. SUCH REPORTS ARE UTILIZED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION TO MONITOR AND REGULATE THE DEVELOPMENT OF OIL, GAS, AND COALBED METHANE RESOURCES WITHIN THE STATE. ADDITIONALLY, SUCH REPORTS ARE AVAILABLE FOR USE BY THE COLORADO DEPARTMENT OF REVENUE AND COUNTY OFFICIALS TO ASSESS AND COLLECT TAXES, INCLUDING SEVERANCE TAX AND AD VALOREM TAX, FROM THE ACTUAL HOLDERS OF INTERESTS IN MINERALS OR FROM THE BENEFICIARIES OF INCOME DERIVED FROM ENERGY RESOURCE DEVELOPMENT. BASED UPON THE REPORTING REQUIREMENTS IMPOSED UPON WELL OPERATORS, AND BASED UPON STATUTORY PROVISIONS WHICH REQUIRE WELL OPERATORS TO WITHHOLD AND REMIT FUNDS FROM PRODUCTION INCOME TO MEET THE TAX LIABILITIES OF NON-OPERATING INTEREST

HOLDERS OF SUCH WELLS, COMPLIANCE BY WELL OPERATORS IN SUBMITTING TIMELY REPORTS AND REMITTING TAXES WITHHELD IS INTEGRAL TO THE EFFECTIVE OPERATION OF STATE TAX LAWS WITH RESPECT TO NON-OPERATING INTEREST HOLDERS.

7.03. Red Willow Reporting Responsibilities.

IN ORDER TO ASSIST THE STATE AND COUNTY IN OBTAINING INFORMATION NEEDED FOR THE EFFECTIVE MONITORING AND REGULATION OF RESOURCE DEVELOPMENT, THE ACCURATE VALUATION OF TAXABLE INTERESTS OF NON-INDIAN INTEREST HOLDERS ON THE RESERVATION, AND THE COLLECTION OF TAXES FROM PARTIES LAWFULLY SUBJECT TO STATE AND COUNTY TAXES, THE TRIBE D/B/A RED WILLOW PRODUCTION COMPANY (OR IN WHATEVER NAME THE TRIBE IS DOING BUSINESS) AGREES TO REMIT REPORTS AND DECLARATIONS INVOLVING ENERGY PRODUCTION ACTIVITIES ON THE RESERVATION OVER WHICH IT SERVES AS OPERATOR ON THE FOLLOWING BASIS:

a. Operational Reports. WITH RESPECT TO OPERATIONAL REPORTS AND FILINGS, INCLUDING, FOR EXAMPLE, APPLICATIONS FOR PERMITS TO DRILL AND SUNDRY NOTICES, INVOLVING MINERAL OPERATIONS CONDUCTED BY RED WILLOW PRODUCTION COMPANY SUBJECT TO FEDERAL SUPERVISION ON LANDS WITHIN THE RESERVATION, THE TRIBE HEREBY CONSENTS TO PROVIDE OR TO CAUSE THE APPROPRIATE FEDERAL AGENCIES TO PROVIDE INFORMATIONAL COPIES OF DOCUMENTS FILED BY RED WILLOW WITH SUCH FEDERAL AGENCIES TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION. THIS TRIBAL CONSENT IS INTENDED AS A SUPPLEMENT TO JOINT COOPERATIVE PROCEDURES ALREADY CONTAINED IN THE MEMORANDUM OF UNDERSTANDING AND INTERAGENCY AGREEMENT BETWEEN THE TRIBE AND THE BUREAU OF LAND MANAGEMENT AND THE BUREAU OF INDIAN AFFAIRS AND THE BUREAU OF LAND MANAGEMENT, DATED AUGUST 22, 1991, AND IN THE MEMORANDUM OF UNDERSTANDING BETWEEN THE COLORADO BUREAU OF LAND MANAGEMENT AND THE COLORADO OIL AND GAS CONSERVATION COMMISSION, DATED AUGUST 22, 1991.

b. Severance Tax Reports and Withholding. THE TRIBE HEREBY AGREES TO SUBMIT TO THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF REVENUE AN ANNUAL REPORT RELATED TO ENERGY IMPACTS AS OTHERWISE REQUIRED BY SECTION 39-29-110, C.R.S. WITH RESPECT TO WELLS OPERATED BY RED WILLOW LOCATED ON THE RESERVATION, THE TRIBE AGREES TO WITHHOLD FROM INCOME IT RECEIVES FOR THE SALE OF PRODUCTION ATTRIBUTABLE TO NON-INDIAN INTERESTS SUCH AMOUNTS OTHERWISE REQUIRED TO BE WITHHELD ON A QUARTERLY BASIS PURSUANT TO SECTION 39-29-111, C.R.S., AND TO REMIT SUCH WITHHOLDING, TOGETHER WITH FORMS FOR RELATED REPORTING, TO THE COLORADO DEPARTMENT OF REVENUE.

c. Ad Valorem Declarations. WITH RESPECT TO ANY LEASED LANDS THAT ARE PRODUCING OR ARE CAPABLE OF PRODUCING OIL OR GAS ON THE ASSESSMENT DATE OF EACH YEAR, WHICH ARE OPERATED BY RED WILLOW ON THE RESERVATION, THE TRIBE SHALL FILE WITH THE COUNTY ASSESSOR IN ACCORDANCE WITH SECTION 39-7-101, C.R.S., AND SECTION 39-5-107, C.R.S., A DECLARATION OF THE OIL, GAS, OR COALBED METHANE SOLD OR TRANSPORTED FROM THE PREMISES, WHICH DECLARATION SHALL DESIGNATE THE TRIBE'S EXEMPT SHARE, IF ANY, AND SUCH TAX SCHEDULES NORMALLY FILED BY NON-INDIAN OPERATORS DESIGNATING SUCH TAXABLE PERSONAL PROPERTY OF NON-OPERATORS

OR PORTIONS THEREOF OVER WHICH RED WILLOW EXERCISES CONTROL AS OPERATOR. IN PREPARING AND FILING ANY SUCH DECLARATIONS OR SCHEDULES, THE TRIBE SHALL BE ENTITLED TO LIST ITS OWN OWNERSHIP SHARE AS EXEMPT.

7.04. Cooperation in Reporting.

IN ORDER TO ASSIST THE TRIBE IN COMPLYING WITH THE REPORTING OBLIGATIONS OF THIS ARTICLE SEVEN, OFFICIALS FROM THE STATE AND THE COUNTY SHALL MAKE REASONABLE EFFORTS TO MEET WITH TRIBAL OFFICIALS RESPONSIBLE FOR RENDERING SUCH REPORTS AND TO COOPERATE WITH SAID TRIBAL OFFICIALS TO ELIMINATE ANY UNNECESSARY REPORTING OBLIGATIONS AND TO DEVELOP MUTUALLY ACCEPTABLE MEANS FOR FACILITATING THE TRANSMISSION OF REPORTED INFORMATION. TO THE EXTENT PRACTICABLE AND SATISFACTORY, THE PARTIES MAY UTILIZE AND DEVELOP ELECTRONIC REPORTS AND DATA RETRIEVAL SYSTEMS.

Article Eight Statement of Completion of Improvements By Non-Indians on Tribal Lands.

8.01. Tribal Consent for Surface Disturbance.

IN ACCORDANCE WITH FEDERAL LAW AND REGULATIONS, INCLUDING 25 U.S.C. SEC. 476, AND THE CONSTITUTION OF THE SOUTHERN UTE INDIAN TRIBE, TRIBAL CONSENT IS REQUIRED AS A CONDITION FOR THIRD PARTIES TO OBTAIN VALID MINERAL LEASES, SURFACE LEASES, COMMERCIAL LEASES, RIGHTS-OF-WAY OR EASEMENTS, OR TO CONDUCT SURFACE DISTURBING ACTIVITIES ON TRIBAL SURFACE LANDS, WHETHER HELD IN TRUST OR NON-TRUST STATUS. THE TRIBE MAINTAINS THAT IT POSSESSES THE AUTHORITY TO CONDITION ITS APPROVAL OR CONSENT TO THE ISSUANCE OF SUCH RIGHTS TO THIRD PARTIES. THE COUNTY HAS INDICATED THAT ITS EFFORTS TO DETERMINE THE ASSESSED VALUATION OF IMPROVEMENTS CONSTRUCTED BY THIRD PARTIES ON TRIBAL LANDS PURSUANT TO TRIBAL AUTHORIZATION HAVE BEEN HAMPERED BY A LACK OF KNOWLEDGE OF THE COMPLETION OR INSTALLATION OF SUCH IMPROVEMENTS, INCLUDING PIPELINES AND COMPRESSOR STATIONS.

8.02. Disclosure of Completion of Improvements.

WHERE THE TRIBE, IN ITS SOLE DISCRETION, DETERMINES THAT IT HAS THE LEGAL RIGHT TO DO SO, THE TRIBE COVENANTS TO ESTABLISH A UNIFORM PROCEDURE IMPOSING, AS A CONDITION FOR THE GRANT OF ITS CONSENT TO THE ISSUANCE OF LEASES OR RIGHTS-OF-WAY ON TRIBAL LANDS INVOLVING THE INSTALLATION OR CONSTRUCTION OF IMPROVEMENTS, INCLUDING PIPELINES OR COMPRESSOR STATIONS, A REQUIREMENT THAT THE GRANTEE OR DIRECT BENEFICIARY OF SUCH RIGHTS SHALL NOTIFY THE COUNTY ASSESSOR IN A TIMELY MANNER OF THE COMPLETION OF SUCH IMPROVEMENTS OR FACILITIES.

8.03. Rights Withheld.

IN AGREEING TO REQUIRE DISCLOSURE OF COMPLETION OF IMPROVEMENTS BY THIRD PARTIES ON TRIBAL LAND, THE TRIBE EXPRESSLY RESERVES AND RETAINS ALL AUTHORITY IT POSSESSES TO CONTROL WHERE AND IN WHAT MANNER SUCH IMPROVEMENTS MAY BE LOCATED OR CONSTRUCTED. THE DISCLOSURE REQUIREMENT IS SOLELY INTENDED AS AN AID TO THE COUNTY IN CONDUCTING DETERMINATIONS OF ASSESSED VALUATION, AND IS NOT INTENDED AS CONCEDED THAT THE STATE OR THE COUNTY POSSESSES THE AUTHORITY TO TAX SUCH IMPROVEMENTS.

Article Nine
Access to Tribal Land for Assessment.

9.01. Conditional Consent to Cross Tribal Lands.

SUBJECT TO THE CONDITIONS HEREINAFTER SET FORTH, THE TRIBE HEREBY CONSENTS TO PERMIT THE COUNTY ASSESSOR AND HIS DULY AUTHORIZED REPRESENTATIVES TO CROSS TRIBAL LANDS FOR THE PURPOSE OF PERFORMING ASSESSMENT AND VALUATION ACTIVITIES WITH RESPECT TO IMPROVEMENTS LOCATED WITHIN THE RESERVATION, INCLUDING, BUT NOT LIMITED TO: OIL, GAS, AND COALBED METHANE WELLS; COMPRESSOR STATIONS; PIPELINES; BUILDINGS; AND SURFACE FACILITIES OR EQUIPMENT.

9.02. Annual Permit.

UPON THE EFFECTIVE DATE OF THIS TAXATION COMPACT, AND NO LATER THAN THE FIFTEENTH DAY OF JANUARY EVERY YEAR THEREAFTER, THE COUNTY ASSESSOR SHALL CONTACT THE DIRECTOR OF THE DIVISION OF NATURAL RESOURCES OF THE TRIBE TO OBTAIN A WRITTEN PERMIT EVIDENCING HIS AUTHORITY TO CROSS TRIBAL LANDS. THE COUNTY ASSESSOR SHALL PROVIDE TO SAID DIRECTOR A LIST OF NAMES OF PERSONS ACTING UNDER HIS AUTHORITY WHO HE INTENDS TO HAVE CROSS TRIBAL LANDS FOR THE PURPOSES SPECIFIED HEREIN, TOGETHER WITH A DESCRIPTION OF VEHICLES TO BE USED BY SUCH PERSONS AND CORRESPONDING VEHICLE REGISTRATION NUMBERS. THE LIST SHALL BE UPDATED FROM TIME TO TIME TO REFLECT CHANGES IN PERSONNEL WITHIN THE OFFICE OF THE COUNTY ASSESSOR. THE COUNTY ASSESSOR SHALL REQUIRE ANY PERSON WITHIN HIS SUPERVISION ACTING UNDER AUTHORITY OF THIS ARTICLE NINE TO CARRY SUCH PERMIT WITH HIM WHILE PERFORMING ASSESSMENT DUTIES WITHIN THE RESERVATION. SAID PERMIT SHALL BE VALID FOR ONE YEAR, AND SHALL BEAR THE SIGNATURE OF THE COUNTY ASSESSOR AND THE DIRECTOR.

9.03. Possession of Alcohol and Firearms Prohibited.

ANY PERSON, WHILE CARRYING OUT HIS ASSESSMENT DUTIES WITHIN THE RESERVATION PURSUANT TO THE AFOREMENTIONED PERMIT, SHALL BE PROHIBITED FROM CARRYING FIREARMS OR ALCOHOLIC BEVERAGES.

9.04. Prior Notice for Tribal Lands.

PRIOR TO ENTERING UPON TRIBAL LANDS FOR THE PURPOSE OF INSPECTING OR EVALUATING ANY FACILITY OR IMPROVEMENT SO LOCATED, THE COUNTY ASSESSOR OR HIS AUTHORIZED DELEGEE SHALL NOTIFY THE DIRECTOR OF HIS INTENTIONS AND THE APPROXIMATE LOCATION OF THE INSPECTION OR EVALUATION. IN THE EVENT THAT THE FACILITY TO BE INSPECTED IS RELATED TO OIL, GAS, OR COALBED METHANE OPERATIONS ON TRIBAL SURFACE OR MINERAL LANDS, THE COUNTY ASSESSOR SHALL ALSO NOTIFY THE DIRECTOR OF THE ENERGY RESOURCE DIVISION OF THE TRIBE.

9.05. Permit Revocation.

IN THE EVENT THAT THE COUNTY ASSESSOR OR HIS AUTHORIZED DELEGATES FAIL TO COMPLY WITH THE CONDITIONS SET FORTH IN SECTION 9.03 OF THIS ARTICLE, THE TRIBAL COUNCIL CHAIRMAN SHALL BE AUTHORIZED TO REVOKE SAID PERMIT, IN WHOLE OR IN PART. IN THE EVENT THAT THE COUNTY ASSESSOR OR HIS AUTHORIZED DELEGATES FAIL TO COMPLY WITH THE OTHER CONDITIONS SET FORTH IN THIS ARTICLE, AND SUCH FAILURE IS WILFUL OR MATERIAL, THE TRIBAL COUNCIL CHAIRMAN SHALL BE AUTHORIZED TO REVOKE SAID PERMIT, IN WHOLE OR IN PART.

SHOULD SUCH PERMIT BE REVOKED IN WHOLE, IT SHALL NOT BE ELIGIBLE FOR REINSTATEMENT UNTIL THE FOLLOWING YEAR. REVOCATION OF A CROSSING PERMIT FOR CAUSE SHALL NOT BE GROUNDS FOR TERMINATION OF THIS TAXATION COMPACT.

Article Ten
Collection Procedures for Delinquent Taxes
of Non-Indians on Tribal Lands.

10.01. Tribal Court Recognition Required.

NO LIEN CREATED BY OPERATION OF STATE LAW IN ANY INTEREST IN TRIBAL REAL PROPERTY, WHETHER OWNED BY THE TRIBE OR BY A NON-INDIAN, OR IN PERSONAL PROPERTY OR IMPROVEMENTS LOCATED ON TRIBAL REAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF THE RESERVATION, SHALL BE RECOGNIZED BY THE TRIBE AS HAVING LAWFUL EFFECT UNLESS RECOGNIZED UNDER PRINCIPLES OF COMITY BY THE SOUTHERN UTE TRIBAL COURT.

10.02. How Recognition is Obtained.

THE TRIBAL COUNCIL HEREBY COVENANTS TO ENACT BY APPROPRIATE RESOLUTION AND ORDINANCE A SPECIALLY DESIGNATED SECTION OF THE SOUTHERN UTE INDIAN TRIBAL CODE ADDRESSING RECOGNITION OF STATE AND COUNTY TAX LIENS AND THE PROCEDURE BY WHICH SUCH LIENS MAY BE EFFECTIVELY FORECLOSED BY SAID OFFICIALS. SUCH ENACTMENT SHALL PROVIDE THAT RECOGNITION OF STATE CREATED LIENS, IN INTERESTS IN TRIBAL REAL PROPERTY OR IN PERSONAL PROPERTY LOCATED ON TRIBAL REAL PROPERTY, FOR NON-PAYMENT OF TAXES MAY BE OBTAINED BY THE APPROPRIATE OFFICER OF THE STATE OR COUNTY BY COMMENCING AN ACTION FOR SUCH RECOGNITION IN THE TRIBAL COURT. SUCH ACTION SHALL NAME AS RESPONDENT THE PERSON OR PERSONS AGAINST WHOM THE LIEN IS CLAIMED AND SHALL SET FORTH THE BASIS SUPPORTING THE LIEN. ANY NAMED RESPONDENT SHALL HAVE THE OPPORTUNITY, IN ACCORDANCE WITH THE TRIBE'S CIVIL PROCEDURE CODE, TO CONTEST THE UNDERLYING JURISDICTIONAL BASIS OF SUCH LIEN, OR THE SUFFICIENCY OF DUE PROCESS IN ITS ISSUANCE. SHOULD THE NAMED RESPONDENT FAIL TO DEMONSTRATE AN ABSENCE OF JURISDICTION OR A LACK OF DUE PROCESS IN THE CREATION OF THE LIEN, THE TRIBAL COURT SHALL BE REQUIRED UNDER THE ENACTMENT TO AFFORD RECOGNITION TO SAID LIEN EFFECTIVE AS OF THE DATE OF ITS CREATION UNDER STATE LAW. SUCH RECOGNITION SHALL BE EVIDENCED BY A JUDGMENT OF RECOGNITION ENTERED BY THE TRIBAL COURT.

10.03. Execution and Foreclosure.

a. PERSONAL PROPERTY. THE TRIBAL ENACTMENT CONTEMPLATED IN THE FOREGOING SECTION SHALL PROVIDE THAT RECOGNIZED TAX LIENS ON PERSONAL PROPERTY MAY BE EXECUTED UPON IN ACCORDANCE WITH THE ENFORCEMENT OF SECURED TRANSACTIONS CODE, TITLE 15, SOUTHERN UTE INDIAN TRIBAL CODE.

b. REAL PROPERTY INTERESTS. THE TRIBAL ENACTMENT CONTEMPLATED IN THE FOREGOING SECTION SHALL ALSO SPECIFICALLY ADDRESS THE FORECLOSURE ON REAL PROPERTY INTERESTS IN TRIBAL REAL PROPERTY IN A MANNER THAT COMPORTS WITH BOTH TRIBAL AND FEDERAL LAW, AND TO THE EXTENT APPLICABLE, STATE LAW. IN THAT REGARD, THE TRANSFER OF AN INTEREST IN TRIBAL REAL PROPERTY REQUIRES BOTH TRIBAL AND FEDERAL WRITTEN CONSENT. BOTH THE TRIBE AND THE UNITED STATES MUST BE PROVIDED AN OPPORTUNITY TO ENSURE THAT PURCHASERS OF

INTERESTS FORECLOSED UPON MEET THE NECESSARY QUALIFICATIONS TO HOLD SUCH INTERESTS UNDER TRIBAL AND FEDERAL LAW. PROVISION SHALL BE MADE IN SAID ENACTMENT FOR A PROCESS OF QUALIFICATION OF BIDDERS AT A FORECLOSURE SALE IN A MANNER THAT WILL NOT UNDULY RESTRICT THE ABILITY FOR THE STATE AND THE COUNTY TO FORECLOSE ON LIENS ON TRIBAL REAL PROPERTY INTERESTS OWNED BY NON-INDIANS WITHIN THE RESERVATION.

Article Eleven Duration of Taxation Compact.

11.01. Conditions Subsequent.

THIS TAXATION COMPACT IS PREMISED UPON CERTAIN CONDITIONS THAT CURRENTLY EXIST OR THAT MUST EXIST PRIOR TO ITS EFFECTIVENESS. CERTAIN OF SUCH CONDITIONS, ONCE IN PLACE, ARE BEYOND THE ABILITY OF THE PARTIES TO CONTROL FULLY; HOWEVER, ALTERATION OF SUCH CONDITIONS COULD DRAMATICALLY CHANGE THE NATURE OF THE AMICABLE AGREEMENT REFLECTED IN THIS TAXATION COMPACT. ACCORDINGLY, THIS ARTICLE IS INTENDED TO IDENTIFY THOSE CONDITIONS SUBSEQUENT, WHICH, IN THE ABSENCE OF AMENDMENT OF THIS TAXATION COMPACT WILL RESULT IN ITS TERMINATION. IN ORDER TO PROVIDE THE PARTIES AN OPPORTUNITY TO AMEND THE TAXATION COMPACT PRIOR TO ITS AUTOMATIC TERMINATION, UNLESS OTHERWISE AGREED BY THE PARTIES IN WRITING, THERE SHALL BE A 120-DAY PERIOD BETWEEN THE CREATION OF SUCH CONDITIONS SUBSEQUENT AND THE TERMINATION OF THE TAXATION COMPACT. DURING THE 120-DAY PERIOD, THE PARTIES SHALL MEET AND CONFER AT LEAST ONCE IN AN ATTEMPT TO RESOLVE THE ISSUES CREATED BY THAT CHANGE IN CIRCUMSTANCE IN A MUTUALLY ACCEPTABLE MANNER. ANY PARTY THAT BELIEVES SUCH A CHANGE IN CIRCUMSTANCE HAS OCCURRED SHALL PROMPTLY NOTIFY THE OTHER PARTIES OF SAID OCCURRENCE IN WRITING. THE COMMENCEMENT OF THE 120-DAY PERIOD SHALL BEGIN ON THE DATE OF SUCH WRITTEN NOTICE.

11.02. Substantial Alteration or Repeal of Public School Financing and Equalization.

THIS TAXATION COMPACT IS PREMISED ON THE CONTINUATION OF THE EQUALIZATION FORMULA SET FORTH UNDER THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, C.R.S., WHICH IS INTENDED TO PROVIDE EQUALIZATION PAYMENTS TO SCHOOL DISTRICTS THROUGHOUT THE STATE INCLUDING THE SCHOOL DISTRICTS IN LA PLATA COUNTY IN A MANNER THAT INCLUDES THE CONSIDERATION OF THE ASSESSED VALUE FOR REAL AND PERSONAL PROPERTY TAXES. ACCORDINGLY, THE PARTIES UNDERSTAND THAT THE LEVEL OF FUNDING AVAILABLE TO SCHOOL DISTRICTS IN LA PLATA COUNTY FROM THE STATE OF COLORADO WILL BE ADJUSTED IN ACCORDANCE WITH THE EQUALIZATION FORMULA OF THE PUBLIC SCHOOL FINANCE ACT IN A MANNER THAT WILL ADDRESS TAX REVENUE LOSSES, EXCEPT FOR THOSE ASSOCIATED WITH BONDED INDEBTEDNESS, TO THE SCHOOL DISTRICTS WITHIN LA PLATA COUNTY RESULTING FROM REAL AND PERSONAL PROPERTY ACQUISITIONS BY THE TRIBE OF PROPERTIES THAT ARE SUBJECT TO THE PROVISIONS OF SECTIONS 3.01 AND 3.03 OF THIS TAXATION COMPACT. THIS TAXATION COMPACT SHALL TERMINATE, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11.01, IN THE EVENT THAT THE PUBLIC SCHOOL FINANCE ACT DOES NOT IN THE FUTURE OPERATE IN SUCH A MANNER TO ACHIEVE THE RESULTS SET FORTH IN THIS SECTION 11.02.

11.03. Escalation of Non-Public School Taxation District Average Percentage

of County Mill Levy above 33 1/3 Percent.

THIS TAXATION COMPACT IS PREMISED ON THE FACT THAT THE AVERAGE PORTION OF TOTAL REAL PROPERTY TAX LEVIES ASSESSED AND COLLECTED BY THE COUNTY AND ITS OFFICIALS ATTRIBUTABLE TO PUBLIC SCHOOL TAXING DISTRICTS FOR ANY TAXED PARCEL OR INTEREST IS APPROXIMATELY 70% OF THE TOTAL REAL PROPERTY TAX ASSESSED AND COLLECTED BY THE COUNTY AND ITS OFFICIALS FOR SUCH PARCEL OR INTEREST. ACCORDINGLY, IN ESTIMATING THE VOLUNTARY PAYMENT THAT MAY BE DUE IN ANY ANNUAL PERIOD OF THIS TAXATION COMPACT FOR ANY PARCEL LISTED IN THE ASSESSOR'S ANNUAL COMPILATION, THE TRIBE ANTICIPATES PAYING AN AMOUNT THAT WILL NOT EXCEED APPROXIMATELY 30% OF THE TOTAL MILL LEVY THAT WOULD HAVE BEEN APPLICABLE, BUT FOR THE TRIBE'S OWNERSHIP. SHOULD THE AGGREGATE AVERAGE PERCENTAGE OF NON-PUBLIC SCHOOL DISTRICT TAXES, AS REFLECTED IN THE ASSESSOR'S ANNUAL COMPILATION, EXCEED 33 1/3% OF THE TOTAL TAXES THAT WOULD HAVE BEEN ASSESSED WITH RESPECT TO THE PROPERTIES THEREIN LISTED, THE TRIBE SHALL BE REQUIRED TO REMIT AS ITS ANNUAL VOLUNTARY PAYMENT IN LIEU OF TAXES AN AMOUNT NO GREATER THAN 33 1/3% OF THE AGGREGATE TOTAL TAX THAT WOULD HAVE BEEN ASSESSED, BUT FOR THE TRIBE'S OWNERSHIP. IN SAID EVENT, AND UPON RECEIPT OF THE TRIBE'S ANNUAL VOLUNTARY PAYMENT AND ACCOMPANYING REPORT, THE COUNTY SHALL HAVE THE OPTION TO ACCEPT SAID PAYMENT IN FULL SATISFACTION OF THE TRIBE'S CONTRACTUAL LIABILITIES UNDER THIS TAXATION COMPACT FOR THE IMMEDIATELY PRECEDING TAX YEAR, OR THE COUNTY MAY NOTIFY THE PARTIES OF THE OCCURRENCE OF A CONDITION SUBSEQUENT IN ACCORDANCE WITH SECTION 11.01 ABOVE. SHOULD THE PARTIES BE UNABLE TO MAKE MUTUALLY SATISFACTORY AMENDMENTS TO THIS TAXATION COMPACT CAUSED BY THE CHANGE IN PERCENTAGE OF NON-PUBLIC SCHOOL DISTRICT TAXATION OF TOTAL TAXATION, THEN THIS TAXATION COMPACT SHALL TERMINATE. IN SAID EVENT, THE ANNUAL VOLUNTARY PAYMENT TENDERED BY THE TRIBE SHALL BE HELD IN ESCROW IN AN ACCOUNT ESTABLISHED BY THE STATE, TO BE DISTRIBUTED IN ACCORDANCE WITH THE ORDER OF A COURT OF COMPETENT JURISDICTION OR IN ACCORDANCE WITH THE MUTUAL WRITTEN AGREEMENT OF THE PARTIES.

11.04. Escalation of Annual Tribal Payment in Lieu of Taxes Above One Million Dollars (\$1,000,000).

SHOULD THE ANNUAL VOLUNTARY PAYMENT OF THE TRIBE, COMPUTED IN ACCORDANCE WITH THIS TAXATION COMPACT, EVER EXCEED THE AMOUNT OF ONE MILLION DOLLARS (\$1,000,000), THEN THE TRIBE SHALL HAVE THE OPTION IN ANY SUCH YEAR TO EITHER MAKE THE PAYMENT OR NOTIFY THE PARTIES OF TERMINATION OF THE TAXATION COMPACT IN ACCORDANCE WITH SECTION 11.01 ABOVE. SHOULD THE PARTIES BE UNABLE TO MAKE MUTUALLY SATISFACTORY AMENDMENTS TO THIS TAXATION COMPACT CAUSED BY THE UNANTICIPATED AMOUNT OF SUCH ANNUAL VOLUNTARY PAYMENT, THEN THIS TAXATION COMPACT SHALL TERMINATE.

11.05. Voluntary Termination by State, County, or Tribe.

UPON ONE YEAR'S NOTICE IN WRITING AS SET FORTH IN THIS TAXATION COMPACT, ANY OF THE PARTIES MAY CHOOSE TO VOLUNTARILY TERMINATE THIS COMPACT. UPON THE NOTICE OF SUCH VOLUNTARY TERMINATION WHICH SHALL INCLUDE A STATEMENT OF REASONS AND ISSUES AS TO WHY THE PARTY IS TERMINATING THIS COMPACT, THE MATTER SHALL BE SUBJECTED TO THE ALTERNATIVE DISPUTE RESOLUTION PROCESS SET FORTH IN ARTICLE 12 OF THIS TAXATION COMPACT. UPON ANY VOLUNTARY TERMINATION OF THIS TAXATION COMPACT BY ANY OF THE PARTIES

TO THIS TAXATION COMPACT, OTHER THAN PURSUANT TO SECTIONS 11.01-11.04, THE TRIBE SHALL MAKE PAYMENT TO THE COUNTY PURSUANT TO SECTION 6.02 CALCULATED UP TO THE END OF THE TAX YEAR PRECEDING THE YEAR IN WHICH THE NOTICE OF SUCH TERMINATION OCCURS AND THE COUNTY SHALL ACCEPT SUCH PAYMENT IN FULL SATISFACTION OF ANY OBLIGATION THE TRIBE MAY HAVE FOR PAYMENT OF TAXES TO THE COUNTY FOR THE TAX YEAR PRECEDING THE YEAR IN WHICH THE NOTICE OF SUCH VOLUNTARY TERMINATION OCCURS.

Article Twelve Dispute Resolution.

12.01. Dispute Resolution Mechanism.

THE PARTIES SHALL ATTEMPT TO PROMPTLY AND IN GOOD FAITH RESOLVE ANY DISPUTE ARISING OUT OF OR RELATING TO THE MATTERS ADDRESSED IN THE TAXATION COMPACT. ANY PARTY MAY GIVE THE OTHER PARTIES WRITTEN NOTICE OF ANY DISPUTE NOT RESOLVED IN THE NORMAL COURSE OF BUSINESS WHICH NOTICE SHALL INCLUDE A STATEMENT OF REASONS AND ISSUES FOR THE PROPOSED TERMINATION AS SET FORTH IN ARTICLE TEN. UPON THE RECEIPT OF SUCH NOTICE, A MEETING AT A MUTUALLY ACCEPTABLE PLACE AND TIME SHALL BE SCHEDULED WITHIN 15 DAYS AFTER DELIVERY OF SUCH NOTICE AND WILL BE ATTENDED BY THE GOVERNOR OF THE STATE OF COLORADO, THE CHAIRMAN OF THE SOUTHERN UTE INDIAN TRIBAL COUNCIL, THE CHAIRMAN OF THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS OR THEIR RESPECTIVE DESIGNEES, AND SAID OFFICIALS OR THEIR DESIGNEES SHALL MEET TO EXCHANGE INFORMATION RELATING TO THE DISPUTE AND TO ATTEMPT TO RESOLVE THE DISPUTE. IF THE PARTIES ARE UNABLE TO REACH AGREEMENT TO RESOLVE THE DISPUTE WITHIN 60 DAYS FROM THE DATE OF THE NOTICE INVOKING THE PROVISIONS OF THIS ARTICLE TWELVE, THE PARTIES WITHIN 15 DAYS AFTER THE PASSAGE OF SUCH 60-DAY PERIOD SHALL AGREE UPON A SINGLE ARBITRATOR TO RENDER A RECOMMENDED DECISION TO THE PARTIES CONCERNING THE RESOLUTION OF THE DISPUTE. THE ARBITRATOR SHALL RENDER HIS OR HER DECISION WITHIN 120 DAYS OF THE DATE OF NOTICE INVOKING THE PROVISIONS OF THIS ARTICLE TWELVE. THE DECISION OF THE ARBITRATOR SHALL THEN BE IMPLEMENTED BY THE PARTIES, PROVIDED HOWEVER, THAT THE STATE'S OBLIGATION TO IMPLEMENT THE DECISION SHALL BE SUBJECT TO STATE CONSTITUTIONAL LIMITATIONS, UNLESS AFFIRMATIVELY REJECTED BY ANY OF THE PARTIES IN WRITING SETTING FORTH THAT PARTY'S CONCLUSIONS AND REASONS FOR SUCH REJECTION WITHIN 30 DAYS OF THE ARBITRATOR'S RECOMMENDED DECISION.

Article Thirteen Miscellaneous.

13.01. Third Party Rights Unaffected.

EXCEPT AS PROVIDED HEREIN, THIS TAXATION COMPACT IS NOT INTENDED BY THE PARTIES TO AFFECT THE INDIVIDUAL RIGHTS OF THIRD PARTIES OR ENTITIES, INCLUDING RIGHTS OF INDIVIDUAL MEMBERS OF THE TRIBE OR THE RIGHTS OF PERSONS SUBJECT TO TAXATION BY THE STATE, COUNTY, OR TRIBE.

13.02. Amendments.

THE PARTIES MAY AMEND THIS TAXATION COMPACT FROM TIME TO TIME IN WRITING, PROVIDED THAT SUCH AMENDMENT MUST BEAR THE SIGNATURE OF AN AUTHORIZED REPRESENTATIVE OF EACH PARTY. THIS PROVISION FOR AMENDMENT, HOWEVER, IS

NOT INTENDED TO GRANT TO ANY PARTY INDIVIDUALLY OR TO THE PARTIES COLLECTIVELY ANY LEGISLATIVE AUTHORITY TO CHANGE STATE OR TRIBAL LAW WITHOUT THE CONCURRENCE OF THE APPROPRIATE LEGISLATIVE BODY.

13.03. Annual Review.

ON THE ANNIVERSARY DATE OF THIS TAXATION COMPACT OR THE FIRST BUSINESS DAY THEREAFTER, OR ON SOME OTHER MUTUALLY AGREED UPON DATE, BUT IN NO EVENT LESS THAN ANNUALLY, THE PARTIES TO THIS TAXATION COMPACT AGREE TO MEET AND CONFER TO DISCUSS COMPLIANCE, PROGRESS IN IMPLEMENTATION, WHETHER AMENDMENTS ARE NECESSARY, AND OTHER ISSUES RELATED TO THIS TAXATION COMPACT.

**Article Fourteen
Post-Compact Non-Waiver and Preservation.**

14.01. Preservation of Rights, Claims, and Defenses.

UPON THE TERMINATION OF THE TAXATION COMPACT, THE PARTIES MAY WISH TO REINSTITUTE LITIGATION CONCERNING ANY CLAIMS AND DEFENSES RELATING TO TAXATION WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION, AND IF THAT OCCURS, THE PARTIES UNDERSTAND AND AGREE THAT ALL ISSUES RELATING TO STATE AND LOCAL TAXATION MAY BE LITIGATED DE NOVO INCLUDING ANY AND ALL CLAIMS AND DEFENSES RELATED TO THE TAXATION OF ALL REAL AND PERSONAL PROPERTY INTERESTS WITHIN THE RESERVATION AS SET FORTH IN ARTICLES THREE AND FOUR OF THE TAXATION COMPACT. THE PARTIES ACKNOWLEDGE, UNDERSTAND AND AGREE THAT THIS TAXATION COMPACT, THE PRIOR LITIGATION AND THE SETTLEMENT NEGOTIATIONS LEADING UP TO THIS TAXATION COMPACT SHALL NOT OPERATE AS A BAR, WAIVER OF ANY RIGHTS OF THE PARTIES, OR IN ANY RESPECT AFFECT THE ABILITY OF ANY PARTY TO THIS TAXATION COMPACT TO INSTITUTE LITIGATION AND SEEK DECLARATORY OR INJUNCTIVE RELIEF OR DAMAGES. THE PARTIES ACKNOWLEDGE, UNDERSTAND AND AGREE THAT THIS TAXATION COMPACT AND THE CONDUCT OF THE PARTIES PURSUANT TO THIS TAXATION COMPACT SHALL NOT BE USED IN DISCOVERY OR ADMISSIBLE INTO EVIDENCE, AND ALL NEGOTIATIONS RELATING TO THIS TAXATION COMPACT AND EFFORTS TO RESOLVE ANY DISPUTES RELATING TO THIS TAXATION COMPACT UNDER ARTICLE ELEVEN SHALL BE TREATED AS COMPROMISE IN SETTLEMENT NEGOTIATIONS FOR PURPOSES OF THE FEDERAL RULES OF EVIDENCE, STATE RULES OF EVIDENCE, OR TRIBAL RULES OF EVIDENCE. NOTWITHSTANDING THE FOREGOING, HOWEVER, FOR EVERY ANNUAL PERIOD DURING WHICH THE TRIBE MAKES AND THE COUNTY ACCEPTS, WITHOUT CONTEST, AN ANNUAL VOLUNTARY PAYMENT IN LIEU OF TAXES, THE TRIBE SHALL BE BARRED FROM ASSERTING AS A CLAIM THE SUM OF SUCH PAYMENT, AND THE COUNTY AND STATE SHALL BE BARRED FROM SEEKING ANY TAXES FROM THE TRIBE ATTRIBUTABLE TO PROPERTY, REAL OR PERSONAL, OWNED BY THE TRIBE WITHIN THE RESERVATION.

IN WITNESS WHEREOF, THE PARTIES SET FORTH THEIR HANDS AND SEALS ON THE DATE FIRST ABOVE WRITTEN.

FRED W. KLATT, III, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
LA PLATA COUNTY, COLORADO

CRAIG LARSON
LA PLATA COUNTY ASSESSOR

LEONARD C. BURCH, CHAIRMAN

ED MURRAY

SOUTHERN UTE INDIAN TRIBAL COUNCIL LA PLATA COUNTY TREASURER
SOUTHERN UTE INDIAN TRIBE

ROY ROMER, GOVERNOR
STATE OF COLORADO

24-61-103. Compact to be ratified. SAID TAXATION COMPACT SHALL NOT BECOME BINDING OR OPERATIVE UNLESS AND UNTIL THE SAME HAS BEEN RATIFIED BY THE LEGISLATIVE BODIES OF EACH OF THE SIGNATORY ENTITIES AND APPROVED BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES, IF REQUIRED, IN ACCORDANCE WITH SECTION 2.04 OF ARTICLE TWO OF SAID TAXATION COMPACT. THE GOVERNOR OF THE STATE OF COLORADO SHALL GIVE NOTICE OF STATE APPROVAL OF SAID TAXATION COMPACT TO THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS AND THE SOUTHERN UTE INDIAN TRIBAL COUNCIL.

SECTION 2. 39-2-109 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-2-109. Duties, powers, and authority. (1) It is the duty of the property tax administrator, and he shall have and exercise authority:

(1) TO RESOLVE VALUATION DISPUTES CONCERNING PROPERTY OR PROPERTY INTERESTS OWNED OR HELD BY THE SOUTHERN UTE INDIAN TRIBE AS PROVIDED IN THE TAXATION COMPACT SET FORTH IN SECTION 39-15-102.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1996