

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**New Orleans, Louisiana  
Public Meeting  
Tuesday, September 24, 2013**

**Meeting Purpose**

The purpose of this meeting during a Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Paul Mussenden, U.S. Department of the Interior, government sector, opened the meeting by welcoming participants. The other panelists also introduced themselves:

- Ms. Danielle Brian, Project on Government Oversight, civil society sector
- Ms. Veronika Kohler, National Mining Association, industry sector
- Mr. Jim Roman, ConocoPhillips, industry sector
- Mr. Mike Smith, Interstate Oil and Gas Compact Commission, government sector

A full list of panelists, staff, and members of the public in attendance is provided in Appendix A. Please note Mr. Jim Miller, a Board member of the International Extractives Industry Transparency Initiative representing the industry sector, was present.

Mr. Mussenden proceeded to review the agenda for the meeting. He explained that a meeting summary, written by Mr. Tushar Kansal of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period.

**Presentation about EITI and Draft Candidacy Application**

The panelists presented information about the Extractives Industries Transparency Initiative (EITI) and the draft application of the United States to join the Initiative.

*EITI Background*

The presenters began by providing background on EITI. Mr. Mussenden explained that in 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource curse,” an economic paradox whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts because these resources are too often accompanied by mismanagement, corruption, weak accountability, and poverty. As a result, the benefits of natural resources in these resource-rich countries rarely trickle down to the citizens who own the resources. The Extractives Industries Transparency Initiative focuses on bringing transparency within the government, on the revenue flows from extractive industries, to address this all too common situation so that discrepancies are identified and better accountability and management is achieved.

The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public. A Multi-stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. Mussenden proceeded to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI.

- Of these, 23 “compliant” countries have met all the EITI requirements. Of these 23, three are currently suspended for not maintaining the EITI standards for reporting.
- Sixteen countries are currently “candidate” countries and their country applications for candidacy have been accepted by the International EITI Board. These 16 countries are currently implementing EITI but have not yet met all of the requirements of the initiative. Of these 16, two have been suspended for not fulfilling the work plans they set forth.

- Finally, there are five countries that have recently committed to implement EITI. Currently, Norway is the only country that is compliant with EITI. This group of five applicants includes five more developed countries and is led by the United States, which is furthest along in its candidacy process of these five. Along with the U.S., France, Germany, Italy, and the United Kingdom have announced their intention to sign onto EITI.

Ms. Danielle Brian, Project on Government Oversight, civil society sector, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders. These principles affirm that:

- A country's natural resources belong to all its citizens and that all citizens should accordingly see the benefits that flow from the natural resources;
- Ensuring that benefits are democratically shared requires high standards of transparency and accountability; and that
- Compliance calls for full disclosure of government revenues from their extractive industries and a national commission to oversee the process and stimulate public debate.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

Ms. Brian noted that the design of EITI was more targeted towards the prevailing context in many developing countries and that implementing EITI in the American context requires some adaptation of the framework. She and the other panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors:

- Ms. Brian said that EITI would help to ensure a fair return on resources for U.S. citizens by creating access via the EITI annual reports to a wealth of information on revenues produced by extractives, both from unilateral as well as reconciled disclosure, and by making federal extractives revenue data more easily accessible and comprehensible.
- Mr. Mussenden said that EITI would support the reform efforts the Obama Administration to improve oversight of natural resources development on public lands, including the creation of ONRR in 2010. In part, this continues the effort to restore trust in the accounting by the federal government of various revenue responsibilities, diminished because of past problems such as at the Minerals Management Service (MMS) and the various tribal suits against the Department of Interior's trust accounting for Native Americans.
- Ms. Kohler said that many oil, gas and mining companies participating in the EITI effort in the United States have seen significant benefits from EITI implementation in the

developing countries in which they operate, where government corruption is high, but are still trying to identify what the benefits will be of implementing EITI in the United States. She added that a key benefit would be exhibiting the substantial contributions of gas, oil, mining, and other extractive companies to the revenues of the federal government and to the overall U.S. economy.

- The panelists said that a shared goal is to further build relationships across sectors through engaging public and industry stakeholders in this process in order to make joint decisions about how to expand transparency, improve disclosures and build greater public trust around resource governance.

Mr. Mussenden highlighted the presence of the extractives industries in Louisiana, the benefits that flow to the state, and how the public can find out more about the work of the Office of Natural Resources Revenue (ONRR) and the revenues that are being collected and subsequently disbursed to the federal government, states, tribes, and other entities. He said that in Fiscal Year 2012, the State of Louisiana received \$26 million from federal disbursements. He displayed slides showing the locations of federal lands in Louisiana, the types of extractives on which royalties were collected by Louisiana county, and the locations of active oil and gas leases in the Gulf of Mexico. Mr. Mussenden proceeded to highlight the workings of the ONRR website, by which citizens can find data on federal disbursements and reported revenue, among other information.

Ms. Brian highlighted the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and being a major producer of various other extractive resources, including coal, copper, gold, steel and oil. She described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and Native Americans. In fiscal year 2012, ONRR collected and disbursed \$12.15 billion, which about half going to the U.S. Treasury and a significant amount going to state governments, among other recipients.

#### *U.S. EITI Candidacy Application*

Ms. Veronika Kohler, National Mining Association, industry sector, reviewed the U.S. EITI Candidacy Application. She explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent

members of a Multi-stakeholder Group. Ms. Kohler noted that, if a country needs to seek a waiver from any of the EITI requirements, known as “adapted implementation,” its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country’s first work plan, which documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Ms. Kohler also explained that the United States has fulfilled all four EITI sign-up requirements, with a draft EITI Candidacy Application which is currently open for public comment until the beginning of November. A Multi-stakeholder group (MSG) was established as a Federal Advisory Committee in July 2012, and the Interior Department sought nominations from civil society, government, and industry for representatives to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. Every MSG meeting is open to the public, and during each meeting the public has a scheduled opportunity to comment. The U.S. MSG falls under the Federal Advisory Committee Act (FACA) and decisions are made by consensus.

Mr. Jim Roman, ConocoPhillips, industry sector, explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the **scope** of materials or commodities to be reported,
- the information and data about these revenues which is considered **material**,
- and the details for **how** this information and data will be reported.

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal corporate income taxes will be reported by companies, but the details around this reporting have yet to be worked out because companies want to align with requirements under U.S. and European Union law.

Mr. Roman recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of

compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold. More specific details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Mr. Roman and Mr. Mussenden also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year.

Ms. Kohler closed by explaining that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, and implement the EITI standards and produce the first report. She highlighted the voluntary nature of EITI and gentle balance required to ensure that the scope of the initiative does not exceed the willingness to participate of any of the sectors.

### **Questions from Attendees**

There were no questions received from attendees.

### **Public Comment**

Ms. Cathleen Berthelot, Office of Senator Mary Landrieu, stated that it would be good if, in the future, the MSG could conduct more outreach to the public to encourage attendance and participation at outreach meetings. She said that her office only found out about the event because of a direct contact with one of the MSG members. She suggested that the MSG meet with Senator Landrieu and her staff in Washington DC. Ms. Berthelot recounted that, when she previously worked in Congressman John Salazar’s office, a constituent brought to her attention the lack of transparency about the government revenues generated from extractives. She expressed support for the work of the EITI and the MSG and encouraged the MSG to conduct

greater outreach to the public. Ms. Berthelot offered to connect the MSG with the policy experts on Senator Landrieu's staff and expressed surprise that staff from Governor Jindal's office had not been invited to the public meeting. She asked the MSG to keep in touch with Senator Landrieu's office.

Dr Jim Miller, international EITI Board Member for industry, provided insight on the USEITI draft candidacy application especially in regards to the need to fully develop contextual background for adapted implementation justification on subnational reporting, the international complexities, and candidacy hurdles emphasizing compliance.

Members of the public were invited to submit public comment via email at: [USEITI@ios.doi.gov](mailto:USEITI@ios.doi.gov) or online at: <http://www.doi.gov/eiti/EITIComments.cfm> until the close of the comment period on November 4, 2013.

The meeting was adjourned at the conclusion of the public comment period at 6:30 pm.

**Appendix A  
Attendance**

Name	Affiliation
<b><i>Members of the Public</i></b>	
Cathleen Berthelot	Senator Mary Landrieu's Office
Jim Miller	Freeport McMoRan
<b><i>US EITI MSG Members</i></b>	
Danielle Brian	Project on Government Oversight
Veronika Kohler	National Mining Association
Paul Mussenden	Office of Natural Resources Revenue, Department of the Interior
Jim Roman	ConocoPhillips
Mike Smith	Interstate Oil and Gas Compact Commission
<b><i>Staff</i></b>	
Rosita Compton Christian	Office of Natural Resources Revenue, Department of the Interior
<b><i>Process Support</i></b>	
Tushar Kansal	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**Houston, Texas  
Public Meeting  
Tuesday, September 24, 2013**

**Meeting Purpose**

The purpose of this meeting during a Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Greg Gould, Office of Natural Resources Revenue, Department of Interior, opened the meeting by welcoming participants, and inviting meeting participants to introduce themselves.

The other panelists included:

- Phil Denning, Shell Oil Company
- Bob Reynolds, BP America
- Paul Bugala, Calvert Investments
- Susan Ginsberg, Independent Petroleum Association of America
- John Sardar, Noble Energy Inc.

A full list of panelists, staff and members of the public is provided in Appendix A.

Mr. Gould proceeded to review the agenda for the meeting. He explained that a meeting summary, written by Ms. Meredith Cowart of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period.

**Presentation about EITI and Draft Candidacy Applications**

The panelists presented information about the Extractive Industries Transparency Initiative (EITI) and the draft application of the United States to join the Initiative.

*EITI Background*

EITI is a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources.

USEITI Public Outreach and Stakeholder Meetings – Fall 2013

Houston, Texas, Tuesday, September 24, 2013

The Consensus Building Institute prepared this summary. Any errors or omissions are the sole responsibility of CBI.

Countries implement the EITI Standard to ensure full disclosure of taxes and other payments made by producing oil, gas and mining companies. These payments are disclosed in an annual EITI Report.

In 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource curse,” whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts, because resource extraction is associated with mismanagement, corruption, and weak accountability. The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public.

A Multi-stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. Gould went on to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI.

Mr. Paul Bugala, Calvert Investments, civil society sector, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders. He emphasized in particular that:

- We recognize the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
- We recognize that a public understanding of government revenues and expenditure over time could help inform public debate and inform choice for appropriate and realistic options for sustainable development.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

Mr. Bugala and some of the other panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors.

- Mr. Reynolds noted that the industry is motivated to disclose revenue because they often make substantial but unrecognized contributions to the countries and regimes they work in; EITI verifies these numbers while providing the opportunity for these contributions to be made visible. What's more, it creates greater assurance that natural resource revenue is used to contribute positively to the places where industry operates. In this way, EITI elevates public confidence and trust in industry.
- Mr. Gould emphasized that the creation of the MSG has brought together civil society, industry and government, leading to a more informed and effective conversation among these sectors.

Mr. Gould continued, highlighting the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and also being a major producer of various other extractive resources, including coal, copper, gold, steel and oil. He described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and American Indians. In fiscal year 2012, ONRR collected and disbursed \$12.15 billion, which about half going to the U.S. Treasury and a significant amount going to state governments, among other recipients.

#### *U.S. EITI Candidacy Application*

Mr. Gould reviewed the U.S. EITI Candidacy Application. He explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent members of a Multi-stakeholder Group. He noted that, if a country seeks a waiver from any of the EITI requirements, known as "adapted implementation," its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country's first work plan, which documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Mr. Gould explained that the United States has fulfilled all four EITI sign-up requirements, with a draft EITI Candidacy Application which is currently open for public comment until November 4th. The MSG was established as a Federal Advisory Committee and chartered under FACA in July 2012, and the Interior Department sought nominations from civil society, government, and industry for representative to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG and 20 alternates. Two seats have been left vacant for Tribal interests, should they choose to participate. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. Every MSG meeting is open to the public, and during each meeting the public has a scheduled opportunity to comment. The U.S. MSG falls under the Federal Advisory Committee Act (FACA) and decisions are made by consensus. The MSG is currently seeking to fill MSG vacancies.

Mr. Gould explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the scope of **materials** or commodities to be reported (“what items to report?”)
- the information and data about these **revenues** which is considered material (“what revenues to report?”), and
- the details for **how** this information and data will be reported (“how to report?”).

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because the companies do not want to move beyond the requirements that would be required under U.S. and European law.

Mr. Gould recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual

revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold. More specific details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Mr. Gould also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year.

In addition, the US may also seek a waiver from reporting income taxes, as this reporting is restricted by the IRS Privacy Act of 1974. Every year EITI will draft a new work plan to evaluate which approaches are working effectively and what needs adaptation. Mr. Gould closed by explaining that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, implement the EITI standards, and produce the first report.

An audience member asked whether this presentation is available online. Mr. Gould responded that the presentation would be posted shortly. It is now available on the US EITI website: [http://www.doi.gov/eiti/upload/C-A-Presentation\\_09-25-13.pdf](http://www.doi.gov/eiti/upload/C-A-Presentation_09-25-13.pdf).

### **Questions from Attendees**

- *Question:* How many entities do 80% and 90% respectively of total revenue reported to ONRR represent?
- *Answer:* 80% represents about 40 companies; 90% represents 70 companies who pay at least \$20 million in annual revenues. At present 1,300 companies that pay royalties, rents, fees and bonuses make up almost all of the total revenues that DOI receives. EITI (a voluntary reporting system) will be receiving almost all of the information that ONRR currently receives, and will reconcile the EITI report with ONRR’s report. Every company that meets the 50 million dollar threshold is already required to report to ONRR, and will then also undergo 3<sup>rd</sup> party verification. Few people know that the US through ONRR already has a robust auditing system, and EITI will get this information out. In the first year, this reconciliation will verify that the current regulatory system works. The intention stated by the Head of the International EITI Board, Claire Short, is that other

countries may be able to model the US' auditing and reconciliation process instead of relying simply on 3<sup>rd</sup> party reconciliation.

- *Question:* Could you give an example of what one of the benefits of bringing the three sectors of the MSG together?
- *Answer:* For example, there used to be more mistrust between Publish What You Pay (a global network of civil society organizations calling for an open and accountable extractive sector) and both industry and government. The MSG process has given the government and industry the opportunity, to show that the US already has a robust process of tracking revenue, and where that money goes. For example few people know that in fiscal year 2012, ONRR collected and disbursed \$2.1 Billion to 36 states: most states use this money for schools, roads and other public infrastructure.
- *Question:* Are distributions to the states statutorily required?
- *Answer:* Yes, the distributions are a statutory requirement: the Mineral Leasing Act of 1920 (MLA) requires ONRR to pay each state 50% (and 90% in Alaska) of the revenue collected on federal land within the state border.
- *Question:* And there are greater numbers that ONRR collects on behalf of the state, correct?
- *Answer:* Yes, and from the civil society perspective, this revenue reporting helps the public to contextualize what the interests are, to understand what the “pie” is and what the opportunities are and how it can be divided up. There are a lot of places around the country where extraction of natural resources poses challenges in terms of understanding the benefits and challenges and what should or ought to be the development path forward. EITI has created the opportunity to have discussions that weren't happening before by putting civil society at the table
- *Question:* EITI has been implemented around the world – for example, in Nigeria -- are tangible benefits being seen in other countries?
- *Answer (1):* Of course, the implementing countries would be best to ask. However, we can say for certain that from the investing standpoint, bond ratings have improved. Natural resource development often leads to an incredible informational asymmetry, and EITI offers the potential for the dynamic to be lessened. Here in the US as well there are communities where natural resource development is happening for the first time and EITI will likely help communities make informed and improved decisions moving forward.
- *Answer (2):* In the case of Nigeria, there is a published figure which the public can use to hold the government accountable - it's a live figure. This creates an official mandate, a space for discussion and international attention. For example, indigenous grassroots

groups may have trouble attracting that attention when a jurisdiction is not supportive of civil society.

- *Answer (3):* EITI is seen by some as the developed north telling the undeveloped south what to do. One of the values of US EITI is leading by example – our involvement encourages other developed countries to sign up.
- *Question:* Some of the language used in reference to the ‘social license to operate’ is shale gas language – is the bigger prize opening up areas in Western Europe that are currently off limits, by showing these countries what the benefits of opening up this area? Do you see this process as being used in that regard?
- *Answer (1) (civil society representative):* Every EITI member comes with different interests. Advancing shale gas development in Western Europe is not a specific intent of USEITI. The goal of EITI is public awareness and informed debate in the US and leading by example. Speaking on behalf of my cohort as civil society, this would be a non-starter if that were considered the outcome.
- *Answer (2):* The true purpose is to provide the data that allows informed decisions.
- *Statement:* You did say that the income the US government gets from oil extraction is 2<sup>nd</sup> only to taxes. I didn’t know that.
- *Answer:* Yes.
- *Question:* Is ONRR prohibited from reporting the revenue that is collected and disbursed at the county level?
- *Answer:* No, ONRR is not prohibited from reporting county level revenue. These data are currently being collected and are on the ONRR database on our website. This database will be updated considerably for the EITI report. In fact, the goal is to get an EITI approved version on the website before we complete the EITI report. I encourage you to visit the website, click on a state, and run a query. That’s what unilateral disclosure will get to – reporting down to a company level. Our intent is to make the website more usable and understandable to the public.
- *Question:* Was this information available before the EITI process?
- *Answer:* No, company level data is not available, EITI is driving this. While ONRR has reported a large amount of data on it’s website, ONRR’s has not published data at this level. Through the Obama administration’s Open Government Initiative and EITI, ONRR will be providing company level data to the public in an accessible format
- *Question:* Does ONRR do real onsite audits of reporting companies? They have the right to come up and say, “Show me your production runs”?
- *Answer:* Yes – in fact when companies get very large, we’re auditing them every day. For example, BP is our biggest revenue producer, and we have about 200 auditors in the

building every day opening filing cabinets and pulling out source documents. Again, EITI is an opportunity to show the public that the government does check industry.

- *Question:* Has congress shown any special interest in EITI?
- *Answer:* A Natural Resources Committee staff member attends the MSG meetings and joins the government sector during the caucuses. Going forward, EITI will need a Legislative voice and appreciation for the value of the Initiative to make sure it secures funding. Because participation is voluntary, there has not been any opposition to this kind of reporting/the USEITI initiative.
- *Statement (panelist):* the combination of ONRR and EITI reporting will increase the ultimate level of compliance and value by making sure they reconcile reported information. EITI third-party verification will be a check on the ONRR reporting system. In the long run we'd like to have a more efficient system – the more reporting is required, the higher the costs and the lower the incentive to comply.
- *Statement (member of the public):* It seems there is parallel interest from ONRR and industry – industry pay a significant amount of money but doesn't get credit while ONRR collects all this information but nobody know about it. With this initiative, industry down to the county level can take credit for good revenue generation.
- *Answer:* And oversight: this allows us to show that every dollar is disbursed appropriately. Every dollar due – no more, no less.

### **Public Comment**

No Public Comment was received from meeting attendees beyond the question and answer period. Members of the public were invited to submit public comment via email at: [USEITI@ios.doi.gov](mailto:USEITI@ios.doi.gov) or online at: <http://www.doi.gov/eiti/EITIComments.cfm> until the close of the comment period on November 4, 2013.

**Appendix A  
Attendance**

Name	Affiliation
<b><i>Members of the Public</i></b>	
Megan Brannigan	University of Houston Law Center
Susan Sakmar	University of Houston Law Center
Kirk Weaver	Independent
<b><i>US EITI MSG Members</i></b>	
Paul Bugala	Calvert Investments
Phil Denning	Shell Oil Company
Susan Ginsberg	Independent Petroleum Association of America
Greg Gould	Office of Natural Resources Revenue, Department of the Interior
Bob Reynolds	BP America
John Sardar	Noble Energy Inc.
<b><i>Staff</i></b>	
Charlotte Neves	Office of Natural Resources Revenue, Department of the Interior
<b><i>Process Support</i></b>	
Meredith Cowart	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach Meetings – Fall 2013**

**Stakeholder Meeting  
Council of Petroleum Accountants Societies, Inc. (COPAS)  
San Antonio, Texas  
Thursday, September 26, 2013**

**Meeting Purpose and Overview**

The purpose of this this stakeholder meeting during the Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

Four members of the MSG were present at the meeting. The presentation slides given are available on the EITI website. After giving a presentation about the US EITI process and draft candidacy application, these members responded to questions from attendees. These questions and answers are summarized below. The four MSG panelists are listed at the end of this document.

**Questions from Attendees:**

- *Question:* Are fees, such as Inspection Fees, that are paid to ONRR included in EITI revenues?
- *Answer:* Yes. ONRR is trying to include all revenues we collect. ONRR is also trying to enhance our website to better reflect all these revenues. ONRR plans to publish an EITI report on the EITI website that will list all revenues (bonus, rent, royalties, and other fees) by company. We are also working with other DOI agencies, such as BLM and OSM, to identify revenues they collect.
- *Question:* Will these revenues be for the calendar year or the government's fiscal year?
- *Answer:* This is still being discussed by the Multi-stakeholder Group (MSG). ONRR can derive the revenue information in either manner. Some of the discussion in the MSG is the timing of the validation of the data and how this timing fits with the different year ends. The MSG is also trying to develop a template to provide to industry to explain exactly what to report (cash basis, accrual basis, etc.).

- *Question:* How are mergers and acquisitions going to be handled, especially when they occur part way through the year?
- *Answer:* This is a concern that the MSG is trying to deal with. We need to define what a company is and we need to determine how to roll up different entities that currently report to ONRR. ONRR has 1300 payors, but that does not represent 1300 separate and distinct companies.
- *Question:* The map on the slides showed countries in red. What does this mean?
- *Answer:* These countries are not in compliance with the international standard. Usually this is due to problems with the lack of input from civil society. This could also be due to technical problems in the country or repressive governments that limit input from civil society.
- *Question:* What happens when the government figures do not match the industry figures? Is the reconciliation an audit?
- *Answer:* The 3<sup>rd</sup> party reconciliation is less than an audit. We believe there will be many more issues with the international numbers than the US numbers. This is partially due to the fact that ONRR will unilaterally disclose the ONRR numbers, which will give industry an opportunity to verify the numbers and work with ONRR to correct errors.
- *Question:* Does EITI apply only to Federal government lands or all lands in the US?
- *Answer:* The MSG is still looking at this in terms of areas beyond federal lands and waters. EITI was established to report Federal and sub-national revenues. In the US application, we are requesting a waiver to sub-national reporting (due to our constitutional form of government and the intricacies of federal and state interaction). In addition, the US application states that this will be an adaptive implementation with the starting point focusing on Federal revenues reported to ONRR. Entities below the Federal level can opt into EITI. The issue of tax payments has not been decided yet. And it was noted by industry that this impacts more than just producers, it is anyone who remits revenue to the Federal government such as purchasers.
- *Question:* Please clarify the “master plan,” what is being requested now?
- *Answer:* In the first year of reporting, we are looking at companies that report at least \$50 million in oil, gas, and solid mineral revenues. This would account for 80% of the revenues we collect. In the second year of reporting, we are looking at companies that report at least \$20 million in oil, gas, and solid mineral revenues. This would account for 90% of the revenues we collect. This is an ongoing process with work plans each year

***US EITI MSG Panelists:***

Name	Affiliation
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Paul Bugala	Calvert Investments
Greg Gould	Office of Natural Resources Revenue, Department of the Interior
Bob Reynolds	BP America
Bob Wilkinson	ConocoPhillips

**U.S. Extractives Industries Transparency Initiative  
Public Outreach Meetings – Fall 2013  
Anchorage, AK  
Tuesday, October 22, 2013**

**Meeting Purpose**

The purpose of this Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-Stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Paul Mussenden, Deputy Assistant Secretary, Office of Natural Resources Revenue, Department of Interior, opened the meeting by welcoming participants, and inviting meeting participants to introduce themselves. MSG members present included:

- Paul Mussenden, Office of Natural Resources Revenue
- John Harrington, ExxonMobil
- Veronika Slajer, North Star Group
- Richard Fineberg, Research Associates (Alternate)

A full list of panelists, staff and members of the public is provided in Appendix A. Mr. Fineberg was asked, but declined, to sit on the MSG panel as a presenter.

Mr. Mussenden explained that a meeting summary, written by Ms. Meredith Cowart of the Consensus Building Institute, will capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period. He proceeded to review the agenda for the meeting and give an overview of the prepared presentation.

**Presentation about EITI and Draft Candidacy Applications**

The panelists presented information about the Extractive Industries Transparency Initiative (EITI) and the US EITI Draft Candidacy Application.

*EITI Background*

EITI is a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources. Countries implement the EITI Standard to ensure full disclosure of taxes and other payments

made by producing oil, gas and mining companies. These payments are disclosed in an annual EITI Report.

In 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource-rich curse,” whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts, because resource extraction is associated with mismanagement, corruption, and weak accountability. The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public.

A Multi-Stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. Mussenden went on to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI, including 16 candidate countries.

Ms. Veronica Slajer, North Star Group, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders. She emphasized in particular that:

- We recognize the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
- We recognize that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

USEITI Public Outreach Meetings – Fall 2013

Anchorage, Alaska, Tuesday, October 22, 2013

The Consensus Building Institute prepared this summary. Any errors or omissions are the sole responsibility of CBI.

Ms. Slajer and some of the other panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors:

- Mr. John Harrington, ExxonMobil, noted that industry is motivated to disclose revenue because this sector often make substantial but unrecognized contributions to the countries and regimes they work in; EITI provides 3<sup>rd</sup> party verification of these numbers while providing the opportunity for these contributions to be made visible. In this way, EITI elevates public confidence and trust in industry.
- Ms. Slajer emphasized that this initiative allows citizens access via the EITI annual reports to a wealth of information on revenues produced by extractives, both from unilateral as well as reconciled disclosure.
- Mr. Mussenden emphasized that the aims of the Initiative correspond closely with the government reforms already in place, which aim to bring more transparency to, and create more trust around, federal natural resource revenue. These reforms lead to the creation of the DOI's Office of Natural Resource Revenue (ONRR) in 2010. What's more, the creation of the MSG has brought together civil society, industry and government, leading to a more informed and effective conversation between these sectors.

Mr. Mussenden highlighted the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and being a large producer of various other extractive resources, including coal, copper, gold, steel and oil. He described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and Native Americans. In fiscal year 2012, ONRR collected and disbursed \$12.15 billion, which about half going to the U.S. Treasury and a significant amount going to state governments, among other recipients.

#### *Alaska presentation*

Mr. Mussenden reported that in Fiscal Year 2012, ONRR reported disbursements of \$16,570,897.26 in funds to the State of Alaska (from offshore activity: \$3,100,755.83 and from onshore activity \$13,470,141.43). Ms. Slajer noted that these numbers cover only a small percentage of overall Alaska state receipts since a far more resource extraction takes place on non-federal land. Mr. Mussenden observed that by far the greatest of ONRR royalty collections in Alaska is generated from oil extractions. He explained that anyone can access information on disbursement data (payments made by ONRR to Tribes, States and their Counties, Parishes and Boroughs) and reported revenue data (includes rents, royalties, bonuses and other revenues that mineral royalty payers report to ONRR): <http://statistics.ONRR.gov>.

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### *U.S. EITI Candidacy Application*

Mr. Mussenden reviewed the U.S. EITI Candidacy Application. He explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent members of a Multi-Stakeholder Group. He noted that, if a country needs to seek a waiver from any of the EITI requirements, known as “adapted implementation,” its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country’s first work plan, which documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Mr. Mussenden explained that the United States has fulfilled all four EITI sign-up requirements, having prepared a draft EITI Candidacy Application that is currently open for public comment until November 4th. The MSG was established as a Federal Advisory Committee and chartered under FACA in July 2012, and the Interior Department sought nominations from civil society, government, and industry for representative to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG and 20 alternates. Two seats have been left available for Tribal interests but none have yet chosen to join the MSG. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. Every MSG meeting is open to the public, and during each meeting the public has a scheduled opportunity to comment. The U.S. MSG falls under the Federal Advisory Committee Act (FACA) and decisions are made by consensus. The MSG is currently seeking to fill MSG vacancies.

Mr. Mussenden explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the scope of **materials** or commodities to be reported (“what items to report?”)
- the information and data about these **revenues** which is considered material (“what revenues to report?”), and
- the details for **how** this information and data will be reported (“how to report?”).

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the

Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because the companies do not want to move beyond the requirements that would be required under U.S. and European law.

Mr. Mussenden recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold. Details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Mr. Mussenden also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to include subnational payments in all EITI reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year. In addition, the US will also seek a waiver from reporting income taxes, as this reporting is restricted by the IRS Privacy Act of 1974. Every year EITI will draft a new work plan to evaluate which systems are working effectively and what needs adaptation.

Mr. Harrington closed by explaining that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, implement the EITI standards, and produce the first report.

This presentation is available on the US EITI website: [http://www.doi.gov/eiti/upload/C-A-Presentation\\_09-25-13.pdf](http://www.doi.gov/eiti/upload/C-A-Presentation_09-25-13.pdf).

### **Clarifying Questions from Attendees**

Throughout the presentation, attendees asked several clarifying questions about, and made informal comment regarding, the global EITI process and the US EITI Candidacy Application.

USEITI Public Outreach Meetings – Fall 2013  
Anchorage, Alaska, Tuesday, October 22, 2013

The Consensus Building Institute prepared this summary. Any errors or omissions are the sole responsibility of CBI.

### *Alaska Presentation Clarifying Questions*

- *Comment:* Is there in fact a Bureau of Reclamation in Alaska?
- *Answer:* According to the slide, apparently there is.
- *Question:* Is it possible to get a copy of this? There is very interesting information in there.
- *Answer:* Yes, we'll get a copy of it to you.
- *Question:* Regarding the first slide, the disbursement – that's revenue generated from Federal lands?
- *Answer:* Yes, from Federal lands and offshore activity where the federal government has jurisdiction.

### *General Presentation Clarifying Questions*

- *Question:* What revenues are included in the US EITI report? Are state income taxes included?
- *Answer:* Federal and subnational revenues are included, which includes income taxes, but not state income taxes, which are in the sole jurisdiction of states. However, it should be noted that income taxes that most multinationals pay have very little to do with extraction activity.
- *Question:* Am I correct in understanding that you're not going to report state receipts?
- *Answer:* Not at this point. The reconciliation process will not include state receipts. The eventual goal is to have states reporting on resource extraction revenue. We will invite states to join the US EITI reporting system. There is a resource issue too; there are not enough resources for each state to have its own reporting system.
- *Question:* When you report on the broader picture, will you be clear about the fact that state receipts are not included? When you are giving a complete picture for the Feds, but an incomplete picture of the total picture, will you be clear about this? For example, mineral royalties.
- *Answer:* Yes, most royalty income in this country is state income. In fact, we have to apply for what's called adaptive implementation. There will be a lot of information about a lot of revenues coming out.
- *Question:* Am I to actually believe that countries such as the Republic of Congo and Nigeria are actually transparent?
- *Answer:* The Republic of Congo is an EITI Compliant country. Some countries are Candidates and some have been suspended. Kazakhstan and Republic of Congo submitted reports that EITI found credible. Senegal and Ukraine submitted reports that were found acceptable. So EITI continues to evolve. Australia is currently doing a pilot.

The Initiative is very country-specific – it is a global standard that is implemented domestically. Each nation decides how it will or will not fit the standard given their country needs, above and beyond the minimum standards created by the EITI board.

- *Question:* Will there be a project-by-project reporting or reporting by company? If by company, you can't say North Shore vs. Offshore, though that is often what's interesting. But also Point Thomson, we think of as a unit – if companies report individually, how will that tell you whether Point Thomson is functioning the way it should be?
- *Answer:* EITI has deferred to us on this. Ideally, we need to get to the point where we are reporting both by project and by company, and there is a database that's sortable that will provide the answer in the format you need. ONRR's website already provides much of this information, but it could do much better. Also keep in mind that this is an evolving initiative. So the MSG meets each year throughout the year, and each year we'll evaluate how the report looks. As it evolves, the report has the opportunity to change and reflect the information that is most needed and useful.
- *Question:* Why are contracts not included?
- *Answer:* It makes industry concerned to have a requirement under EITI that the government contract be made available, for a number of reasons. At the moment, EITI rules "encourage" contract disclosure but it is not required.
- *Question:* But do we have a lot of production-sharing agreements?
- *Answer:* No, we have lease agreements.
- *Questions:* So this would be various royalty-in-kind - right now your royalty-in-value would be included but your royalty in kind wouldn't?
- *Answer:* Royalty-in-kind would be included.
- *Question:* How do you deal with subsidiaries – you have BP Alaska and then BP America?
- *Answer:* For US EITI, any entity that pays a tax will be accounted for separately. Those sub-entities also report income tax.
- *Question:* Won't EITI create a competitive disadvantage for industry?
- *Answer:* Industry has some fears about that, especially with regards to contract disclosure. However, we also see the benefits of EITI. We give the Federal government a lot of money. This chart gives an idea of how the money is used – the majority at this point goes to the General Fund.
- *Question:* So will we be able to then look at a site where there are two wells operating and four are used for pumping toxic waste out – how will that be evaluated in the form of – what's a profit? I look at those as terrible losses, because those will be producing waste. Those are things I don't want them hiding and using that as a benefit. Those things are a long-term loss. Those are things that affect water quality.

- *Answer:* The focus of EITI is on reporting revenue, but not on environmental impacts. From a civil society point of view, we all want to know that our water is safe; we don't want companies injecting harmful chemicals into the ground. The mandate for EITI is highly specific and bounded. But one of the outputs is to foster exactly this type of discussion on environmental impacts. The benefit of the Initiative is to shine the light on this sort of thing. For example, if extractives in Nigeria generated 30 billion dollars in revenue last year, EITI allows transparency regarding how much went back to the government and how much of that was invested in the country? As more countries sign on there will be more and more information out there as far as how this can be done. To the extent that that can be a model for other countries, that's a benefit.
- *Question:* Will gold, silver, etc. be recorded?
- *Answer:* We'll get to that in the presentation. We're going to go down as deep as we can go.
- *Question:* Where is the Oil Spill Liability Trust Fund (OSLTF) in this mix?
- *Answer:* In the US, the OSLT is not captured in our EITI report. EITI reports on royalties, rents, bonuses and fees. In some countries a lot of the wealth is generated by oil spill wealth, and transportation is a fee, so it could be included. Shipping doesn't generally go in there but again in some countries it may. It depends on the landscape. In those countries that would be what we refer to as "material." In economies where that is not as important, it may or may not meet the materiality threshold.
- *Question:* All of this data collection and reporting is prospective, correct? There's no retroactive effort, no attempt to go back and sort out past data?
- *Answer:* You are correct. We won't be going back to provide this new level of sophistication for years previous to EITI's US implementation.
- *Question:* Are there tribal representatives on the MSG? Are they considered Civil Society or Government Representatives?
- *Answer:* There are two tribal representative positions within the Civil Society sector and two slots for tribal government representatives within the Government sector that are currently not filled. DOI is currently reaching out to those interests, in part to provide information about how they might benefit from US EITI and involvement in the process. At every step we come back and provide a report.
- *Question:* Can I get your name?
- *Comment:* For our state, fisheries would be interesting.
- *Response:* Yes, with fishing, processing, etc, there is a lot of revenue involved.
- *Comment:* Yes, without our fisheries, we make up a large part of the Washington State General Fund. We have been trying for a long time to get a handle on why our place in

this is always serving everybody else rather than serving the industry of Alaska. Why do we have 3<sup>rd</sup> world conditions?

- *Response:* And only a small number of permit holders are Alaskan. There is good potential there. Nigeria has included forestry. Some countries have included hydropower.
- *Comment:* Yes, the amount of logging that's happened on our land. During Exxon-Valdez, we were surprised at how much money Exxon was actually receiving and not finding that information available. So transparency is a good thing. This is a good conversation.
- *Question:* Would you include social security taxes?
- *Answer:* No, payroll is not included. It's excluded from the EITI standard.
- *Question:* What is the tax rate or threshold on this project?
- *Answer:* There is a materiality threshold. The size of the industry is huge – there are 3,000 extractive payers in the United States. It's not possible to communicate this Initiative to all of those companies. Maybe the fifty largest have heard of us. So we ranked revenues by the largest payers. We found we can get 80% of disclosure if we target these. The DOI dataset has high integrity because it is already intensively audited. We just need to make sure that we are evaluating and reconciling that data set. But MSG is wrestling with how much to do, how far and how fast. We'll reevaluate after first report. We want to be able to be compliant with our own plan. The MSG is balancing the value of reconciliation with comprehensiveness. That's part of the materiality threshold. After the 2<sup>nd</sup> report we'll go to 90% disclosure in the report.
- *Question:* But you will be able to search through the records of all 3,000 companies, it just won't be in the EITI report, right?
- *Answer:* That's right.
- *Question:* So agriculture, like forestry, isn't reported?
- *Answer:* As of now, no.
- *Question:* And the mines and oil and gas on state land, would be excluded from this reporting.
- *Answer:* Correct.
- *Question:* When you categorize them, source would be difficult - are you going to go by SAIC number or by industry – oil v. gas v. hard rock?
- *Answer:* The report will probably talk about oil separate from gas separate from hard rock. And then talk about geographic issue and distribution. This is all publicly sourced information, but it needs be put into context for the purposes of the report.
- *Question:* The dates on the board for public comment, are they correct: September 18<sup>th</sup> and November 4<sup>th</sup>?

- *Answer:* The public comment period is now extended to November 15<sup>th</sup> due to the Government shutdown [*please note the public comment period was extended to November 18<sup>th</sup>*].
- *Question:* The Trans-Alaska Authorization Act and money paid out during re-authorization – where Alyeska gave a \$20 million check to AFN because they had promised to create jobs and didn't - where would I find information about re-authorization? How do those things get covered in their annual reports? Is that a write-off? They gave a payment to AFN. It should have gone to tribes. When that happens, how is that reflected in the financial report? Is it a tax right-off?
- *Answer:* This would not be reported in EITI. It would be reported as a subset of pipeline costs. Either a fine or a payment for some particular reason would be a pipeline cost. But it doesn't show up clearly in most financial reports because Alyeska is a subsidiary of 3 main companies. It shows up as a downstream or a mid-stream cost, not an upstream cost. To find this information, you have to look for footnotes in the annual reports. With regards to the broader question, in terms of the social equities issue - you've just asked a question that is one of many pipeline questions asked and not answered. This process will be dynamic. There are reevaluation contingencies. We're not intending to launch this effort and then go away and not consider additional issues as they arise.

**Public Comment:**

Mr. Mussendon opened the floor for the public comment period.

**Bob Loeffler, Visiting Professor, University of Alaska, Anchorage:** I have two comments. First, this seems useful but probably not life changing. Second, and I want to be sure that this is on the record. I used to be Veronika Slajer's soccer coach.

**Delice Calcote, Alaska Inter-Tribal Council:** Thank you from the tribes for having an opportunity to make a comment on this. We've been looking for transparency and accountability for a long line time and I appreciate everybody stepping up to this. We need to protect our waters; we don't want our water messed up. Regardless of all this mining, we need to protect our waters; we don't have much left. With this whole Fukushima thing, I'm wondering what this report's going to look like in 2015. I feel like it's going to affect our transportation, our navigation, and our ability to live off the waters. I'd like that on the record.

**Jess Lanman, President, Indigenous Conservators of the Environment (ICE):** I'm really thankful and grateful that everyone is here today. I believe that transparency and accountability is essential. And it's been missing for a long time. I'm glad to see everyone is here. I don't know if you've heard of Bill Allen. During the Alyeska oil spill he got all the contracts to clean up the oil.

I asked him why he received all the contracts. His answer was: "I'll make sure the Natives don't make 1 dollar off this spill." There's been no transparency and accountability. Your organization is way overdue. I'm glad you're here. I'm glad you're accessing this information and sharing it. That's one thing we've been working on for many years. The number of people in this room tell me that this operation in transparency has gotten off to a slow start. It would be a good idea to follow up on this. I don't see any news agencies here. It's unfortunate that this is the way it is. Thank you for being here.

Mr. Mussenden then thanked everyone for coming and adjourned the meeting.

## Appendix A

### Attendance

<b>Name</b>	<b>Affiliation</b>
<b><i>Members of the Public</i></b>	
Bob Loeffler	University of Alaska, Anchorage
Delice Calcote	Alaska Inter-Tribal Council
Jess Lanman	Indigenous Conservators of the Environment
Erik Grafe	Earth Justice
Mark Fesmire	Bureau of Safety and Environmental Enforcement, Alaska Region Office
<b><i>US EITI MSG Members</i></b>	
Paul Mussenden	Office of Natural Resources Revenue, Department of Interior
John Harrington	Exxon Mobile
Veronika Slajer	North Star Group
Richard Fineberg	Research Associates (Alternate)
<b><i>Staff</i></b>	
Rosita Compton Christian	Office of Natural Resources Revenue, Department of the Interior
<b><i>Process Support</i></b>	
Meredith Cowart	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**Denver, Colorado  
Public Meeting  
Tuesday, October 22, 2013**

**Meeting Purpose**

The purpose of this meeting during a Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Greg Gould, U.S. Department of the Interior, government sector, opened the meeting by welcoming participants. The other panelists also introduced themselves:

- Ms. Susan Ginsberg, Independent Petroleum Association of America, industry sector
- Ms. Jennifer Krill, Earthworks, civil society sector
- Mr. Brent Roper, Rio Tinto, industry sector

In addition to the panelists, the following MSG members were seated in the audience:

- Ms. Danielle Brian, Program on Government Oversight, civil society sector
- Ms. Debbie Gibbs Tschudy, U.S. Department of the Interior, government sector

A full list of panelists, staff, and members of the public in attendance is provided in Appendix A.

Mr. Gould proceeded to review the agenda for the meeting. He explained that a meeting summary, written by Mr. Tushar Kansal of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period.

**Presentation about EITI and Draft Candidacy Application**

The panelists presented information about the Extractives Industries Transparency Initiative (EITI) and the draft application of the United States to join the Initiative.

### *EITI Background*

The presenters began by providing background on EITI. Mr. Gould explained that in 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource curse,” an economic paradox whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts because these resources are too often accompanied by mismanagement, corruption, weak accountability, and poverty. As a result, the benefits of natural resources in these resource-rich countries rarely trickle down to the citizens who own the resources. The Extractives Industries Transparency Initiative focuses on bringing transparency within the government on the revenue flows from extractive industries in order to address this all too common situation so that discrepancies are identified and better accountability and management is achieved. Two short films on the EITI website provide more information about EITI and the challenges that it is designed to address.

The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public. A Multi-stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. Gould proceeded to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI.

- Of these, 23 “compliant” countries have met all the EITI requirements. Of these 23, three are currently suspended for not maintaining the EITI standards for reporting.
- Sixteen countries are currently “candidate” countries and their country applications for candidacy have been accepted by the International EITI Board. These 16 countries are currently implementing EITI but have not yet met all of the requirements of the initiative. Of these 16, two have been suspended for not fulfilling the work plans they set forth.

- Finally, there are five countries that have recently committed to implement EITI. Currently, Norway is the only country that is compliant with EITI. This group of five applicants includes five more developed countries and is led by the United States, which is furthest along in its candidacy process of these five. Along with the U.S., France, Germany, Italy, and the United Kingdom have announced their intention to sign onto EITI.

Ms. Jennifer Krill, Earthworks, civil society sector, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders. These principles affirm that:

- A country's natural resources belong to all its citizens and that all citizens should accordingly see the benefits that flow from the natural resources;
- Ensuring that benefits are democratically shared requires high standards of transparency and accountability; and that
- Compliance calls for full disclosure of government revenues from their extractive industries and a national commission to oversee the process and stimulate public debate.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

Each of the panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors:

- Ms. Krill said that EITI would help to ensure a fair return on resources for U.S. citizens by creating access via the EITI annual reports to a wealth of information on revenues produced by extractives, both from unilateral as well as reconciled disclosure, and by making federal extractives revenue data more easily accessible and comprehensible. She highlighted the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability. She added that the past year of interaction between members of the civil society, government, and industry sectors had significantly enhanced levels of trust and understanding.
- Mr. Gould said that EITI would support the reform efforts the Obama Administration to improve oversight of natural resources development on public lands, including the creation of ONRR in 2010. In part, this continues the effort to restore trust in the accounting by the federal government of various revenue responsibilities, diminished because of past problems such as at the Minerals Management Service (MMS) and the

various tribal suits against the Department of Interior's trust accounting for Native Americans.

- Mr. Roper said that a key benefit would be exhibiting the substantial contributions of gas, oil, mining, and other extractive companies to the revenues of the federal government and to the overall U.S. economy. In addition, he added that increased transparency would improve trust in the U.S. government. Mr. Roper also stated that many oil, gas, and mining companies participating in the EITI effort in the United States have seen significant benefits from EITI implementation in the developing countries in which they operate and that it is important that the United States also participate for reasons of consistency and leading by example.
- The panelists said that a shared goal is to further build relationships across sectors through engaging public and industry stakeholders in this process in order to make joint decisions about how to expand transparency, improve disclosures and build greater public trust around resource governance.

Ms. Krill highlighted the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and being a major producer of various other extractive resources, including coal, copper, gold, steel and oil. She described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and Native Americans. In fiscal year 2012, ONRR collected and disbursed \$12.15 billion, which about half going to the U.S. Treasury and a significant amount going to state governments, among other recipients. Ms. Krill noted that while the U.S. government collects \$12 billion in revenues annually, one of the oil majors earns revenues upwards of \$300 billion annually. She said that US EITI would be useful in highlighting what revenues the U.S. government recovers and also where the gaps in recovery may be.

#### *U.S. EITI Candidacy Application*

Ms. Krill reviewed the U.S. EITI Candidacy Application. She explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent members of a Multi-stakeholder Group. Ms. Krill noted that, if a country needs to seek a waiver from any of the EITI requirements, known as "adapted implementation," its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country's first work plan, which

documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Ms. Krill also explained that the United States has fulfilled all four EITI sign-up requirements, with a draft EITI Candidacy Application that is currently open for public comment until the beginning of November. A Multi-stakeholder group (MSG) was established as a Federal Advisory Committee in July 2012, and the Interior Department sought nominations from civil society, government, and industry for representatives to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. Constituting the MSG are:

- The civil society sector including organizations promoting transparency, environmental and indigenous groups, investors, unions and academia;
- The government sector including federal agencies, state compact commissions and state governments, and two seats have been left open for tribal governments should they wish to participate; and
- The Industry sector including oil, gas, and mining companies, and industry associations.

Mr. Brent Roper, Rio Tinto, industry sector, explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the **scope** of materials or commodities to be reported,
- the information and data about these revenues which is considered **material**,
- and the details for **how** this information and data will be reported.

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because companies want to align with requirements under U.S. and European Union law.

Ms. Susan Ginsberg, Independent Petroleum Association of America, industry sector, recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality

threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold.

Mr. Roper recounted that, beyond reporting data that is reported by companies and governments and reconciled by a third party, US EITI will include in its reports additional information. This information goes beyond what is required by the EITI Standard, and includes:

- *A publicly sourced narrative:* US EITI Reports will make more accessible and understandable data and information that is currently publicly available from U.S. government agencies and other official sources in order to give context and a well-rounded picture of the extractive industries in the U.S. This will include information for additional types of natural resources that will not be reconciled under US EITI.
- *Unilateral disclosure of government revenue collection records:* In US EITI Reports, the U.S. Department of the Interior will disclose complete, reliable data, disaggregated by commodity, company, revenue stream, and by project (to the extent allowable by law and by existing parameters of reporting to Interior). This unilateral disclosure will apply to 100% of extractive revenues collected by the Department of the Interior that are determined to be within scope by the MSG regardless of the materiality threshold. This level of reporting represents a level of government disclosure not previously seen in EITI.

Mr. Roper also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year.

Mr. Roper added that more specific details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Ms. Ginsberg and Mr. Roper explained that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, and implement the EITI standards and produce the first report. They highlighted the voluntary nature of EITI and the balance required to ensure that the scope of the initiative does not exceed the willingness to participate of any of the sectors while also promoting sufficient consistency in reporting between companies such that the published information is useful and understandable to the reader.

Mr. Gould noted that the US EITI continues to evolve and the MSG is continuing its work. Mr. Roper added that the EITI International Secretariat also continues to evaluate the current rules are and how they should evolve, and that the US EITI is keeping possible future rule changes in mind. The expansive approach that US EITI has taken to unilateral disclosure could shape future rules by the International Secretariat. Ms. Ginsberg and Ms. Brian also emphasized the significance of US EITI's inclusion of unilateral disclosure by the federal government. Ms. Brian suggested that, combined with the publicly sourced narrative, the unilateral disclosure piece of the US EITI report could be of equal importance to the reconciled reporting, which tends to attract more attention and is of greater importance in many countries with weaker governance.

### **Questions from Attendees**

Members of the public asked a number of questions and, due to the small size of the meeting, MSG members engaged in an open discussion with members of the public rather than having a formal question-and-answer session. Questions from the public are reproduced here *with responses and comments from MSG members represented in italics*.

- *Question:* Will the first reconciliation report cover more than one year?
- *Answer (1):* We are still discussing that. At the beginning, we are likely to include one year. The MSG is still discussing what cycle the year should be – whether it should be the government year, calendar year, fiscal year, etc. We welcome comments on every part and facet of the draft candidacy application, so please feel free to submit comments on the US EITI website about this issue.
- *Answer (2):* It does not make sense for the MSG to implement a program that would not work for some of the stakeholders. The first foray into this should be a step that can be successful and would lead to more significant steps down the road. For example, if US EITI can implement reporting with 40 companies and they all participate, the program is better off than if we strive for more companies and some of them do not participate. Similarly, I anticipate that the MSG is probably going opt for reporting one year to begin with. The MSG is still considering these sorts of program details, but we

are hopeful that our approach works for the stakeholders and for the International Secretariat.

- *Answer (3):* We all want this to be successful, and I would add that, as a representative of the civil society sector, the larger the net that we can cast and the greater the percentage of revenues that we can capture in the report, the better off we are in the interest in transparency. Eventually, we would like to see greater than 80% of revenues included in reports, but we understand that it will take time to get there.
- *Question:* How do MSG members communicate with other representatives from your own sectors and with the broader membership of your sectors?
- *Answer (1):* During EITI MSG meetings, members of the government sector meet in caucus. Outside of MSG meetings, the relevant agencies communicate through regular interagency meetings.
- *Answer (2):* The civil society organizations are in a tricky situation because we represent the interests of the general public and so it is hard to communicate with a constituency that large and that broad. It has been encouraging, however, to see that Publish What You Pay is starting to attract more attention and that organizations that had not been involved in the past are starting to get involved. In recent meetings, there have been representatives from diverse interests including tribal, labor, environmental, etc.
- *Answer (3):* The civil society organizations do not have a trade association or some sort of committee that meets on a regular basis outside of EITI meetings. Our communication is more ad hoc. Each civil society organization on the MSG has been communicating with its own groups and constituencies. With the US EITI candidacy application due soon, interest in EITI among the general public and civil society organizations on the MSG and beyond the MSG is growing, and so we expect that there will be more dialogue between now and December 11, when the application is due. Cultivating participation among Native American tribes and representatives has been a challenge. Tribes fall into an in-between space in that they have established rights to direct consultation with the federal government and they also meet with civil society organizations about revenues and the impacts of extraction. The entire MSG needs to do a better job of reaching out to them.
- *Answer (4):* Tribal communities are represented by both the government sector and by the civil society sector, and the government sector has left two seats open for tribes if they would like to take them. Right now, consultants to tribes are participating in the civil society sector, but not the tribes themselves. The MSG has reached out, and members of the MSG will be meeting with a group that the Office of Natural Resources Revenue (ONRR) convenes: the State and Tribal Royalty Audit Committee (STRAC), which includes six Native American tribes. Communication with, and involvement by, tribal and state interests needs to be developed further.

- *Answer (5):* The Independent Petroleum Association of America represents smaller oil and gas companies and this experience has been somewhat different for these smaller companies than it has been for the oil majors. The smaller companies just do not have the time or resources to participate in the same way as the majors. It has required a lot of outreach to the independent producers to introduce them to the EITI and encourage them to get involved.
- I noticed that the presentation was really framed around the oil and gas industries. Do you know of any countries that included renewable energy resources in their reports?
- *Answer:* In part, the MSG recognized that the companies involved in renewables would not meet the materiality threshold that US EITI is using. However, the fees paid by renewable producers to the federal government, such as wind or solar producers on federal lands, will be included in the unilateral disclosure section of US EITI's report.
- *Question:* Will slots on the US EITI MSG be reserved for representatives from renewable energy companies if the MSG decides to lower the materiality threshold in the future?
- *Answer (1):* In addition to the renewable energy industries, there are also two other industries that the MSG is considering for future inclusion – forestry and fisheries. Including reporting from these industries would also require coordination with other federal government agencies that are not currently participating in US EITI, such as the Department of Agriculture.
- *Answer (2):* Many renewable projects are sited on private, state, and local property. US EITI is focusing on federal lands for the time being.
- *Answer (3):* The legal landscape for renewables is considerably different than is the landscape for mineral resources and fossil fuels, both of which have an embedded tradition in the law. Society has an opportunity now to handle renewables differently than minerals in the US in terms of the legal structure and the benefits of these resources could be shared more broadly with the public than is generally the case for mineral resources. I should also note that mineral resources are mostly found underground whereas renewable resources are often a surface use.
- *Question:* How does the State of Wyoming handle revenue collection and monitoring of renewable energy development?
- *Answer:* Attendee affiliated with the State of Wyoming noted that they were not involved with auditing renewable resources, but believe that the electricity generated from renewable sources is taxed by the state.
- *Question:* How are other taxes, like income and excise being handled?
- *Answer (1):* The MSG is still trying to determine how to handle reporting of federal income taxes.

- *Answer (2):* Excise taxes are a very significant revenue stream for many sub-national entities such as states. The civil society sector has been encouraging participation by sub-national entities in part to incorporate reporting of these revenues.
- *Question:* Thinking about recent steps by the Department of Energy to move forward with the export of natural gas, how will exports be factored into EITI valuations? Will natural gas only be accounted for from the hub or throughout the production and distribution process?
- *Answer (1):* EITI has not really looked at that yet, but ONRR and other government agencies are obviously looking at issues related to natural gas exports.
- *Answer (2):* EITI discussed downstream activity and opted to focus on the point of production rather than including refining and pipelines, etc. US EITI could include information about exports and other downstream activity in the publicly-sourced narrative. Since exports are currently permitted but have not yet begun producing revenues, and they are a downstream activity, natural gas exports may not be included in the reconciled revenues of the EITI report, but they should be included in the publicly-sourced narrative.
- *Answer (3):* I have found that it can be easy to lose sight of EITI's focus and want to expand the initiative to a whole host of other things. Not that those things shouldn't be included, but it is important to keep cost-benefit tradeoffs in mind and remember how much it would cost for the government to include reporting on small revenue streams. EITI has been focused on extraction. For example, a copper company has extraction activity, and then it also has concentrating, refining, smelting activities, etc. Some people might be interested in the commerce from each of those processes, but the EITI International Secretariat is not yet focusing on those areas. The focus on extraction is a pretty big project for us to start with.
- *Answer (4):* To the extent that natural gas is produced on federal lands, revenues from its extraction will be reflected in EITI's reconciled reports, but the reports will not include downstream activity.

### **Public Comment**

The following comments were received from meeting attendees:

***Ms. Kristi Disney, Sustainable Development Strategies Group:*** With regards to Requirement 1.1 of the draft candidacy application, it would be nice to have additional comment from President Obama and other senior officials discussing the value of EITI. The current quotation should remain in the document, but it would be beneficial to have further comment from the President about the importance of this initiative. With regards to Requirement 1.3 of the draft candidacy application, I commend the MSG on the process that has taken place thus far. In

particular, I want to commend the MSG on hiring the Consensus Building Institute, CBI, as their involvement has been very helpful to the process. CBI's work on conference calls and webinars, creating meeting summaries, and disseminating materials, has been stellar. I would also encourage the MSG to maintain open lines of communication with tribes and other groups, and would encourage that this be done in culturally appropriate way. Posting comments and MSG minutes online has been very helpful and has helped to keep the wider public informed about and involved with the MSG's work. It would also be important for public outreach to disseminate materials in languages other than English, to establish a separate website for US EITI that is apart from the Department of Interior's homepage, and take other steps to generate interest among the public and keep people informed.

**Ms. Holly Taylor, Sustainable Development Strategies Group:** Participation in the EITI process will enable the U.S. to participate in a global partnership to promote openness and accountability in the management of revenues from publicly owned resources. While EITI creates a voluntary framework for companies and governments to disclose revenues related to the extraction of oil, gas, and minerals, I would encourage US EITI to expand its scope to include renewable energy sources such as geothermal, solar, and wind in its first EITI report. With regards to Requirement 1.3 of the draft candidacy application:

- Requirement 1.3(f)(2) requires that the government ensure that stakeholders are adequately represented and indicates that diverse representation in the multi-stakeholder group is desirable.
- The government has taken repeated efforts to ensure that the multi-stakeholder group, charged with overseeing and implementing EITI, is comprised of members that adequately represent a range of interests across each sector.
- To inform the formation of the multi-stakeholder group, public listening sessions were held in locations where resource extraction occurs and/or where extractives companies are headquartered.
- Additionally, the government conducted tribal outreach and invited tribal participation in the MSG.
- The Secretary purposefully left two seats in the multi-stakeholder group vacant to allow for future representation in the government sector by two state representatives and additional seats to allow for future tribal representation.
- I would be interested in seeing the US application address how the composition of the multi-stakeholder group might develop to allow for future representation by industries not included in the initial US EITI report, but whose inclusion in future US EITI reports is contemplated, such as the fishery and timber industries. Will these industries and the relevant affected communities be represented in the multi-stakeholder group and how will the size of the group be limited so as not to become unmanageable or inefficient?

**Ms. Heidi Ruckriegle, Sustainable Development Strategies Group:** Much of what I would say has already been said by my two colleagues. I would add to their comments with encouragement to the MSG to push for the involvement of Native American tribes in the EITI process. It sounded like the CBI report was defending the efforts that the MSG has made thus far, but I would encourage that these efforts to include tribes and other under-represented groups continue.

Members of the public are invited to submit public comment via email at: [USEITI@ios.doi.gov](mailto:USEITI@ios.doi.gov) or online at: <http://www.doi.gov/eiti/EITIComments.cfm> until the close of the comment period on November 18, 2013.

The meeting was adjourned at 7:00 pm.

**Appendix A  
Attendance**

Name	Affiliation
<b><i>Members of the Public</i></b>	
Kristi Disney	Sustainable Development Strategies Group
Patrick Etchart	Office of Natural Resources Revenue, Department of the Interior
Cortney Hazen	Independent Petroleum Association of America
Gretchen Kohler	WPX Energy
Susan Long	Office of Natural Resources Revenue, Department of the Interior
Mike Matthews	State of Wyoming
Cameron Nazminia	Wyoming – Governor’s Office
Heidi Ruckriegle	Sustainable Development Strategies Group
Holly Taylor	Sustainable Development Strategies Group
Lance Wenger	Solicitor’s Office, Department of the Interior
<b><i>US EITI MSG Members</i></b>	
Danielle Brian	Project on Government Oversight
Debbie Gibbs Tschudy	Office of Natural Resources Revenue, Department of the Interior
Susan Ginsberg	Independent Petroleum Association of America
Greg Gould	Office of Natural Resources Revenue, Department of the Interior
Jennifer Krill	Earthworks
Brent Roper	Rio Tinto
<b><i>Process Support</i></b>	
Tushar Kansal	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**State and Tribal Royalty Audit Committee (STRAC) Meeting  
Denver, Colorado  
Wednesday, October 23, 2013**

**Meeting Purpose and Overview**

The purpose of this Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-Stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

Three members of the US EITI Multi-Stakeholder Group (MSG) were present at the meeting who, after giving a presentation about the US EITI process and draft candidacy application, responded to questions from attendees. The three MSG panelists are listed at the end of this document.

**Public Question and Comment Period**

Members of the Multi-Stakeholder Group (MSG) stated that the MSG would like to receive greater input from members of the public as they have not received very many thus far. They are making every attempt to get the word out for public comment and are encouraging feedback from all. A representative from the civil society sector added that the MSG is looking for tribal leaders to fill the seats that have been designated for tribal representation in the government sector that are currently empty.

STRAC members asked a number of questions about how EITI will benefit the states and tribes and about what the EITI reports will entail. The STRAC members also inquired about how much detail would be included in the reports and how useful the information contained in these reports would be for them.

In response, MSG members provided the following information:

- The goal of the report is to provide as much detail and transparency as possible, given the constraints for materiality and legality that the MSG has established. For example, Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because companies want to align with requirements under U.S. and European Union law.

- *A state representative noted that his or her state supplies this information down to the well-level, regardless of the opinion of the companies.*
- Currently, the information and research provided to EITI is completely voluntary. Regulations may be changed in the future such that companies at a certain threshold would be required to report to EITI as deemed necessary. Seeing that significant time can be required for regulations to be changed and enforced, the MSG agreed to begin with voluntary participation so that information disclosure could begin as soon as possible.
- A representative from the civil society sector suggested that it would benefit states and tribes to opt into the EITI reporting process because it would elevate the value of the work done by state and tribal governments that collect revenues on behalf of their constituents and because transparency would help to ensure that they are collecting every dollar owed to them.
- The EITI report will provide information about revenues collected from state lands to the extent that information about revenues collected on state lands is voluntarily provided. This will be via the public narrative portion of the US EITI report.
- In the future, the EITI report may also include data provided by the Bureau of Land Management, the Bureau of Indian Affairs, and the Office of the Special Trustee for American Indians. The scope of the report may be expanded to include renewable energy, geothermal, and other hard rock mineral in the future.
- A representative from the civil society sector stated that the civil society representatives to the MSG will be pleased to see a report that includes revenue information related to the production of coal, copper and other hard rock data as there have never been public reports about these resources before.
- A representative from the government sector commented that he would like the EITI reports to be as useful as possible and would like to lead by example around disclosure and transparency both in the US and globally.

**US EITI MSG Panelists:**

<b>Name</b>	<b>Affiliation</b>
<b>Danielle Brian</b>	Project on Government Oversight
<b>Greg Gould</b>	Office of Natural Resources Revenue, Department of the Interior
<b>Jennifer Krill</b>	Earthworks

**U.S. Extractives Industries Transparency Initiative  
Public Outreach Meetings – Fall 2013  
Fairbanks, Alaska  
Thursday, October 24, 2013**

**Meeting Purpose**

The purpose of this Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-Stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, highlight ways in which Alaska Native Tribal Entities may participate in US EITI, and to elicit and respond to clarifying questions.

**Welcome and Introductions**

Mr. Paul Mussenden, Deputy Assistant Secretary, Office of Natural Resources Revenue, U. S. Department of Interior (DOI), opened the meeting by welcoming participants and explaining the purpose of the meeting. MSG members present included:

- Paul Mussenden, Office of Natural Resources Revenue
- Brent Roper, Rio Tinto
- Veronika Slajer, North Star Group
- Richard Fineberg, Research Associates (Alternate)

A full list of MSG and staff members is provided in Appendix A. Mr. Fineberg was asked, but declined, to sit on the MSG panel as a presenter.

Mr. Mussenden explained that a meeting summary, written by Ms. Meredith Cowart of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written without attribution for the questions posed during the question and answer period. He proceeded to review the agenda for the meeting and give an overview of the prepared presentation.

**Presentation about EITI and Draft Candidacy Application**

The panelists presented information about the Extractive Industries Transparency Initiative (EITI) and the US EITI Draft Candidacy Application.

*EITI Background*

Mr. Mussenden explained that in 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource-rich curse,” an economic paradox whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts because these resources are too often accompanied by

USEITI Public Outreach Meetings – Fall 2013

Fairbanks, Alaska, Thursday, October 24, 2013

The Consensus Building Institute prepared this summary. Any errors or omissions are the sole responsibility of CBI.

mismanagement, corruption, weak accountability, and poverty. EITI is a global coalition of governments, companies and civil society working together to bring transparency and accountable management to revenue flows from natural resource. EITI works as a global initiative which countries sign on to voluntarily. In 2011, President Obama declared that the United States would transition from its position as an EITI supporting country to an implementing country.

Mr. Mussenden stated that a significant feature of the Initiative is the Multi-Stakeholder Group (MSG) which is formed in every EITI country and is usually composed of representatives from government, industry and civil society sectors. Members of the MSG jointly make decisions on a consensus basis about the scope and implementation of EITI for each country. Each member is tasked with representing their full sector, not only the specific industry or organization for which they work. Mr. Brent Roper emphasized that, due to the consensus nature of the decision process, all decisions made represent agreement by all members on behalf of their sector – in that respect, while members make compromises, they are understood to be making agreements that all members will uphold.

Mr. Mussenden stressed that the purpose of the U.S. implementation of EITI is not only to ensure that taxpayers receive “every dollar they’re due” from the extraction of natural resources, but it is also to lead by example. At the time of the US’ announcement to implement EITI, only one other OECD country (Norway) had implemented EITI. Since the US’ announcement, five other OECD countries (France, Germany, Italy and the UK) have announced their intent to sign onto EITI.

The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Specifically, companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes and fees) that it collects from companies from extractives-related activity to the same reconciler. The independent reconciler reviews the reports and then determines and resolves any discrepancies. The information is published in an EITI report, which is designed to be accurate, accessible and comprehensive.

Mr. Mussenden described the report as the “heart” of the initiative – which is disseminated widely to the public, forming the basis for better informed and more participatory management of the extractive sector. The MSG by comparison is the “soul,” whose formation promotes communication between sectors and also ensures that the initiative is viable and can be

voluntarily carried out, as it ensures that the scope of the initiative in each country does not exceed the willingness of the sectors to participate.

Mr. Mussenden reported that 39 countries around the globe are participating in EITI, at various stages of implementation. He explained that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. The US is currently in the sign-up phase; once the US submits the US EITI Candidacy Application, this will be reviewed and if it is approved, the US will become a Candidate Country (in February 2014).

Ms. Veronika Slajer explained the EITI Board and the EITI Standard. The EITI Board performs executive functions, including policy issues, reviewing work plans and budgets, and establishing procedures regarding the EITI Standard. Ms. Slajer explained that these Standards were initially minimal, but have increased over the past few years. These increasing Standards have provided benefit to nations experiencing high levels of corruption. For example, last year a “rule of encouragement” was passed to encourage EITI counties to include contracts in their initiatives. In Alaska, the focal purpose of EITI is not to target corruption, but rather to provide greater transparency and foster a deeper and more widespread understanding of extractive resources, how they are developed, tax structures, and other revenue flows. The data that USEITI will produce in its Report will allow for a more informed discussion on all fronts.

Ms. Slajer highlighted the balance required in EITI reporting requirements, which must ensure that the scope of the initiative does not exceed the willingness to participate of any of the sectors while also promoting enough comprehensiveness - sufficient consistency in reporting between companies - that the published information is useful and understandable to the reader. The current proposal requires that Federal receipts will be included in the USEITI report. Land-based tribes and states may opt-in. Over time, the MSG may require more stringent Standards, but these changes must be made by consensus, so several items are still being debated within the MSG.

Three of the panelists highlighted some of the benefits that they expect from implementation of EITI from the perspective of their own sectors:

- Mr. Brent Roper, Rio Tinto, emphasized that industry is motivated to disclose revenue because members of this sector often make substantial but unrecognized contributions to the countries and regimes they work in; EITI provides 3<sup>rd</sup> party verifications of these numbers while making these contributions visible to the public. Thus, EITI has the potential to elevate public confidence and trust in industry, generating greater approval.

- Ms. Slajer, North Star Group, noted that this initiative allows citizen access via the EITI annual reports to a wealth of information on revenues produced by extractives and received by the government, both from unilateral as well as reconciled disclosure. In this way EITI “shines a light” on US extractive resource revenue flows and also allows for a more informed public debate on this issue.
- Mr. Mussenden, ONNR, emphasized that the aims of the Initiative correspond closely with some Open Government Initiative reforms already in place, which aim to bring more transparency to, and create more trust around, federal natural resource revenue. These reforms led to the creation of the DOI’s Office of Natural Resource Revenue (ONRR). The Initiative furthers these aims by providing oversight regarding the ways in which ONRR conducts reconciliation. What’s more, the creation of the MSG and involvement of the public has generated a more informed and objective debate around revenue flows.

### *US EITI Candidacy Application*

Mr. Roper explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. The parameters include:

- The scope of **materials** or commodities to be reported
- The information and data about these **revenues**, which is considered material
- The details for **how** this information and data will be reported

Mr. Roper noted that, based on the decisions made by the MSG, the commodities deemed to be within the scope of the USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g., hard rock, sand and gravel), geothermal, solar, and wind. The MSG has decided that the first USEITI report will not include forestry and fisheries, but has tabled the inclusion of these revenue streams for further discussion.

Mr. Roper explained that the revenue streams that will be independently reconciled include all payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG. Mr. Mussenden noted that Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because industry does not want to move beyond the requirements already in place under U.S. and European law. Mr. Roper stressed that the intent is to make USEITI reporting requirements consistent with reporting already being done, to the extent possible, in order to be as efficient as possible.

Mr. Roper recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to DOI for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold. However, while this revenue that does not meet the materiality threshold will be reported by the U.S. government, it will not also be independently reconciled. Mr. Mussenden noted that this level of reconciliation seeks to balance practicality with meaningful disclosure.

Mr. Roper recounted that, beyond reporting data that is reported by companies and governments and reconciled by a third party, US EITI will include in its reports additional information. This information goes beyond what is required by the EITI Standard, and includes:

- *A publicly sourced narrative:* USEITI Reports will make more accessible and understandable data and information that is currently publicly available from U.S. government agencies and other official sources in order to give context and a well-rounded picture of the extractive industries in the U.S. This will include information for additional types of natural resources that will not be reconciled under US EITI.
- *Unilateral disclosure of government revenue collection records:* In US EITI Reports, the DOI will disclose complete, reliable data, disaggregated by commodity, company, revenue stream, and by project (to the extent allowable by law and by existing parameters of reporting to Interior). This unilateral disclosure will apply to 100% of extractive revenues collected by the Department of the Interior that are determined to be within scope by the MSG regardless of the materiality threshold. This level of reporting represents a level of government disclosure not previously seen in EITI.

Mr. Roper also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the International Secretariat from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate,

it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year.

### Clarifying Questions from Attendees

- *Question:* Please clarify the text of the slide [Slide 4, Countries That Participate in EITI] -- what does red indicate?
- *Answer:* Red indicates that a country is suspended. The Central African Republic, Madagascar, Sierra Leone and Democratic Republic of the Congo are all temporarily suspended as they do not meet all requirements in the EITI standard.
- *Question:* Am I correct that timber not included in the USEITI Report?
- *Answer:* Not in this first round, no. Some EITI countries do report on timber. The deliberation on whether to include timber was extensive, but we are limited because most timber is managed through agriculture, which is outside of the EITI scope. Also, the amount of revenue we receive from timber as opposed to other commodities is relatively small. However, the MSG is still considering the possibility. In order to expand to any new industry, the relevant agency and companies will of course need to be included in the USEITI process.
- *Question:* Are the MSG industry representatives all from private sector multinational businesses, or are some from small businesses?
- *Answer 1:* We try to represent all of them. That is part of getting feedback from public outreach. We had hoped there would be smaller businesses coming to these public comment periods and providing feedback. We feel the larger businesses understand the Initiative well, most MSG representatives from industry feel they wish they'd heard more from smaller businesses. We are reaching out to the smaller ones as we can through small industry associations.
- *Answer 2:* Also note that an MSG stakeholder, Susan Ginsberg, Independent Petroleum Association of America, represents independent companies.
- *Question:* EITI requires reporting on the flow of money from an individual company to the government, as well flow of money from the government out to constituents. Is there any call for reporting of not only the general fund, but also of revenue earned during government's own extraction?
- *Answer:* Not currently. During phase one EITI requires reporting only from private companies.
- *Question:* Will contract disclosure be required by USEITI in the near future?
- *Answer:* There are a lot of discussions in EITI around contract disclosure and the specific details that would be reported. Globally, there was recently a tilt towards encouraging

countries to publish contracts - contract disclosure is not required, but it is “encouraged”. In the USEITI MSG there is not a consensus agreement on this point.

- *Question:* It is interesting to consider how publishing contracts would play out in the US. How would it work?
- *Answer:* This is not a question the MSG is considering, since as we said there is not a consensus agreement by the MSG to publish contracts in the EITI report. Contract disclosure will be made a requirement only if this is agreed upon by consensus by the MSG.
- *Comment:* Going back to the slide about representation on the MSG - clearly, the Civil Society sector is up against the largest multinational companies in the world. Shell is the largest multinational oil company in the world. These companies can obviously afford to send their representatives to endless meetings. The Civil Society sector on the other hand appears to not be funded for their work. How does this work in other countries - In are Civil Society representatives ever paid or reimbursed for their time, travel and hotel costs? To truly have adequate representation from the diversity of people within Civil Society who understand these complex issues, I wonder why there isn't a greater effort to generate capacity and participation among Civil Society members. It is not enough to just ask people to the table; I think we need to take extra steps to ensure an open playing field for the Civil Society sector.
- *Response 1:* When you say participation, civil society as a sector is represented on the MSG. We wouldn't be consistent with our FACA charter if we couldn't demonstrate that. Globally, EITI criteria dictate what is required for civil society participation. It is every government's responsibility to reduce and remove barriers to participation. Part of the process is to elevate the capacity of civil society. For this reason, Revenue Watch, the World Bank, and others fund capacity building in developing countries with seminars focused on building that capacity.
- *Response 2:* Capacity building for Civil Society representatives is not explicitly funded in the US. The US MSG was established under FACA, so is limited by its ability to support involvement of civil society. So as you say, it has been the onus of our individual sectors to get ourselves here.
- *Response 3:* The reality is that the MSG is operating under a very constrained fiscal environment. Again, the rules of FACA do apply – so hotel bills are paid for, for example.
- *Comment:* Alaska is a unique state with regard to the issues this Initiative revolves around, yet there is only one MSG representative from Alaska. I am only aware of this meeting because of the Alaska Federation of Natives Conference 2013. I read a bit about the Cobell v. Salazar case, which has been going on for decades. Even now

there's a highly complex feedback mechanism to make sure that tribal members are being paid back by oil companies. There is great need for revenue transparency in this state. We lost in the Dodd-Frank case so Alaskans lack the full picture of oil company profit in Alaska. The oil tax bill SB 21 lowers the tax rate but we don't know by how much – we may be losing millions to billions of dollars every year due to the change in the oil tax. Alaskan citizens put a referendum on the ballot to challenge the bill, collecting more than 30,000 signatures in less than 90 days. These kinds of issues at the state level are fundamental in informing citizenry about financial issues. I don't know enough about the numbers to fully understand how EITI data relates to the full picture of industry finances – for example, Alaska offers many subsidies to industry – how is that reflected in how much tax is paid? Or in how much is reported to the Securities and Exchange Commission? There are unique issues in Alaska that deserve more fleshing out in the requirement. Based on what I've seen on the website, USEITI is putting the bar too low.

- *Response:* Outreach is a slow process and we will continue to work to improve it. At the beginning of this process, before the MSG was formed, we met with a full range of stakeholders and conducted outreach, in an effort to understand the best methods of reaching the appropriate stakeholders. We continue to conduct this outreach, which is why we're here today. Regarding tribal outreach, the Director of ONRR and I personally went to several tribes, including Navajo Nation, Cherokee Nation, Osage Nation and Chotaw Nation to explain EITI and encourage their involvement and representation on the MSG. The response we received from the tribes was essentially – 'Given the sovereign nature of tribal entities, and no mandate to join USEITI, how would USEITI benefit us?' Our message now is that the opportunity to join the MSG remains. There is also the opportunity to come to meetings and observe the process. After the first phase of implementation, the benefits of opting in to EITI and joining the MSG may become clearer.
- *Comment:* I encourage you to be creative and try to set the bar high. The United States has the opportunity to be a worldwide leader.
- *Response:* We certainly want to lead by example in EITI, but we must also be realistic. If we set the bar so high that we're not able to meet it, then we will fall short of our own standards. For example, if we say that we will report state revenues, but then are constitutionally restricted from reporting state revenue, we won't be able to meet the very standards we've set. Every item you've mentioned is on our list. But this is an iterative process, and we need to get to these objectives over time. The bar isn't low with expectation we will keep it low - it's where it needs to be right now.

- *Question:* The industry representatives on the MSG, are they only from US-based companies or subsidiaries?
- *Answer:* That's correct. As an example, I work for a US subsidiary of Rio Tinto, which is a UK-based company.
- *Question:* Will ONRR be producing the USEITI Report?
- *Answer:* In part. ONRR will play a role, and the MSG will also play a supporting role. For example, the next decision point for the MSG is to create a template for the US EITI Report.
- *Question:* In my experience, this type of work product generally goes out for bid – will that happen here?
- *Answer:* Some of both. One of the reasons we became involved in EITI was that we saw a lot of synergies between the EITI requirements and what we at ONRR were already doing. ONRR already collects a lot of this data already which we can readily cull - so generating data won't be difficult for ONRR. On the other hand, the position of independent reconciler will be contracted.
- *Question:* What will the USEITI Report look like ultimately?
- *Answer:* We have just begun to develop the template within the MSG. At this point, we know that the report will do at least one thing: it will report revenue generated over the time covered by company. Right now you can go to the ONRR website and see what revenues are generated and disbursed, by state. We will work to figure out a way to give some transparency to Alaskan revenue flow. The report is a tool we hope to use to generate further discussion, and to demonstrate to states that they will see a benefit if they opt-in.
- *Question:* Given that the US cannot require states to comply with EITI, by the same logic, would every Canadian province have their own individual EITI process?
- *Answer 1:* Yes, that is a huge challenge in Canada.
- *Answer 2:* In the US, the MSG has consulted numerous attorneys, and the consensus is that it is unconstitutional to require states to report to USEITI. We are working to find mechanisms that allow states to easily opt-in, should they choose to.
- *Answer 3:* Conceivably, states could also create their own EITI process. However, in the interest of efficiency, usefulness and usability of the data, we think it is best for states to opt-in to USEITI.

**Appendix A  
Attendance**

<b>Name</b>	<b>Affiliation</b>
<b><i>US EITI MSG Panelists</i></b>	
Paul Mussenden	Office of Natural Resources Revenue, Department of Interior
Brent Roper	Rio Tinto
Veronika Slajer	North Star Group
Richard Fineberg	Research Associates (Alternate)
<b><i>Staff</i></b>	
Rosita Compton Christian	Office of Natural Resources Revenue, Department of the Interior
<b><i>Process Support</i></b>	
Meredith Cowart	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**Via Webinar  
Public Meeting  
Monday, November 4, 2013**

**Meeting Purpose**

The purpose of this meeting during a Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Patrick Field, facilitator from the Consensus Building Institute, introduced himself and welcomed all webinar participants. Each of the EITI Multi-stakeholder group (MSG) panelists introduced themselves:

- Ms. Danielle Brian, Program on Government Oversight, civil society sector
- Ms. Susan Ginsberg, Independent Petroleum Association of America, industry sector
- Mr. Greg Gould, U.S. Department of the Interior, government sector
- Ms. Veronika Kohler, National Mining Association, industry sector

A full list of panelists, staff, and members of the public in attendance is provided in Appendix A.

Mr. Field proceeded to review the agenda for the meeting. He explained that a meeting summary, written by Mr. Tushar Kansal of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period.

**Presentation about EITI and Draft Candidacy Application**

The panelists presented information about the Extractives Industries Transparency Initiative (EITI) and the draft application of the United States to join the Initiative.

### *EITI Background*

The presenters began by providing background on EITI. Mr. Gould explained that in 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource curse,” an economic paradox whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts because these resources are too often accompanied by mismanagement, corruption, weak accountability, and poverty. As a result, the benefits of natural resources in these resource-rich countries rarely trickle down to the citizens who own the resources. The Extractives Industries Transparency Initiative focuses on bringing transparency within the government on the revenue flows from extractive industries in order to address this all too common situation so that discrepancies are identified and better accountability and management is achieved. Two short films on the EITI website provide more information about EITI and the challenges that it is designed to address.

The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public. A Multi-stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. Gould proceeded to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI.

- Of these, 23 “compliant” countries have met all the EITI requirements. Of these 23, three are currently suspended for not maintaining the EITI standards for reporting.
- Sixteen countries are currently “candidate” countries and their country applications for candidacy have been accepted by the International EITI Board. These 16 countries are currently implementing EITI but have not yet met all of the requirements of the initiative. Of these 16, two have been suspended for not fulfilling the work plans they set forth.

- Finally, there are five countries that have recently committed to implement EITI. Currently, Norway is the only country that is compliant with EITI. This group of five applicants includes five more developed countries and is led by the United States, which is furthest along in its candidacy process of these five. Along with the U.S., France, Germany, Italy, and the United Kingdom have announced their intention to sign onto EITI.

Ms. Danielle Brian, Program on Government Oversight, civil society sector, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders. These principles affirm that:

- A country's natural resources belong to all its citizens and that all citizens should accordingly see the benefits that flow from the natural resources;
- Ensuring that benefits are democratically shared requires high standards of transparency and accountability; and that
- Compliance calls for full disclosure of government revenues from their extractive industries and a national commission to oversee the process and stimulate public debate.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

Each of the panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors:

- Ms. Brian said that EITI would help to ensure a fair return on resources for U.S. citizens by creating access via the EITI annual reports to a wealth of information on revenues produced by extractives, both from unilateral as well as reconciled disclosure, and by making federal extractives revenue data more easily accessible and comprehensible. She highlighted the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
- Mr. Gould said that EITI would support the reform efforts the Obama Administration to improve oversight of natural resources development on public lands, including the creation of ONRR in 2010. In part, this continues the effort to restore trust in the accounting by the federal government of various revenue responsibilities, diminished because of past problems such as at the Minerals Management Service (MMS) and the various tribal suits against the Department of Interior's trust accounting for Native Americans. He added that the past year of interaction between members of the civil

society, government, and industry sectors had significantly enhanced levels of trust and understanding.

- Ms. Kohler stated that many oil, gas, and mining companies participating in the EITI effort in the United States have seen significant benefits from EITI implementation in the developing countries in which they operate but that they do not currently know what the benefits of EITI implementation in the U.S. will be. She added that a key potential benefit would be exhibiting the substantial contributions of gas, oil, mining, and other extractive companies to the revenues of the federal government and to the overall U.S. economy.

Ms. Brian, in continuing the presentation, highlighted the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and being a major producer of various other extractive resources, including coal, copper, gold, steel and oil. She described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and Native Americans. In fiscal year 2012, ONRR collected and disbursed \$12.15 billion, which about half going to the U.S. Treasury and a significant amount going to state governments, among other recipients. Ms. Brian also noted that 100% of revenues collected on tribal lands are sent to tribes and that the funds disbursed to state governments can make up a very significant source of revenue for those states.

#### *U.S. EITI Candidacy Application*

Ms. Kohler reviewed the U.S. EITI Candidacy Application. She explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent members of a Multi-stakeholder Group. Ms. Kohler noted that, if a country needs to seek a waiver from any of the EITI requirements, known as “adapted implementation,” its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country’s first work plan, which documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Ms. Kohler also explained that the United States has fulfilled all four EITI sign-up requirements, with a draft EITI Candidacy Application that is currently open for public comment until the middle of November. A Multi-stakeholder group (MSG) was established as a Federal Advisory

Committee in July 2012, and the Interior Department sought nominations from civil society, government, and industry for representatives to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. The MSG has met monthly or bi-monthly and each of these meetings is open to the public in person and over the phone. The MSG has also convened subcommittees to discuss specific issues that cannot be dealt with by the entire MSG, with those issues then being brought back to the full MSG once having been explored by a subcommittee.

Ms. Susan Ginsberg, Independent Petroleum Association of America, industry sector, explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the **scope** of materials or commodities to be reported,
- the information and data about these revenues which is considered **material**,
- and the details for **how** this information and data will be reported.

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because companies want to align with requirements under U.S. and European Union law.

Ms. Ginsberg recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. In addition, the U.S. government will unilaterally disclose 100% of extractive revenues collected that are determined to be within scope by the MSG, regardless of the materiality threshold.

Ms. Ginsberg recounted that, beyond reporting data that is reported by companies and governments and reconciled by a third party, US EITI will include in its reports additional information. This information goes beyond what is required by the EITI Standard, and includes:

- *A publicly sourced narrative:* US EITI Reports will make more accessible and understandable data and information that is currently publicly available from U.S. government agencies and other official sources in order to give context and a well-rounded picture of the extractive industries in the U.S. This will include information for additional types of natural resources that will not be reconciled under US EITI.
- *Unilateral disclosure of government revenue collection records:* In US EITI Reports, the U.S. Department of the Interior will disclose complete, reliable data, disaggregated by commodity, company, revenue stream, and by project (to the extent allowable by law and by existing parameters of reporting to Interior). This unilateral disclosure will apply to 100% of extractive revenues collected by the Department of the Interior that are determined to be within scope by the MSG regardless of the materiality threshold. This level of reporting represents a level of government disclosure not previously seen in EITI.

Ms. Ginsberg also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. Details will be worked out in the coming year. Ms. Ginsberg added that more specific details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Ms. Kohler closed by explaining that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, and implement the EITI standards and produce the first report. The public comment period, which has been extended due to the federal government shutdown, closes on November 18. A number of outreach sessions were held around the United States, with an outreach session in Pittsburgh still to come on November 14. She highlighted the voluntary nature of EITI and gentle balance required to ensure that the scope of the initiative does not exceed the willingness to participate of any of the sectors.

## Questions from Attendees

Members of the public asked a number of questions and, due to the small size of the meeting, MSG members engaged in an open discussion with members of the public rather than having a formal question-and-answer session. Questions from the public are reproduced here *with responses and comments from MSG members represented in italics*.

- *Question:* With regards to the various decisions still pending by the MSG about the structure, scope, reporting, etc. of US EITI, when will those decisions be made? Will they be made before the MSG submits its candidacy application to the EITI International Secretariat?
- *Answer (1):* In reality, none of the design or programmatic decisions that have been made about the implementation of EITI are required for submission of the candidacy application. In that sense, the US EITI MSG has accelerated the decision-making process and is ahead of the game. The pending decisions will likely be made in coming months to make sure that all of the reporting can successfully occur.
- *Answer (2):* On the issues of reporting federal corporate income taxes and project-level reporting, the MSG is waiting on the US Securities and Exchange Commission (SEC) to make a decision about reporting requirements under the Dodd-Frank Act.
- *Answer (3):* We are in an open public comment period. If anyone has any suggestions about these decisions, or any other matters, the MSG is very open to those suggestions.
- *Answer (4):* A draft work plan for 2014 is provided at the back of the draft candidacy application which members of the public can review to see the MSG's planned future work.
- *Question:* Will reporting under EITI cover all federal lands, both onshore and offshore?
- *Answer:* That is correct. US EITI will cover all revenues that the Office of Natural Resources Revenues (ONRR) collects, both onshore and offshore, as well as revenues that ONRR collects on behalf of tribes on Indian lands.
- *Question:* How much outreach has been done to tribes and states?
- *Answer (1):* Some members of the MSG attended a meeting of the State and Tribal Royalty Audit Committee (STRAC) last week, which included about 80 representatives from states and tribes. These representatives asked a number of questions, many of which centered around "What is the benefit of EITI for states and tribes?" Some states and tribes expressed interest in the ability of EITI to elevate the status of the payments that they are collecting on behalf of their citizens.
- *Answer (2):* Much of the discussion at the STRAC meeting revolved around EITI being an interesting concept but STRAC members having questions about how states would implement a reporting system within the context of each of their own complex revenue-collection systems. The development of US EITI has been an iterative process and, as

states and tribes have seen how it would work, some have expressed some interest in participating. The MSG had a representative from New Mexico as a representative to the MSG but that person left his or her job and consequently is no longer involved with EITI. Currently, the State of California has a representative to the MSG and the State of Wyoming is interested in EITI. The MSG has been soliciting interest from tribes to fill the two seats that the government sector has left open for tribes.

- *Question:* Is it clear what companies will have to do once EITI is implemented?
- *Answer (1):* It is not yet 100% clear what companies will have to do. What the MSG has put together to date is innovative because the US government has said that it is willing to commit to unilateral disclosure. That opportunity does not exist in many countries since they do not have the infrastructure and rule of law that the United States has. The companies will have to engage with the reconciliation component of reporting. The MSG knows what revenue streams will be included in the reconciliation, but it will need to define further how these revenue streams are defined. The MSG will need to make sure that companies and the government share an understanding about what will be included in reporting, how different terms are defined, how revenue streams are calculated, etc. The MSG wants to make sure that reporting for EITI does not impose too great of a cost or burden on industry.
- *Answer (2):* Companies already report a significant amount of data to the government on royalties, taxes, and other types of payments made. The MSG wants to make sure that the reporting for EITI is streamlined and not duplicative of other forms of reporting already underway.
- *Answer (3):* Members of the industry sector have concerns that reporting remain in line with the U.S. Trade Secrets Act and also that the information required for reporting not become so granular that it create a competitive disadvantage for companies that are participating in EITI. Members of the industry sector would not want reporting requirements to become overly detailed or granular such as to discourage participation by companies in US EITI.
- *Question:* What were the sources of the data about the US being a top producer of various mineral resources, as seen on slide #7 of the presentation?
- *Answer:* The slide has a footnote which provides sources for that information. The information came from the U.S. Geological Survey; the World Steel Association; the CIA World Fact Book; and the Department of the Interior's New Energy Frontier Report, May 2011.

### **Public Comment**

No comments were received from meeting attendees.

Members of the public are invited to submit public comment via email at: [USEITI@ios.doi.gov](mailto:USEITI@ios.doi.gov) or online at: <http://www.doi.gov/eiti/EITIComments.cfm> until the close of the comment period on November 18, 2013.

**Appendix A  
Attendance**

Name	Affiliation
<b><i>Members of the Public</i></b>	
Brad Brooks-Rubin	Holland & Hart LLP
Carliane Johnson	Citizen, consultant to Shell Oil Company
Jodie Peterson	Office of Natural Resources Revenue, Department of the Interior
<b><i>US EITI MSG Members</i></b>	
Danielle Brian	Project on Government Oversight
Susan Ginsberg	Independent Petroleum Association of America
Greg Gould	Office of Natural Resources Revenue, Department of the Interior
John Harrington	Exxon Mobil Corporation
Veronika Kohler	National Mining Association
Jim Roman	ConocoPhillips
<b><i>Process Support</i></b>	
Patrick Field	Consensus Building Institute
Tushar Kansal	Consensus Building Institute

**U.S. Extractives Industries Transparency Initiative  
Public Outreach and Stakeholder Meetings – Fall 2013**

**Pittsburgh, Pennsylvania  
Public Meeting  
Thursday, November 14, 2013**

**Meeting Purpose**

The purpose of this meeting during a Public Comment Period was for the United States Extractive Industry Transparency Initiative (US EITI) Multi-stakeholder Group (MSG) to present on the process of the US application to become an EITI compliant country, to elicit clarifying questions, and to receive public comment on the draft US EITI Candidacy Application.

**Welcome and Introductions**

Mr. Greg Gould, U.S. Department of the Interior, government sector, opened the meeting by welcoming participants. The other panelists also introduced themselves:

- Mr. John Harrington, ExxonMobil, industry sector
- Ms. Amanda Lawson, Walter Energy, industry sector
- Mr. Keith Romig Jr., United Steelworkers, civil society sector
- Ms. Betsy Taylor, Virginia Polytechnic Institute and State University, civil society sector

In addition to the panelists, the following MSG members were seated in the audience:

- Mr. Greg Conrad, Interstate Mining Compact Commission, government sector

A full list of panelists, staff, and members of the public in attendance is provided in Appendix A.

Mr. Gould proceeded to review the agenda for the meeting. He explained that a meeting summary, written by Mr. Tushar Kansal of the Consensus Building Institute, would capture the meeting proceedings. The summary will be written *without* attribution for questions asked during the question and answer period, and *with* attribution for comments made during the formal public comment period.

**Presentation about EITI and Draft Candidacy Application**

The panelists presented information about the Extractives Industries Transparency Initiative (EITI) and the draft application of the United States to join the Initiative.

### *EITI Background*

The presenters began by providing background on EITI. Mr. Gould explained that in 2002, British Prime Minister Tony Blair launched EITI to address what is commonly referred to as the “resource curse,” an economic paradox whereby many resource-rich developing countries have underperformed compared to their resource-poor counterparts because these resources are too often accompanied by mismanagement, corruption, weak accountability, and poverty. As a result, the benefits of natural resources in these resource-rich countries rarely trickle down to the citizens who own the resources. The Extractives Industries Transparency Initiative focuses on bringing transparency within the government on the revenue flows from extractive industries in order to address this all too common situation so that discrepancies are identified and better accountability and management is achieved. Two short films on the EITI website provide more information about EITI and the challenges that it is designed to address.

The basic framework of EITI is that companies and governments both report on the government revenues generated from the extractives industries in order to enhance transparency. Companies report the payments they make to a nation’s government for the extraction of natural resources to an independent reconciler. Simultaneously, a nation’s government reports the revenues (from royalties, taxes, and fees) that it collects from companies for extractives-related activity to the same reconciler. If the figures reported by companies and reported by government do not match up, the independent reconciler determines and resolves any discrepancies, and the information is published in an EITI report that is available to the public. A Multi-stakeholder Group (MSG) in each country, usually composed of representatives from government, industry, and civil society sectors, jointly makes decisions about scope and implementation of EITI for each country. This form and mechanism for collaborative governance promotes communication between the sectors and also ensures that the initiative is viable and can be voluntarily carried out because it ensures that the scope of the initiative in each country does not exceed the willingness to participate of any of the sectors.

Mr. John Harrington, ExxonMobil, industry sector, added that the independent reconciler is usually an auditing firm, such as KPMG. The purpose of the audit is to verify the total amount of money that was paid to the government by firms in the extractives industries. EITI does not try to shape the government’s behavior beyond promoting disclosure of activity that is already occurring. Mr. Gould proceeded to explain that countries that seek to join EITI proceed through a sign-up phase, a candidacy phase, and finally a compliance phase. There are currently 39 countries around the globe participating in EITI.

- Of these, 23 “compliant” countries have met all the EITI requirements. Of these 23, three are currently suspended for not maintaining the EITI standards for reporting.

- Sixteen countries are currently “candidate” countries and their country applications for candidacy have been accepted by the International EITI Board. These 16 countries are currently implementing EITI but have not yet met all of the requirements of the initiative. Of these 16, two have been suspended for not fulfilling the work plans they set forth.
- Finally, there are five countries that have recently committed to implement EITI. Currently, Norway is the only country that is compliant with EITI. This group of five applicants includes five more developed countries and is led by the United States, which is furthest along in its candidacy process of these five. Along with the U.S., France, Germany, Italy, and the United Kingdom have announced their intention to sign onto EITI.

Mr. Keith Romig Jr., United Steelworkers, civil society sector, reviewed the twelve EITI principles that lay out the goals and commitments of EITI and that were agreed to by EITI stakeholders.

These principles affirm that:

- A country’s natural resources belong to all its citizens and that all citizens should accordingly see the benefits that flow from the natural resources;
- Ensuring that benefits are democratically shared requires high standards of transparency and accountability; and that
- Compliance calls for full disclosure of government revenues from their extractive industries and a national commission to oversee the process and stimulate public debate.

A complete list of the twelve EITI principles can be found in the EITI Standards Publication, dated July 2013, online at the following url: <http://eiti.org/eiti/principles>.

Each of the panelists highlighted some of the potential benefits that they expect from implementation of EITI for their own sectors:

- Ms. Betsy Taylor, Virginia Polytechnic Institute and State University, civil society sector, explained that the principles attracted her to EITI. Moral principles are inherent in the EITI principles because they espouse concepts such as the importance of using the benefits of natural resource development for human development, such as poverty reduction. Ms. Taylor highlighted the importance of Principle #3, which reads: “We recognize that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.” She noted that this principle speaks to the boom-and-bust cycles that often accompany extractive resource development and to the fact that extractive resources can become depleted. In this context, EITI could be the basis for establishing partnerships and standards to discuss and agree upon long-term

plans to prudently use revenues. Even in the United States, the data show that counties that have more natural resources are correlated with lower development and income levels. Although many people think that the resource curse afflicts only the Third World, there are similar patterns at play in the U.S. There are revenue-management structures, however, that can help to mitigate these impacts. For example, New Mexico has a permanent fund that is funded by revenue from the extractives industries and that, in turn, funds 25% of the school system. Money accumulates over time in the fund and can fund general development. In contrast, similar revenue-management structures do not exist in most states in the eastern U.S. Ms. Taylor added that EITI will facilitate comparisons across different commodities and that lessons from different industries, and across different regions, may be transferrable. Ultimately, EITI is not just about financial accounting; it is also about promoting a more moral society.

- Mr. Romig noted that, particularly for states that have not had a very robust extractives sector in the recent past but that are now dealing with more activity, such as Pennsylvania, EITI can help to provide better information about what is happening with the revenues that are flowing into the government, it can help the states and local governments better understand monetary flows associated with the industry and regulate the industry, and it can answer questions for citizens who may have difficulty getting answers from local government officials and regulators who cannot always provide that information.
- Mr. Gould said that EITI would support the reform efforts the Obama Administration to improve oversight of natural resources development on public lands, including the creation of ONRR in 2010. In part, this continues the effort to restore trust in the accounting by the federal government of various revenue responsibilities, diminished because of past problems such as at the Minerals Management Service (MMS) and the various tribal suits against the Department of Interior's trust accounting for Native Americans.
- Mr. Harrington said that a key benefit would be exhibiting the substantial contributions of gas, oil, mining, and other extractive companies to the revenues of the federal government and to the overall U.S. economy. Although there is antipathy towards the energy industry among some members of the general public, EITI could help to demonstrate the industry's contributions to society. He added that, especially in developing countries, EITI has created a forum where the government meets and engages in discussion with members of industry and civil society, which has promoted accountability and the government's commitment to work with other stakeholders in society. This is one of the longer-term benefits of EITI.

- Ms. Amanda Lawson, Walter Energy, industry sector, added that in many EITI countries, the reports illustrate the significant value that the extractives industry provides in funding human development in the form of education, social services, etc.
- The panelists said that a shared goal is to further build relationships across sectors through engaging public and industry stakeholders in this process in order to make joint decisions about how to expand transparency, improve disclosures and build greater public trust around resource governance.

Mr. Romig highlighted the very significant level of extractive activity that occurs in the United States, with the U.S. leading the world in natural gas production and being a major producer of various other extractive resources, including coal, copper, gold, steel and oil. He noted that the U.S. holds the following positions in extractives production for the following commodities:

- # 1 for natural gas
- # 2 for coal and copper
- # 3 for gold, steel and oil
- # 4 for aluminum and zinc
- # 8 for iron ore
- # 9 for silver.

Mr. Romig added that, although the focus in the U.S. in recent years has been on service sector industries, extractive industries are still very important to the US economy. He also said that the production of natural gas from shale formations has rejuvenated the natural gas industry in the U.S., with Pennsylvania being the #2 producer of natural gas among U.S. states. Natural gas holds out the possibility to reduce manufacturing costs in the U.S. While coal has been the largest source of electricity generation for over 60 years, its annual share of generation declined from 49 percent in 2007 to 42 percent in 2011, as some power producers switched to lower-priced natural gas. Some people are concerned about job loss due to a reduction in coal mining and, while jobs are being produced in the natural gas industry, they are fewer in number and not going to the same people who are being displaced.

Mr. Romig noted that the U.S. is the world's 3<sup>rd</sup> largest crude oil producer with approximately 7 million barrels extracted a day from the lower 48 and Alaska, and is moving towards becoming the 2<sup>nd</sup> largest producer. In 2012, about 61% of U.S. crude oil production came from five states : Texas (31%), North Dakota (10%), California (8%), Alaska (8%), Oklahoma (4%). The U.S. is ranked 3<sup>rd</sup> for coal production, and coal is mainly found in three large regions: the Appalachian region, the Interior region, and the Western region (includes the Powder River Basin).

Mr. Romig described the nature and some of the recipients of mineral lease revenue disbursements, noting that, since 1982, the federal government collected approximately \$243 billion in revenues from onshore and offshore lands, which were in turn distributed to the Nation, states, and Native Americans. In fiscal year 2012, the Office of Natural Resources Revenue collected and disbursed \$12.15 billion to the following recipients:

- \$6.6 Billion to the U.S. Treasury
- \$1.6 Billion to the Reclamation Fund
- \$897 Million to the Land & Water Conservation Fund
- \$150 Million to the Historic Preservation Fund
- \$2.1 Billion to 36 States:
- \$717.5 Million to 34 Indian tribes and approximately 30,000 individual Indians

He added that, 6 or 7 years ago, revenue collection at the Department of the Interior was a disorder, and that reforms made by the Obama administration have been substantial. These reforms have been difficult to make and a number of people at DOI deserve credit and appreciation for the improvements.

#### *U.S. EITI Candidacy Application*

Mr. Romig reviewed the U.S. EITI Candidacy Application. He explained that the purpose of the EITI Candidacy Application is to demonstrate that a country has prepared itself to implement EITI by fulfilling the sign-up requirements. A Candidacy Application documents the commitment by a national government to implement EITI, and to work with civil society and industry to do so; the designation of a senior government official to oversee EITI implementation; and the creation and constituent members of a Multi-stakeholder Group. Mr. Romig noted that, if a country needs to seek a waiver from any of the EITI requirements, known as “adapted implementation,” its Candidacy Application includes a request and justification for adapted implementation. The Candidacy Application also includes the country’s first work plan, which documents how a country intends to fulfill EITI requirements, estimates costs, and identifies resources to do so.

Mr. Romig also explained that the United States has fulfilled all four EITI sign-up requirements, with a draft EITI Candidacy Application that is currently open for public comment until the beginning of November. A Multi-stakeholder group (MSG) was established as a Federal Advisory Committee in July 2012. The MSG first met in February of 2013 and has met a number of times in person. The MSG has also created a subcommittee that does all of the real work and does all of the real fighting, and the subcommittee created the draft candidacy application. The December meeting should be interesting because the MSG will be reviewing comments received from the public. Mr. Romig emphasized that it is new for all of the sectors to report at

this level of detail and, while the MSG does not anticipate any glitches, any glitches that do arise may be a little scary.

Mr. Romig stated that the Interior Department sought nominations from civil society, government, and industry for representatives to serve on the MSG. Stakeholders were encouraged to work together within their sector to submit nominations for appointment to the MSG, and there are currently 21 representatives to the MSG. The MSG is charged with the task of determining the details of U.S. EITI implementation and overseeing the US progress toward achieving EITI candidate and compliant status. Constituting the MSG are:

- The civil society sector including organizations promoting transparency, environmental and indigenous groups, investors, unions and academia;
- The government sector including federal agencies, state compact commissions and state governments, and two seats have been left open for tribal governments should they wish to participate; and
- The Industry sector including oil, gas, and mining companies, and industry associations.

Mr. Romig noted that the two labor unions occupying seats on the MSG represent almost all of the unionized workers in the extractives sector. The government sector has left two seats open for Native American tribes though both tribes and grassroots organizations have had difficulty seeing the relevance of EITI to them.

Ms. Taylor added that the civil society sector does not include any representatives from grassroots groups that represent communities where extraction is occurring. Mr. Gould noted that, once the MSG releases the first US EITI report, there will be an enhanced opportunity to recruit stakeholders to join the MSG.

Mr. Romig stated that every MSG meeting is open to the public. The meetings are announced in the Federal Register and on the US EITI website. Members of the public can make comments in the meetings and all members of the public are encouraged to call in and participate in MSG meetings.

Mr. Harrington explained that the MSG has begun to work through some of the key parameters for the reports it will prepare in the years ahead. These parameters include:

- the **scope** of materials or commodities to be reported,
- the information and data about these revenues which is considered **material**,
- and the details for **how** this information and data will be reported.

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are: oil, gas, coal, other leasable minerals, and non-fuel minerals (e.g. hard rock, sand and gravel), geothermal, solar, and wind. The MSG has tabled forestry and fisheries for further discussion. Payments to the U.S. Department of the Interior for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Federal Corporate Income taxes will be reported by companies, but the details around this reporting have yet to be worked out because companies want to align with requirements under U.S. and European Union law. In addition, the taxes paid by extractives companies have more to do with chemical and production processes than they do with the volume of resources developed.

Mr. Harrington recounted that, with thousands of extractives payers in the U.S., the MSG established a materiality threshold to balance the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level which will reconcile approximately 80% of all revenues within the scope received by DOI, for the first year and to increase to 90% of such revenues in the second year. This will involve reporting by 40 companies who pay at least \$50 million in annual revenues to Interior for the first report, and an additional 30 companies who pay at least \$20 million in annual revenues for the second report. Mr. Harrington explained that the scope and materiality have been defined by the MSG to allow the US EITI initiative to succeed and that these parameters could be expanded in the future.

In general, the Department of the Interior has auditors that operate within companies and verify the companies' reporting data. As a result, data reported in the United States is already generally valid, as compared to many other EITI countries.

Mr. Harrington recounted that, beyond reporting data that is reported by companies and governments and reconciled by a third party, US EITI will include in its reports additional information. This information goes beyond what is required by the EITI Standard, and includes:

- *A publicly sourced narrative:* US EITI Reports will make more accessible and understandable data and information that is currently publicly available from U.S. government agencies and other official sources in order to give context and a well-rounded picture of the extractive industries in the U.S. This will include information for additional types of natural resources that will not be reconciled under US EITI.
- *Unilateral disclosure of government revenue collection records:* In US EITI Reports, the U.S. Department of the Interior will disclose complete, reliable data, disaggregated by commodity, company, revenue stream, and by project (to the extent allowable by law and by existing parameters of reporting to Interior). This unilateral disclosure will apply

to 100% of extractive revenues collected by the Department of the Interior that are determined to be within scope by the MSG regardless of the materiality threshold. This level of reporting represents a level of government disclosure not previously seen in EITI.

Mr. Gould added that, while the Interior Department website already makes a lot of data available, the Department would now make available all data allowable under the law and would also work to make the data much more accessible and usable. For example, data would be made available in file formats such that it could be manipulated in Microsoft Excel, not only in PDF format.

Mr. Harrington also explained that, due to the federal nature of the U.S. system, and the intricate relationship between the federal and state governments, the U.S. will need to seek a waiver from the EITI requirement to address subnational payments in its reports. This waiver is called “adapted implementation”, and a request and justification is included in the USEITI Candidacy Application. While USEITI will not require states to participate, it will design a way for state and tribal governments to “opt-in” to USEITI reporting if they wish. The MSG is hoping that, if a couple of large states join US EITI, others will follow suit.

Mr. Harrington added that more specific details regarding project level disclosure and contract disclosure have yet to be addressed by the MSG, and project level reporting will be addressed by SEC Regulation 1504 and/or European Union law.

Mr. Gould explained that the next steps in the process are to conduct public outreach and consider public comments, finalize and submit the Candidacy Application, and implement the EITI standards and produce the first report. Mr. Gould and Mr. Harrington noted that the public comment period would close on November 18, that the International EITI Board would meet in March 2014 to review the US EITI application, and that the MSG intends to complete its first report by the end of 2015 and achieve full compliance by the end of 2016.

### **Questions from Attendees**

Questions from the public and accompanying responses from MSG members are reproduced here:

- *Question:* The presentation mentioned that there are parallel processes taking place in the United Kingdom and Canada and other major economies. Has there been any attempt to share and compare experiences between these countries?
- *Answer (1):* There are several networks that are starting for people to community with one another about issues related to the extractives industries. One is GOXI, and it is

basically like a Facebook platform for people who are interested in things like EITI. Individually, I have been hearing a lot from people in other countries over that network, and there is an international conference for GOXI that takes place every 2 years.

- *Answer (2):* The U.S. government has reached out to both the United Kingdom and Canada, among other countries, about their EITI programs. US EITI MSG members traveled to Norway to meet with the International EITI Secretariat, and MSG members are also traveling to Colombia in a few days to share best practices with a number of countries.
- *Answer (3):* The International EITI Board is very helpful in terms of providing an opportunity for alignment and communication. Board meetings occur roughly twice each year, and countries attend and can share experiences and learn from each other.

### **Public Comment**

The following comments were received from meeting attendees:

**Mr. Andy Pollak:** My wife and I had 45 acres in Murreysville. And our plan was to eventually move there and build a home. And then we found out about fracking and heard that a transmission line might come through and could use eminent domain. As a property owner, you have basically zero rights. We learned that any buildings you put on the property would be useless. We sold the land at a loss. Now, on other land, we see that a shallow-well driller has killed the water for us and for a number of our neighbors. We found out that we were far enough away so that we couldn't tie in, and so we lost some \$40,000 dollars when we sold our home. We couldn't sleep and there was all this dust from the trucks. You could write your name on the kitchen counter at every meal. My wife would dust on the first floor, dust on the second floor, and then dust the first floor again. It was so clean when we moved in that it was heaven. Now the quality of life is completely gone. You don't sleep when they're drilling the well. And then they drill another well. They say two months but they keep drilling different wells. I don't have enough time to tell you all of the problems we had. My main concern is the health problems that we're going to develop. We developed rashes from the shower water and now I have a dry cough and now I have an inhaler. I don't smoke. The radiation levels in the house that we sold were at a level of 20 (I have a radiation detector) and that's like smoking 1.5 packs a day. The reading will be 50 in a couple of years. Where we moved, the reading is only 2 or 4. If you start drilling where we live now, it'll be just like it was over there. I told you earlier about the cracks in the walls from the seismic testing. There's all this dust. So many problems. Also, about pipelines: Sunoco wants to put in a line. They have a cracker plant. They tell me it's going to Delmont and Philadelphia and their loophole is that it's going into Delaware for a mile so they can use eminent domain. Pipelines used to be inspected by the federal government but, since Dick Cheney changed the regulations in 2005, none of the pipelines are being inspected.

I'm an engineer, and the shutoff valves are manual and are only 10 miles apart. But this region is so built up, the valves have to be automatic and have to be closer than 10 miles apart. In South Dakota, an oil line leaked up there and something like 70 million barrels of oil went into a farmer's field. The farmer found it from his tractor and the company didn't even inspect it or know about it. The government was shutdown then. We aren't doing any of this properly. A child could come up with better things than what we're doing now. If you do this intelligently, you could do this. There are problems to this and we could solve them. Hydroelectric is much more sensible. You don't have to search for it. Water flows from high to low and the infrastructure is already there in the form of locks and dams for navigation, and if you put substations alongside each of those, you could have all of this energy for the entire region. I could drive an electric car for \$1.75 and I wouldn't have to buy liquid crap from Sunoco. It's crazy! On the financial aspects, Pennsylvania gets 1% of the return from revenues generated by the industry. We're like a 3<sup>rd</sup> world country. Thanks to Tom Corbett and Scarnetti, we're the lowest state of any state in the US in terms of returns on energy. Pennsylvania is below all of the other states in terms of how much money we get back. Where are we going to get steel in the future? We're going to Minnesota and we're only getting 1% to 2% taconite. We're dependent on that taconite. My wife and I have lost so far \$90-100,000, and I can explain that further. If this is safe, Pennsylvania should get much more than this out of this process. Fukushima has ruined Japan. And you can't get radiation out of water.

- Ms. Taylor responded to say that, once US EITI publishes some of its reports, citizens will be better able to compare between different states. The reports could provide a platform for the types of conversations that you [Mr. Pollak] want to have and they could legitimate those conversations. The kind of thinking that you are doing is the goal of EITI.
- Mr. Harrington asked Mr. Pollak to contact him to set up a meeting in order to discuss his concerns in greater detail.
- Mr. Gould thanked Mr. Pollak for his comments. He noted that there are a number of forums for you [Mr. Pollak] to share your thoughts and we thank you for sharing them.

Members of the public are invited to submit public comment via email at: [USEITI@ios.doi.gov](mailto:USEITI@ios.doi.gov) or online at: <http://www.doi.gov/eiti/EITIComments.cfm> until the close of the comment period on November 18, 2013.

The meeting was adjourned at 6:00 pm.

**Appendix A  
Attendance**

Name	Affiliation
<b><i>Members of the Public</i></b>	
Ben Davis	United Steelworkers
Andy Pollak	--
[Name illegible]	--
<b><i>US EITI MSG Members</i></b>	
Greg Conrad	Interstate Mining Compact Commission
Greg Gould	Office of Natural Resources Revenue, Department of the Interior
John Harrington	ExxonMobil
Amanda Lawson	Walter Energy, Inc.
Keith Romig Jr.	United Steelworkers
Betsy Taylor	Virginia Polytechnic Institute and State University
<b><i>Process Support</i></b>	
Tushar Kansal	Consensus Building Institute