

**United States Extractive Industries Transparency Initiative
Multi-Stakeholder Group Advisory Committee Meeting
July 23 - 24, 2013**

Summary of Proceedings

U.S. Department of the Interior
Prepared: July 2013

I. Introduction

The U.S. Department of the Interior (DOI) convened the fifth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group (MSG) Advisory Committee in Washington, DC on July 23 and 24, 2013. The purpose of the meeting was to determine scope and materiality for the U.S. draft candidacy application to the EITI International Board and to provide recommendations for Fall 2013 USEITI outreach activities. The meeting included several presentations, each followed by discussion with EITI members. Presentations and discussions included the following:

- **Welcoming remarks** by Rhea Suh, DOI
- **EITI International Board Greeting** by Clare Short, EITI International Board; Bob Cekuta, Department of State and EITI International Board; and Jonas Moberg, EITI International Secretariat
- **USEITI Multi-Stakeholder Group Business** by Karen Senhadji, DOI
- **Tribal Background** by Greg Gould, Office of Natural Resource Revenue (ONRR/DOI); Matthew Kirkland, Bureau of Indian Affairs (BIA/DOI); Sequoyah Simermeyer, BIA; Paul Tyler, ONRR/DOI; Claire Ware, Mineral Compliance, Shoshone & Arapaho Tribes and Chair, State and Tribal Royalty Audit Committee (STRAC); and Paul Mussenden, ONRR/DOI.
- **Budget and Resources for Implementing USEITI** by Rhea Suh, DOI
- **Scope & Materiality** by Greg Grould, ONRR/DOI; Danielle Brian, Project on Government Oversight and Advisory Committee Co-Chair
- **Federal Income Tax Voluntary Disclosure** by Curtis Carlson, Department of Treasury
- **Draft Public and Tribal Outreach Plans for Candidacy Application** by Rachel Milner Gillers, Consensus Building Institute

II. Summary of Action Items and Decisions

Action Items

- The Department of State will follow up with information about obtaining advice from other countries on integrating tribes into EITI processes.
- DOI will consider how unilateral disclosure will apply to tribal data.
- Mr. Carlson will discuss the reporting and reconciliation processes in detail with the IRS and the Department of the Treasury to confirm how the information would be released and reconciled.

- The Subcommittee will refine criteria for selecting public and tribal outreach meeting locations.
- Mr. Gould will investigate whether the STRAC meeting can be scheduled before the public comment period ends.

Decisions

- The MSG will seek adapted implementation for subnational reporting as it relates to states. It will not do so for tribes, which are not subnational entities, but sovereign nations. For both states and tribes, the MSG will develop an opt-in process.
- The MSG agreed with the scope and materiality chart as edited, permitted they can return to it later when members of appropriate industries are involved.
- The MSG agreed to a reconciliation materiality threshold for companies that pay \$50 million in revenues annually to ONRR, capturing 80% of revenues paid to ONRR in the first report, and a threshold of \$20 million, capturing 90% in the second report. This will require voluntary participation by 40 companies and 63 payors in the first report, 70 companies and 117 payors in the second report. Points of note: achieving compliance in the First Year Report, MSG reviewing lessons learned and MSG reviewing company reach-out.
- The MSG generally agreed to include taxes in their candidacy application, and to develop the specifics later for review by the MSG. The MSG's consideration of reconciliation is contingent on what information Mr. Carlson brings back from these discussions, including a sample tax form that serves as a "permission slip" for the government to publish cash payments received.
- The Subcommittee will develop public and tribal outreach about the application based on the suggestions of the MSG, for MSG review and approval at its next meeting.

III. Presentations and Key Discussion Points

Ms. Rhea Suh, Interior Assistant Secretary and Chair/Designated Federal Officer for the Multi-Stakeholder Group Advisory Committee, opened the meeting and thanked the MSG's co-chairs, Ms. Danielle Brian, Project on Government Oversight, and Ms. Veronika Kohler, National Mining Association, the MSG Subcommittee's members, and DOI staff who helped prepare for this meeting. She introduced Mr. Pat Field from the Consensus Building Institute (CBI) as co-facilitator for the meeting with Ms. Rachel Milner Gillers, also from CBI. Ms. Suh explained that Mr. Field would take over for Ms. Milner Gillers at the end of August.

Ms. Milner Gillers reviewed ground rules for the meeting, and noted that Ms. Elana Kimbrell from Kearns & West would be taking notes and providing a summary of the meeting. She asked the meeting participants to introduce themselves.

A) EITI International Board Greeting

Ms. Clare Short, EITI International Board, expressed her interest in hearing from the MSG about its challenges. She noted how helpful it was for encouraging broader international compliance and participation when the U.S. announced its commitment to implement EITI. This engagement by the U.S. likely contributed to the attention received on this topic during the recent G8 summit. She also commented on the global proliferation over the last several decades of non-profit organizations working on transparency and reporting of natural resource revenues.

Ms. Short emphasized the benefits of developing the U.S. application in a timely manner, and acknowledged that the U.S. context is very different from that of many other countries. It is important for each country to develop a system that works for and makes sense for them – which is why the modified EITI International standards include greater flexibility for how to meet them. Ms. Short concluded by encouraging the MSG to keep in mind that EITI can help raise the quality of life for hundreds of millions of people around the world.

Mr. Bob Cekuta, Department of State and U.S. Alternate to the EITI International Board, praised EITI's work in not only making information available, but starting to make it available in a way that is more readily useful. He also mentioned the attention EITI received at the G8 summit as an indication of international momentum around transparency efforts. He added that the U.S. will be setting an example other countries are likely to follow.

Mr. Jonas Moberg, EITI International Secretariat, applauded the U.S. leadership for prioritizing government reform and transparency, and for recognizing the international impacts and context of U.S. domestic policy. He encouraged the MSG to reach out to the EITI International Secretariat with questions.

In discussion following the presentations, Ms. Suh asked if other countries have expectations for what the USEITI will produce. Ms. Short expressed her perspective that there is interest, but not specific expectations. She personally hopes that USEITI will demonstrate the potential for systems to function well, in a way that will also be useful for other countries. Mr. Cekuta added that other countries may be watching to see if the U.S. can follow their timetable. Mr. John Harrington, Exxon Mobil Corporation, pointed out the complexity of U.S. industry and the need to gather input from a broad cross-section of stakeholders. The MSG has been working quickly and expects to submit its candidacy application by the end of 2013.

B) US EITI MSG Business

Ms. Karen Senhadji, DOI, explained that DOI is continuing to improve the MSG process. Recognizing that providing meeting minutes has been an ongoing challenge, they have hired an associate through CBI who is specifically tasked with promptly providing minutes to the MSG following the meeting.

She also addressed the nominations process, as there have been a number of requested changes in MSG membership. A nomination period was opened in order to fill existing vacancies as well as create a roster of candidates for future vacancies. Both Ms. Danielle Brian, POGO, and Greg Gould, DOI, requested a new period to solicit nominations. The motion was accepted, and Ms. Senhadji asked the MSG to notify their constituencies that the nomination period will be open starting in mid-August.

C) Tribal Background

Mr. Field introduced topics to be covered as part of this section of the agenda: the relationship between tribal nations and the federal government; tribal revenue data; tribal outreach and responses to date; and tribal participation in USEITI.

- I.** Mr. Greg Gould, ONRR, explained that tribes are considered sovereign nations by the U.S. government. This is a relationship based on a series of treaties, court decisions, and federal statutes. The U.S. government holds 56 million acres of tribal land in trust, and tribes can lease the resources on the land. Federal agencies involved with Indian leases are the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM), the Office of Natural Resource Revenues (ONRR), and the Office of Surface Mining (OSM). Federal agencies collect fees on these leases, either with tribes or on their behalf, and 100% of the revenue is dispersed back to tribal governments or individual landowners.
- II.** Mr. Matthew Kirkland, BIA, provided background on Indian treaty rights, and elaborated on the U.S. government's responsibility to protect tribal treaty rights, lands, assets, and resources – including extractive minerals. He explained how tribal sovereignty has been repeatedly restricted. Their remaining rights are meant to ensure decisions related to tribes' citizens and lands are made with their participation and consent.
- III.** Mr. Sequoyah Simermeyer, BIA, reiterated that the unique historical and legal relationship with tribes is confirmed by the U.S. Constitution, and is the driver of current federal policies with regard to tribes. President Obama published an executive order requesting agencies to regularly report on how they are meeting federal mandates regarding tribes. Protocols have now been developed for how to regularly collaborate with tribes, and others are under development to determine what specifically triggers formal consultation.

The MSG reviewed a slide showing extractive mineral revenue receipts not reported by ONRR.

- In discussion, Ms. Brian asked if BIA could provide guidance on how to treat those commodities not reported on by ONRR. Mr. Kirkland explained that royalties and fees are negotiated between the individual landowner and the tribe, with BIA as the trustee who reviews and approves the contract and then ensures the landowner or tribe receives the revenue.
 - Mr. Michael Ross, UCLA, asked if BIA has records of production volumes. Mr. Kirkland responded that they do not, as this wasn't a requirement at the time contracts were put in place. He added that BIA field office staff review revenue owed and paid to reconcile the two.
- IV.** Mr. Paul Tyler, ONRR, presented ONRR's total reported revenue in 2012, including tribal revenues, federal revenues, and descriptions of reporting and revenue flows. The federal government is able to delegate compliance functions to states and tribes (and reimburses them for their work), which can be very useful because they are often more familiar with the locality and its stakeholders and practices.
 - Ms. Deborah Rogers, Energy Policy Forum, asked how the government tracks production and revenues on tribal lands. Mr. Tyler explained ONRR receives monthly reports from industry operators with volumes produced by well. ONRR reconciles information from the operators and the payors, and also has an auditing group. The exception is the Osage Tribe in Oklahoma, which does this all themselves.

- V. Ms. Claire Ware, Minerals Compliance, Shoshone and Arapaho Tribes and Chair, STRAC, explained that her tribes have a cooperative agreement with ONRR to audit leases on their lands. Ms. Ware also stated that the Shoshone and Arapaho tribes she represents had 3.2 million acres of land in 1868, and today they have 1.5 million. Her tribes' primary revenue comes from oil and gas, although the tribal government only receives 15% of revenues. Counties receive significant percentages of the revenue. There have been jurisdictional issues with the counties related to this, as well as a lack of county support for basic needs on the reservation. Ms. Ware proposed that it would be beneficial for the tribes if they could manage taxation of their lands themselves.
- Ms. Danielle Brian asked for clarification that the county collects taxes on tribal revenues from tribal lands, and Ms. Ware confirmed this.
 - Ms. Senhadji thanked Ms. Ware for attending the meeting and contributing her insights, which were very pertinent to EITI goals.

- VI. Mr. Paul Mussenden, DOI, described the tribal outreach DOI has conducted to date. Prior to initiating the EITI process in the U.S., DOI began investigating the best ways to involve tribes. They hired CBI to conduct a stakeholder assessment, and reached out to tribes through letters, presentations to committees, and informational meetings and calls. DOI developed a list of possible options for how tribes could be involved in EITI: they could join the MSG as a member; they could identify a representative to attend MSG meetings as an observer and evaluate whether to join the MSG later; or they could decline to participate in the USEITI process, and reserve the right to participate in EITI independently as a sovereign.

Mr. Mussenden explained that there was significant interest in the EITI process among tribes, although they did not want to actively engage at this point. There were concerns about publicizing information that is currently private, and questions about the benefit of EITI to tribes and their individual members, beyond the general benefits of transparency.

- Ms. Senhadji noted that the government sector of the MSG has fewer seats because they are holding two seats for tribal representatives if they would like to join. Ms. Veronica Slajer, North Star Group, posed the question of whether two representatives could represent 566 tribes.
- Ms. Rebecca Adamson, First Peoples Worldwide, asked if there have been discussions of another option for tribal participation: a parallel track, in which they could meet separately. The two processes could potentially dovetail later. Ms. Senhadji mentioned that several other options were suggested to DOI for tribal engagement: an existing umbrella organization could serve as a liaison and conduct outreach on behalf of the MSG; and BIA could serve as a member of the MSG. Ms. Brian suggested the Department of State might be able to assist the MSG by connecting them to their counterparts in other countries with similar situations.

- **Action Item: The Department of State will follow up with information about obtaining advice from other countries on integrating tribes into EITI processes.**

Mr. Field asked the MSG what they would like to include in their candidacy application about subnational entities. His assessment was that the group would like to include opt-in

procedures for tribes, as they are doing for states, and that this element of their EITI program may evolve depending on tribal interests in participating.

- *Ms. Brian suggested that the candidacy application mention that “subnational” extends to counties as well as states.*¹
- Ms. Senhadji added that the EITI standards require subnational payments be addressed in reporting. The MSG had decided to seek adapted implementation for states to allow time to find ways for them to voluntarily comply. The MSG could set up a similar process for tribes. She suggested that the group’s input seemed to indicate a desire to set up this process for tribes as soon as possible.
- Mr. Harrington pointed out that perhaps the term “subnational” doesn’t apply, since tribes are sovereign nations, and so there may not be an obligation to include them. *Ms. Senhadji responded that the MSG could note this distinction in their candidacy application.*
- Ms. Slajer mentioned that perhaps tribes could opt-in to the process individually or collectively, since they are individual entities.

➤ **Action Item: DOI will consider how unilateral disclosure will apply to tribal data.**

➤ **Decision: The MSG will seek adapted implementation for both tribes and states.**

D) Budget and Resources for Implementing EITI

Ms. Senhadji introduced the topic of budget for USEITI, noting that sequestration began just as the MSG was forming. Ms. Suh explained that DOI has been reviewing what it may cost to implement the EITI in the U.S. She emphasized that DOI is fully committed to providing the necessary resources for the USEITI process. In order to scope out the long-term effort, DOI needs additional specifics from the MSG about its desired process. Ms. Suh described some of the extreme budget challenges in the government, noting that several agencies have had their budgets cut by 30%. All the decisions made by the MSG will have budget implications, and the budget for USEITI must be considered in the context of these significant limitations.

- Ms. Brian thanked Ms. Suh for DOI’s commitment to EITI, and acknowledged that without the DOI staff, the MSG could not have come as far as they already have. She asked if DOI will continue to be able to staff USEITI. Ms. Suh responded that DOI is committed to seeing through this ongoing process, which will almost certainly require staffing. They have not hired dedicated staff for USEITI, as there is currently a hiring freeze.
- Mr. James Roman, ConocoPhillips, asked if sequestration could impact the actual implementation of USEITI. Ms. Suh explained the expectation that sequestration will not last into the period of implementation. USEITI will be embedded in ONRR’s budget.

E) Scope and Materiality: Sectors to Consider for Scope

Mr. Gould gave a short overview of “unilateral disclosure” as proposed by ONRR, and compared it to what is currently done. Current disclosure involves an annual publication by commodity, land category, revenue type, and state/outer continental shelf region. In addition to what is currently provided, unilateral disclosure will entail reports by payor/company and by

¹ Italics indicate specific notes to consider including in the candidacy application or the work plan.

project (if a definition is agreed to prior to the first report), as well as web enhancements, data visualization tools, and data analytics. Mr. Gould acknowledged that this represents a significant cost to ONRR, including major system changes. They are also working with BIA, BLM, and BOEM to discuss the level of data they can provide.

- Ms. Brian asked what kind of response ONRR has received from the other agencies. Mr. Gould stated that the other agencies have indicated willingness to make changes to contribute to unilateral disclosure where possible.
- Mr. Keith Romig, United Steelworkers, asked if Mr. Gould is referring to parent companies in unilateral disclosure. Mr. Gould confirmed that unilateral disclosure addresses parent companies.

Ms. Brian presented a chart showing which resource revenues each sector has previously indicated should be included in the scope, and how. She asked the members of the MSG to evaluate whether their position has changed on any of the items in the chart.

- Mr. Brent Roper, Rio Tinto, asked to confirm that the columns in the chart are not necessarily mutually exclusive. Ms. Brian confirmed that revenues that are reconciled or unilaterally disclosed will also have a narrative. The chart was modified to make this clearer.
- Ms. Veronika Kohler, National Mining Association, stated that industry agrees to reconciliation of “other leasable minerals” and “non-fuel minerals.” The government sector also agreed to this.
- Mr. Gould agreed to unilateral disclosure for geothermal payments collected by ONRR on behalf of the government .
- Ms. Brian asked if a publicly sourced narrative could be developed for hydropower. Ms. Suh noted that hydropower financing and cost-sharing is highly complex, and the value of a narrative for the purposes of EITI may not be very high. She proposed leaving it out of the scope for now.
- Mr. Michael LeVine, Oceana, proposed that the MSG will want to reconcile any revenue that is material, and all categories below coal (other leasable minerals, non-fuel minerals, geothermal, hydropower, other renewables, timber, fisheries, and grazing) are unlikely to rise above the threshold for materiality. However, USEITI could include unilateral disclosure where feasible, and publicly available narrative (broadly defined) where it is not. He suggested the MSG not remove other revenue streams from the process yet. Mr. Gould noted the other industries are not represented in the MSG at this time, and the MSG can exclude them from the scope of the first report without precluding discussions about adding them in later. Ms. Suh added that from a national economic perspective, timber and grazing are not large sectors of the extractive industry in the U.S, and therefore may not be relevant for USEITI to address at any point. It was noted that the MSG had already decided grazing was out of scope.
- *Mr. Ross recommended excluding hydropower, fisheries, and timber with the note that they may be considered for inclusion in the second report.*
- *Ms. Brian recommended including a note in the workplan that the MSG will invite a representative from the timber industry to join conversations about the second report.*

- Mr. Romig asked how the MSG would like to address other renewables. Ms. Suh and Mr. Gould concurred that they are willing to conduct unilateral disclosure for other renewables collected by ONRR. Ms. Kohler noted that other renewables are also not represented on the MSG, and strongly recommended the government reach out to that industry since there will be implications for them.

➤ **Decision: The MSG agreed with the scope and materiality chart as edited on July 23, and committed to return to it later when members of appropriate industries are involved.**

F) Scope and Materiality: Payment Threshold

Ms. Suh proposed a materiality threshold for reconciliation of 80% of ONRR's annual revenues to start with, and an ultimate goal of 90%. She noted that the government's offer of unilateral disclosure entails a significant effort and expansion of ONRR's role in making data publicly available, and encouraged the MSG to consider the application as a whole.

- Ms. Brian asked if more information could be provided on the implications of a 80-90% threshold. Ms. Suh responded that
 - 80% of ONRR's annual revenues would imply a reconciliation threshold of materiality of \$50 million, which includes 40 companies and 63 payors;
 - 90% is a threshold of \$20 million, or 70 companies and 117 payors.
- Ms. Kohler provided additional information about these companies:
 - Of the 40 (parent) companies included in the 80% threshold, half are domestic-only operators, and 27 are not currently supporting EITI. About half of the 40 are not members of the National Mining Association or the American Petroleum Institute. There are about 5 private companies.
 - Of the 70 companies included in the 90% threshold, none of the additional 30 are association members; 24 of the 30 additional companies are domestic only operators. There are 13 private companies in the additional 30.
- Ms. Kohler asked if there is a specific percentage of non-reporting companies that automatically results in non-compliance with EITI International. Ms. Marti Flacks, Department of State, indicated there is a small but undefined margin of non-reporting typically permitted in order to be in compliance.
- Mr. Bob Reynolds, BP America, recommended predicating the increase to 90% in the second year on compliance the first year. Ms. Rogers articulated a concern with implying that the MSG does not expect to achieve compliance, and asked why it would become any easier to obtain compliance from all 70 companies after the first year. Mr. Harrington noted that it is fairly common to use the publication of a first report to increase pressure on other companies to join the effort.
- Mr. Goldwyn, Goldwyn Global Strategies, suggested the MSG's work plan should include a strategy for how they will obtain compliance from the additional companies. Ms. Suh noted the work plan is required to address how the MSG will achieve compliance with its goals. Ms. Brian added that the MSG should notify the companies in advance that they will be included in USEITI the second year and expected to comply.
- Mr. Gould pointed out that the government will reconcile the information they disclose unilaterally – therefore the MSG is not leaving out any companies from reporting,

regardless of the threshold for materiality. Ms. Kohler noted she would like to ask the CSOs in a future discussion to address what they see as the added benefits of reconciliation, on top of unilateral disclosure.

Ms. Milner Gillers asked the MSG if anyone disagreed with the phased approach suggested by the government: 80% in the first year, and 90% in the second. Ms. Suh summarized that the MSG seemed to be in agreement with the proposal in principle, but how it is articulated in the candidacy application and work plan still needs to be developed and agreed on.

- **Decision: The MSG agreed to a reconciliation materiality threshold for companies that pay \$50 million in revenues annually to ONRR, capturing 80% of revenues paid to ONRR in the first report, and a threshold of \$20 million, capturing 90% in the second report. This will require voluntary participation by 40 companies and 63 payors in the first report, 70 companies and 117 payors in the second report. Points of note: achieving compliance in the First Year Report, MSG reviewing lessons learned and MSG reviewing company reach-out.**

G) Federal Income Tax Voluntary Disclosure

Mr. Harrington introduced the discussion by sharing industry's perspective that, while the IRS cannot compel companies to publicly report their taxes, industry is willing to include corporate income tax disclosure as part of USEITI for companies meeting the threshold for materiality. There is a strong expectation that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd Frank) will eventually require some level of income tax disclosure. This section of the act is not under consideration for revision. Mr. Harrington noted he does not see a way to reconcile tax revenues, however. Ms. Kohler followed up by stating that if Dodd Frank does not require tax disclosure, industry would not back away from this commitment for USEITI, but could instead use the U.S. Securities and Exchange Commission (SEC)'s reporting requirements.

- Mr. Carlson asked Mr. Harrington about the obstacles to reconciling tax disclosures. Mr. Harrington explained it will be a challenge for all participating companies to give the IRS explicit permission to release their data to a third party reconciler. Ms. Flacks noted that reconciliation is required by EITI International, but what constitutes the reporting can be decided by the MSG.
- Mr. Romig asked how the industry's proposal would apply to private companies, who would not be covered by Dodd Frank. Ms. Kohler responded that the industry proposal addresses only those companies who will be required to disclose under Dodd Frank, or who already disclose this information to the SEC.

Mr. Carlson clarified that the Dodd Frank requirements would be for actual taxes paid in a 12-month period (which is not currently being reported), whereas the SEC requires financial accounting reports, which is based on tax liability and not necessarily the same as actual taxes paid. He gave a presentation on the Department of the Treasury's proposal for federal income tax reporting and reconciliation. "C corporations" would submit a request to the IRS (by checking a box on a new line to be added to their existing tax form) to release the total amount of their taxes to a third party reconciler. "S corporations" are not subject to corporate income tax. Taxes would be reported for a consolidated group (as there is no corporate tax liability associated with

operating units/sub-corporations), and the tax identification number associated with the group's ONRR payor code would need to be provided to the third party reconciler as well.

- Ms. Kohler summarized her understanding that under this proposal, companies would be providing two different numbers – taxes paid to the IRS, and financial accounting reports. Ms. Senhadji requested the MSG be careful not to create an opportunity for misconceptions about companies not paying taxes appropriately, when in reality there are just different ways to report the numbers.
- Ms. Susan Ginsberg, Independent Petroleum Association of America, posed the question of whether tax reporting and reconciling in the U.S. will provide the kind of additional transparency EITI is trying to achieve.
- Ms. Kohler suggested the MSG could use adapted implementation for tax reporting and reconciling. She further explained that in other countries, corporate income taxes are relevant for EITI, while in the U.S., companies are integrated. Consequently, U.S. companies are taxed on all their activities, not just extraction. She suggested this may be a justifiable reason to exclude taxes from USEITI reporting. She also requested the Department of the Treasury provide more specific information for the MSG on what form(s) companies would have to fill out under the government's proposal.

The MSG reviewed specific text describing several options for how to report and reconcile taxes.

- Ms. Kohler expressed the industry's view, after discussions with several people in their tax divisions, that providing the necessary information to the third party reconciler will not be as easy as seemed to be suggested in the government's proposal.
- **Action Item: Mr. Carlson will discuss the reporting and reconciliation processes in detail with the IRS and the Department of the Treasury to confirm how the information could be released and reconciled.**
- **Decision: The MSG's agreement on the process discussed at the meeting regarding reconciliation is contingent on what information Mr. Carlson brings back from these discussions, including a sample tax form, that serves as a "permission slip" for the government to publish cash payments received.**

After the midday break, the corporate taxes discussion was reopened in light of concerns registered in caucus.

- Ms. Brian raised a process concern about revisiting MSG decisions after the group has reached consensus given the Committee's Terms of Reference. Mr. Walt Retzsch, American Petroleum Institute, and Ms. Ginsberg, IPAA stated that their constituents could not agree to the corporate tax option drafted prior to the break, particularly to requiring reconciliation, interpreting Dodd-Frank prior to a ruling, and assuming disclosure by private companies. Ms. Milner Gillers responded that any MSG member with concerns about an option put forth has an obligation to register their concern on the record before the final call for agreement on an issue. Ms. Brian cautioned that revisiting prior agreement could inspire any sector to rethink their positions on previous decisions.

Ms. Milner Gillers noted that the number of sector representatives unable to comply with the decision made prior to the break was significant enough for the MSG to address the issue after caucus.

- Mr. Gould suggested that, if the first year of reporting demonstrates that the existing process works, the MSG may be able to justify eliminating the third party reconciler.
- Ms. Senhadji recommended basing reporting on the data industry provides to the SEC or what Dodd Frank eventually requires (EITI implementation would not wait until regulations are promulgated), and the MSG can revisit this annually. Ms. Rogers expressed her deep concern with this approach, since there is no real certainty yet as to what Dodd Frank will require. She requested the application specify what companies would do if Dodd Frank does not require tax disclosure. Mr. Harrington described how companies are preparing for Dodd Frank by beginning a major effort to develop reporting systems, as they fully expect these rules to be established. Companies are very unlikely to agree to follow two different sets of reporting requirements. Mr. Gould recommended specifying that company disclosure will follow the protocols previously proposed under Dodd Frank, since these are what companies are already planning to implement.
- Mr. Romig asked how USEITI will include the private companies in tax reporting. Ms. Marti Flacks suggested the MSG should not plan to leave out private companies, but rather should try to find a way to include them through public outreach, and perhaps through a different method such as statistical sampling. *Mr. LeVine and Mr. Harrington recommended including in the candidacy application that all companies will endeavor to disclose their taxes and the MSG will pursue compliance, both private and public, with USEITI.*

- **Decision: The MSG generally agreed to include taxes in their candidacy application, and to ask the Subcommittee to work with Mr. Carlson and the Treasury Department to develop the specifics regarding reconciliation, for review by the MSG.**

Option Proposed by Industry, for Review and Discussion in Subcommittee

All companies meeting the materiality threshold will report actual cash payments in a manner consistent with SEC government payment reporting rules pursuant to section 1504 of Dodd-Frank (citation needed).

Treasury will propose a mechanism for disclosing and reconciling the data, which will then be further discussed by the MSG.

If the MSG decides not to reconcile and determines that tax payments are material, the US will need to seek adapted implementation.

H) Definition of Scope and Materiality

Ms. Milner Gillers suggested there was no longer a need to negotiate the draft text for a scope and materiality definition at the meeting, because the MSG has already reached agreement on what to include in their candidacy application.

- Mr. LeVine noted that the description of scope and materiality included in the application remains important and should be vetted by the MSG. Ms. Senhadji suggested the Subcommittee develop this language for review by the MSG.

I) Draft Public and Tribal Outreach Plans for Candidacy Application

Ms. Milner Gillers presented CBI's draft public and tribal outreach plan, developed in coordination with the USEITI Secretariat and co-chairs, and noted that it reflects a narrower scope due to sequestration. This initial plan focuses on outreach in fall 2013 to obtain input on the candidacy application, and does not include longer-term outreach to be developed as part of the USEITI work plan. The fall public comment period will take place from September 16 to November 1. Ms. Milner Gillers also indicated additional purposes of the tribal outreach are to explain the opt-in process for USEITI and provisions for tribal participation, and to invite tribes to participate in future implementation of USEITI. It was clarified that this outreach is informal, not government-to-government consultation.

- Ms. Kohler asked if the public outreach is also intended to educate those the MSG is seeking compliance from, and asked that the application specify "company" as well as public and tribal outreach. Ms. Milner Gillers suggested that education is a secondary purpose of public comment period outreach but may play a critical role in the longer-term plan. Ms. Kohler pointed out that with a limited budget, the MSG should find ways to make their efforts serve as many purposes as possible, and participation by companies is crucial to success. Mr. Gould agreed to Ms. Ginsberg's request that ONRR send their payors letters notifying them of the public comment period and any meetings. Ms. Ginsberg also requested ONRR send her the letter first so she can provide advance notice to companies not involved in EITI.
- Ms. Slajer offered the idea of considering which regions are key for all their purposes, and building outreach around those regions. This would integrate public and tribal outreach.

Ms. Senhadji asked the MSG what two locations they would choose for meetings if they could only choose two, which may be necessary given budget limitations.

- Mr. LeVine asked ONRR which listening session meetings had the most participation. Mr. Gould stated that there wasn't significant participation at any of them; the largest attendance was in Washington, DC and New Orleans.
- Ms. Brian suggested an East Coast meeting, in either West Virginia or Pennsylvania (if in Pittsburgh, the United Steelworkers might be able to host a meeting). After discussions with her sector, she recommended Denver as the second location. She suggested finding free facilities, potentially at universities, and involving state and local officials. If a third meeting could be held, the CSO sector would recommend Alaska.
- Several other existing meetings were noted that the MSG might be able to attend: Council of Petroleum Accountants Societies (COPAS) meeting in Texas; the National Congress of the American Indians Annual Conference in Tulsa, OK on October 13-18, 2013; the Alaska Federation of Natives Conference in Fairbanks, AK in October 24-26, 2013; and the State and Tribal Royalty Audit Committee (STRAC) Meeting in Denver, CO in the fall.

- **Action Item: The Subcommittee will refine criteria for selecting meeting locations.**
- **Action Item: Mr. Gould will investigate whether the STRAC meeting can be scheduled before the public comment period ends.**
 - Mr. LeVine mentioned that if the goal of in-person meetings is to obtain input on the candidacy application, the MSG will need to conduct significant outreach and education before the public will be able to comment on it. He suggested one-on-one outreach may be more useful.
 - Ms. Kohler suggested that a representative from each sector of the MSG should attend all public meetings and the representatives should present the application together. Ms. Senhadji noted the government will not be able to fund travel of other sectors. She mentioned that the government might be able to host meetings, and perhaps use live webcasts to include people in other locations. Ms. Slajer strongly recommended that webcasts not be used if the MSG is serious about seeking engagement and input. Mr. Gould pointed out that more involved engagement will happen later, and the short-term outreach under discussion is targeted to the application process.
 - Mr. Roman suggested the MSG could set up a Facebook page as another method of outreach.
 - Ms. Milner Gillers explained that the public and tribal outreach plan assumed there would be sector-specific outreach in addition to public and tribal meetings. MSG representatives could give presentations at association meetings, and ask people to write down any comments they have.
- **Decision: The Subcommittee will develop the public and tribal outreach section of the application based on the suggestions of the MSG, for MSG review and approval.**

IV. Schedule

The MSG discussed the upcoming schedule, noting that they are currently on track to meet their timeline. The next steps are for the Subcommittee to finish drafting the candidacy application and provide it to the MSG, and thereby the public, for review by August 20th. The MSG will have three weeks to review the draft, and will reconvene on September 11-12. Ms. Senhadji encouraged the MSG to assume an in-person meeting and make travel arrangements, which could be changed to a teleconference if an in-person meeting is deemed unnecessary. In October, the MSG will seek input from the EITI International Secretariat, and after the public comment period, they will have two weeks to review and revise the draft application.

V. Public Comment

There was one public comment made during this meeting:

Ms. Corinna Gilfillin, Global Witness and a member of the EITI International Board, stated she was glad the U.S. was to be a candidate country, and encouraged the MSG to develop a plan that will meet the highest standards possible, building on the international standards. She also noted the importance of civil society involvement across the country in making information useful. Ms. Brian asked Ms. Gilfillin if there is an EITI International resource to help the U.S. with issues

related to beneficial ownership. Ms. Gilfillin responded that the EITI International Board will be publishing guidance documents, one of which will address beneficial ownership.

VI. Meeting Participants

The following is a list of attendees from the July 23 – 24, 2013 EITI meeting.

Chaired by Rhea Suh, Assistant Secretary, Policy, Management and Budget, and Designated Federal Officer for the USEITI Advisory Committee, U.S. Department of the Interior and acting chair Karen Senhadji, Senior Advisor to the Assistant Secretary, Policy, Management and Budget, and alternate Designated Federal Officer for the USEITI Advisory Committee, U.S. Department of the Interior

Participating Committee Members

Civil Society

Rebecca Adamson, First Peoples Worldwide
Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-chair
David Goldwyn, Goldwyn Global Strategies, LLC
Deborah Rogers, Energy Policy Forum
Keith Romig, Jr, United Steelworkers
Michael Ross, University of California, Los Angeles
Veronica Slajer, North Star Group

Government

Mitchell Baer, Department of Energy
Curtis Carlson, Department of Treasury
Greg Conrad, Interstate Mining Compact Commission
Greg Gould, Department of the Interior
C. Michael Smith, Interstate Oil and Gas Compact Commission

Industry

Phillip Denning, Shell Oil Company
Susan Ginsberg, Independent Petroleum Association of America
Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-chair
Robert Reynolds, BP America
James Roman, ConocoPhillips
Brent Roper, Rio Tinto

Committee Alternates in Attendance

Civil Society

Michael LeVine, Oceana

Government

Industry

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.
John Harrington, Exxon Mobil Corporation
Amanda Lawson, Walter Energy Inc.
Walter Retzsch, American Petroleum Institute
John Sardar, Noble Energy Inc.
Robert Wilkinson, ConocoPhillips

Government and Members of the Public in Attendance

Tawny Bridgeford, National Mining Association
Bob Cekuta, Department of State
Nicholas Cotts, Newmont
Sean Derosa, Department of Energy
Marti Flacks, Department of State
André Francisco, Project on Government Oversight
Corinna Gilfillin, Global Witness
Cory Gill, Goldwyn Global Strategies, LLC
Alexander Gillim, Revenue Watch Institute
Remington Gregg, White House Office of Science and Technology Policy
Kallie Haney, DOI-ASIA
Emily Kennedy, American Petroleum Institute
Matthew Kirkland, Bureau of Indian Affairs
Aaron Mintzes, Earthworks
Clare Murphy, Department of State
Charles Norfleet, Bureau of Ocean Energy Management
Aaron Padilla, Chevron
Jana Persky, Project on Government Oversight
Lauren Salomon, Oceana
Kendall Scott, ICAR
Misty Seemans, Publish What You Pay
Mia Steinle, Project on Government Oversight
Katie Sweeney, National Mining Association
Suzanne Swink, BP America
Sequoia Simermeyer, DOI
Paul Tyler, Office of Natural Resource Revenues
Lee Vish, Rio Tinto
Claire Ware, Mineral Compliance, Shoshone & Arapaho Tribes
Levi White, DOI Office of the Solicitor
Lance Wenger, Interior Department
Steve Woodward, West Africa Oil Watch

Facilitation Team

Pat Field, Consensus Building Institute
Elana Kimbrell, Kearns & West
Rachel Milner Gillers, Consensus Building Institute

VII. Documents Distributed

- Agenda ([PDF](#))
- USEITI: Scope and Materiality ([EXCEL](#)) ([PDF](#))
- FY2012 Payments to ONRR Summary ([PDF](#))
- ONRR's Publicly Available Data ([PDF](#))
- USEITI and Federal Income Tax Voluntary Disclosure ([PDF](#))
- Tribal Outreach Presentation and Discussion ([PDF](#))
- EITI Timeline ([PDF](#))

VIII. Certification

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.