



U.S. Department of the Interior

USEITI **United States Extractive Industries Transparency Initiative**

Tribal Outreach Presentation and Discussion



Agenda

- Overview of the Department's Role
- Tribes and the BIA
 - DOI's Tribal Consultation Policy
 - Extractive Revenues
- Tribes and ONRR
 - Extractive Revenues
 - State and Tribal Royalty Audit Committee (STRAC)
- Initial EITI Tribal Outreach



Agenda

Overview of the Department's Role

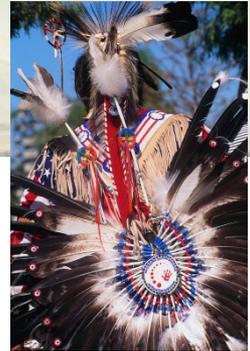
Presented by:

Greg Gould

Director, Office of Natural Resources Revenue



Overview



- The U.S. Government has a unique legal and political relationship with American Indian tribes and Alaska Native entities, as provided by the Constitution, treaties, court decisions, and Federal statutes.
- There are 566 Federally recognized Indian tribes.
- These tribes are sovereign nations, operating on a government-to-government basis with the U.S. government.
- As part of its fiduciary responsibility, DOI holds approximately 56 million acres of Indian lands in trust on behalf of Tribes and Tribal beneficiaries.
- The Indian Mineral Development Act of 1982 allows Tribes to lease their resources utilizing an agreement that best fits the needs of a Tribe and a potential industry partner.





Agencies Involved with Indian Leases

Within the Department of the Interior:





What BIA Does

- **Leasing Authority & Assignment**
 - Primary Lease Terms– time the company has to begin drilling (length of terms vary and can be up to 10 years)
 - Secondary Lease Terms – once production is established the lease remains in force as long as it is producing in paying quantities
 - Lessee can assign or sell the lease and the buyer assumes all of the original lease terms
- **Maintain Title (Ownership Records)**
 - Lessor's lease interest can pass to heirs
- **Probate**





What BLM Does

- Reservoir Management
- Operations
 - Application for Permit to Drill (APD)
 - First and last production
 - Plugging and Reclamation
- Inspection and Enforcement
 - Drilling & Production Activities
 - Inspect measurement devices





What ONRR Does



- Receives royalty payments and sales reports from companies
 - deposits money in U.S. Treasury within 24 hours so royalties can begin earning interest.

- Provides BIA with bi-monthly distribution reports
- Performs regularly scheduled audit and compliance reviews





What OST Does



- Re-Invests royalties to earn better interest
- Makes royalty payments based on
 - Availability of funds from ONRR
 - Disbursement instructions from BIA
- Makes payment by Direct Deposit or mailing check to Indian mineral owners
- Provides 1099 & Quarterly IIM account statements



Agenda

Tribes and the BIA

Presented by:

Matthew Kirkland

Chief, Division of Real Estate Services, BIA

Sequoia Simermeyer

Counselor, Assistant Secretary for Indian Affairs



Indian Treaty Rights

- Indian Treaty Rights
 - From 1778 to 1871, the United States' relations with individual American Indian nations indigenous to what is now the U.S. were defined and conducted largely through the treaty-making process
 - These treaties recognized and established unique sets of rights, benefits, and conditions for the tribes who agreed to cede millions of acres of their homelands to the United States
 - Indian treaties are considered to be “the supreme law of the land,” and they are the foundation upon which federal Indian law and the federal Indian trust relationship is based.



Legal Status

- Legal status of American Indian and Alaska Native tribes
 - Article 1, Section 8 of the United States Constitution vests Congress, and by extension the Executive and Judicial branches of our government, with the authority to engage in relations with the tribes
 - Tribes are therefore firmly placed within the constitutional fabric of our nation
 - When the governmental authority of tribes was first challenged in the 1830's, U. S. Supreme Court Chief Justice John Marshall articulated the fundamental principle that has guided the evolution of federal Indian law to the present: That tribes possess a nationhood status and retain inherent powers of self-government.



Indian Trust Responsibility

- The federal Indian trust responsibility
 - The federal Indian trust responsibility is a legal obligation under which the United States “has charged itself with moral obligations of the highest responsibility and trust” toward Indian tribes (Seminole Nation v. United States, 1942)
 - The federal Indian trust responsibility is also a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes and villages.



Tribal Sovereignty

- Tribal Sovereignty for American Indians and Alaska Natives
 - When tribes first encountered Europeans the American Indian and Alaska Native population dominated the North American continent.
 - The European practice of establishing relations with other countries and the recognition of tribal property rights led to tribes being seen by exploring foreign powers as sovereign nations, who treated with them accordingly.
 - As the foreign powers expanded and with the establishment and growth of the United States, tribal populations dropped dramatically and tribal sovereignty gradually eroded.
 - Tribal sovereignty is limited today by the United States under treaties, acts of Congress, Executive Orders, federal administrative agreements and court decisions.
 - The remaining sovereignty protects federally recognized tribes against further encroachment by other sovereigns, such as the states.
 - Tribal sovereignty ensures that any decisions about the tribes with regard to their property and citizens are made with their participation and consent.



Role of BIA

- The role of the Bureau of Indian Affairs
 - Serves as the primary federal agency charged with carrying out the United States' trust responsibility to American Indian and Alaska Native people.
 - Maintains the federal government-to-government relationship with the federally recognized Indian tribes
 - Promotes and supports tribal self-determination
 - Implements federal laws and policies
 - Administers programs established for American Indians and Alaska Natives under the trust responsibility and the government-to-government relationship.



Extractive Mineral Revenue

Mineral Receipts not reported by ONRR

Indian Mineral Receipts	FISCAL YEARS			Grand Total
	2010	2011	2012	
Other Minerals	316,686.08	444,717.28	433,602.96	1,195,006.32
Forfeit Oil and Gas Bid Deposits	163,866.30	16,222.46	19,744	199,832.62
Oil and Gas Bonus	58,970,271.61	158,103,101.12	90,026,921.15	307,100,293.88
Copper	29,614,274.04	16,355,005.17	2,075,614.45	48,044,893.66
Sand and Gravel	1,673,345.21	2,138,865.45	1,713,409.12	5,525,619.78
Oil and Gas Rental	4,437,305.70	6,865,747.00	6,500,684.56	17,803,737.26
Quarterly Osage Annuity	56,862,224.92	76,127,529.32	437,309,376.36	570,299,130.60
TOTALS	152,037,973.86	260,051,187.80	538,079,352.46	950,168,514.12



Tribal Consultation

- The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions.
- In recognition of that unique relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of *Federal policies that have tribal implications*,
- Agencies are responsible for strengthening the government-to-government relationship between the United States and Indian tribes.
- Tribal Consultation is most frequently US Federal government to a specific Indian tribal government, usually face-to-face.
- Tribal Outreach, which is not consultation, is done in a number of ways, including meetings, workshops, letters, memos, sharing of documents, and may include broader outreach beyond the Indian tribal government to tribal staff and members.



When is Consultation Appropriate

- Each Bureau or Office within the Department of the Interior will consult with Indian Tribes as early as possible when considering a *Departmental Action with Tribal Implications*.
- An Indian Tribe may request that the Department initiate consultation when the Indian Tribe believes that a Bureau or Office is considering a *Departmental Action with Tribal Implications*.
- Is consultation appropriate with respect to USEITI?
- As sovereigns, how will Tribes participate in USEITI?



Agenda

Tribes and ONRR

Presented by:

Paul Tyler, Program Manager, State & Indian Coordination,
ONRR

Claire R. Ware, Director of Minerals Compliance,
Shoshone and Arapaho Tribes

FY 2012 Total Reported Revenue



Reported Revenues by Category FY 2012 by Accounting Year

Revenue Type	Commodity	2012			Total
		American Indian	Federal Offshore	Federal Onshore	
Reported Royalties	Coal (ton)	\$76,648,300.11	\$0.00	\$799,306,819.57	\$875,955,119.68
	Gas (mcf)	\$116,001,425.57	\$483,634,710.08	\$976,195,023.72	\$1,575,831,159.37
	NGL (gal)	\$20,549,877.33	\$243,047,858.84	\$298,372,581.73	\$561,970,317.90
	Oil (bbl)	\$424,305,947.39	\$5,216,309,404.25	\$1,275,117,598.04	\$6,915,732,949.68
	Other Products	\$3,393,954.67	\$55,157.58	\$171,867,334.00	\$175,316,446.25
Rents		\$1,799,319.08	\$228,134,487.21	\$48,294,350.10	\$278,228,156.39
Bonus		\$0.00	\$663,714,729.00	\$844,586,175.42	\$1,508,300,904.42
Other Revenues		\$58,604,141.24	\$27,864,564.18	(\$1,331,188.53)	\$85,137,516.89
Total		\$701,302,965.39	\$6,862,760,911.14	\$4,412,408,694.05	\$11,976,472,570.58



FY 2012 American Indian Reported Revenue

	Commodity	FY 2012 Reported Revenue
Royalties	Coal	\$76,648,300
	Gas	\$116,001,426
	Natural Gas Liquids	\$20,549,877
	Oil	\$424,305,947
	Cinders	\$8,160.78
	Copper Concentrate	\$2,353,911.01
	Geothermal	\$30,728.25
	Gypsum	\$402,207.23
	Sand & Gravel	\$598,767.40
Rents	Coal	(\$55,694.58)
	Copper	\$8,168.74
	Gypsum	\$1,055.00
	Oil & Gas	\$1,845,061.52
	Phosphate	\$200.00
	Sand & Gravel	\$528.40
Other Revenue	Coal	\$3,555,709.40
	Copper	\$1,200,000.00
	Gypsum	(\$9,340.25)
	Oil & Gas	\$53,687,227.67
	Phosphate	\$1,200.00
	Sand & Gravel	\$169,344.42
Total		\$701,302,965.39

FY 2012 Indian Leases

- 5,810 Total
- 5,436 Producing

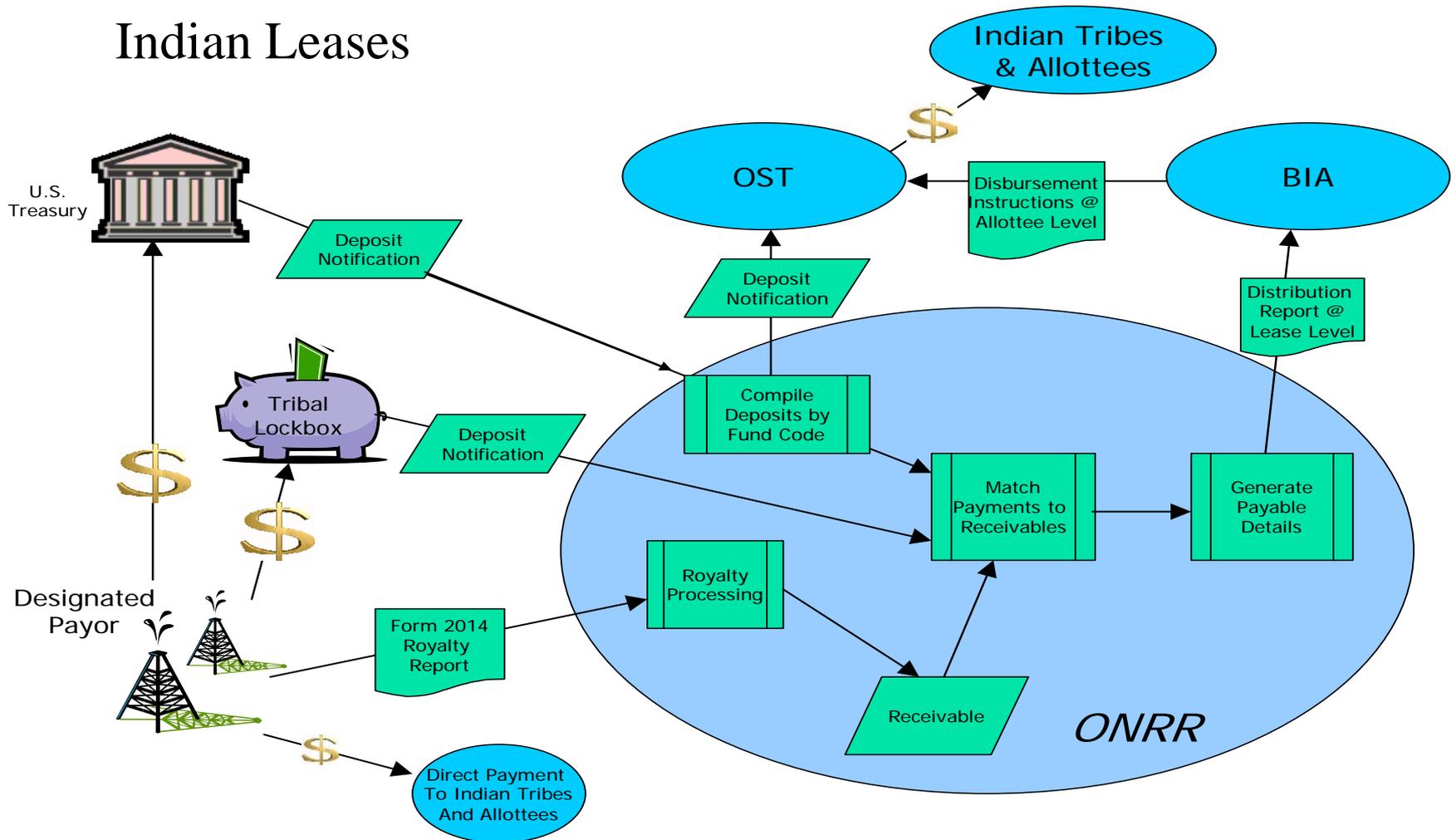
100% of the revenues ONRR collects are disbursed to American Indian Tribes and individual Indian mineral owners (IIMOs)

In FY12, ONRR disbursed to 34 Tribes & 30,000 IIMOs



Reporting & Revenue Flow

Indian Leases





State and Indian Coordination

- Serves as an advocate for the fulfillment of ONRR trust responsibility and to resolve Indian mineral-related issues
- Participates on DOI-wide Committees
 - *Indian Energy Minerals Steering Committee (IEMSC)*
 - *Tribal Energy Policy Advisory Committee (TEPAC)*
- Conducts Outreach - In FY 2012, ONRR held 97 outreach sessions and resolved over 35,000 royalty-related inquiries
- Participates in the Federal Indian Minerals Office (FIMO) in Farmington, NM to provide “one-stop” service for Navajo individual Indian mineral owners
- Supports the Ft. Berthold “one-stop” virtual office in North Dakota.
- Provides audit agreement support and coordination for 10 States and 6 Tribes (STRAC)



State and Tribal Royalty Audit Committee

- States and Tribes are vital ONRR partners
- FOGRMA authorizes the Secretary to enter into cooperative and delegated agreements with Tribes and States for mineral revenue audits, inspections, and investigations.
- Tribes are empowered to perform audits on tribal mineral royalties within their reservation.
- ONRR funds 100 percent of the 10 state and 6 tribal audit program's costs.

<i>Blackfeet</i>	<i>Southern Ute</i>
<i>Navajo Nation</i>	<i>Ute</i>
<i>Shoshone/Arapaho</i>	<i>Ute Mountain Ute</i>

<i>Alaska</i>	<i>North Dakota</i>
<i>California</i>	<i>Oklahoma</i>
<i>Colorado</i>	<i>Texas</i>
<i>Montana</i>	<i>Utah</i>
<i>New Mexico</i>	<i>Wyoming</i>



Agenda

Initial EITI Tribal Outreach

Presented by:

Paul A. Mussenden

Deputy Assistant Secretary

Natural Resources Revenue Management



Initial Tribal Outreach: Information & Education

Message:

- Provide information on what EITI is and why the US is participating
- Seek input from Tribes on how they would like to participate in EITI
 - What role, if any, do tribes and allottees receiving revenues from oil, gas, coal and other minerals want to play regarding USEITI and the MSG?
 - Do other states and tribes also have an interest?
 - Given the multi-stakeholder nature of the MSG, how might tribes or allottees best be represented?
- Encourage Tribes to participate, but respect tribal authority and sovereignty.
- Outline options for participation, which might include:
 - Identifying one or more representative(s) to serve on the multi-stakeholder group when it is established this year
 - Observing the multi-stakeholder group in its early stages to evaluate whether to join at a later date
 - Declining to participate in the federal USEITI effort, but reserving the option to participate independently in EITI if desired.



Initial Tribal Outreach: Modes of Outreach

Dear Tribal Leader Letters

- (2/16/12): Informed tribal leaders of the EITI initiative
- (5/21/12): Outlined how EITI may impact Indian country and provided an opportunity to comment
- (7/27/12): Announced the formation of the MSG provided an opportunity to comment and submit nominees
- (2/1/13): Announced the appointment of MSG members and the date of the first MSG meeting, invited Tribal participation
- (5/10/13): Provided an update on the status of EITI implementation and invited Tribal participation

Presentations

- National Congress of American Indians
- DOI - Indian Energy & Minerals Steering Committee
- ONRR - State and Tribal Royalty Audit Committee (STRAC)
- ONRR - Indian Oil Valuation Negotiated Rulemaking Committee
- Alaska Federation of Natives Convention



Initial Tribal Outreach: Modes of Outreach, cont.

In Person Informational Meetings

- Navajo Nation
- Cherokee Nation
- Osage Nation
- Choctaw Nation
- Alaska Native Regional and Village Corporations

Informational Phone Calls

- Three Affiliated Tribes
- Fort Peck Tribe
- Montana-Wyoming Tribal Leader's Council
- Council on Energy Resource Tribes,
- United South and Eastern Tribes
- Oklahoma Indian Land/Mineral Owners of Associated Nations (OILMAN)



Initial Tribal Outreach: Feedback from Participants

- General interest in the process, particularly in EITI “plus” and its potential impact on larger social and human rights issues
- Holding off on officially ‘signing on’ to the process and opting to observe what EITI implementation may look like
- Concerns around making public data and information that is currently private
- Appreciation for early information sharing and requests to be kept apprised of implementation status