

COLLABORATIVE ENVIRONMENTAL RESOURCES WORKSHOP

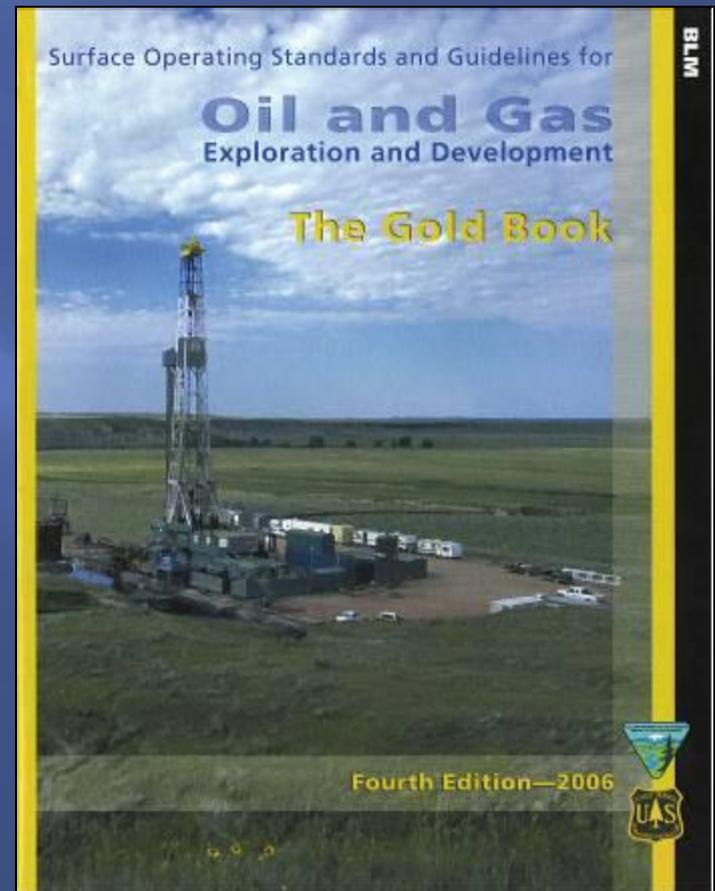
Presented by BLM – North Dakota
Field Office

Workshop Objectives

- ▣ Provide understanding of Federal regulations
- ▣ Eliminate common deficiencies
- ▣ Minimize review time by BLM

Our Goal

Efficiently manage the fluid minerals surface use program while ensuring **environmentally responsible development** in conformance with laws, regulations, and policies.



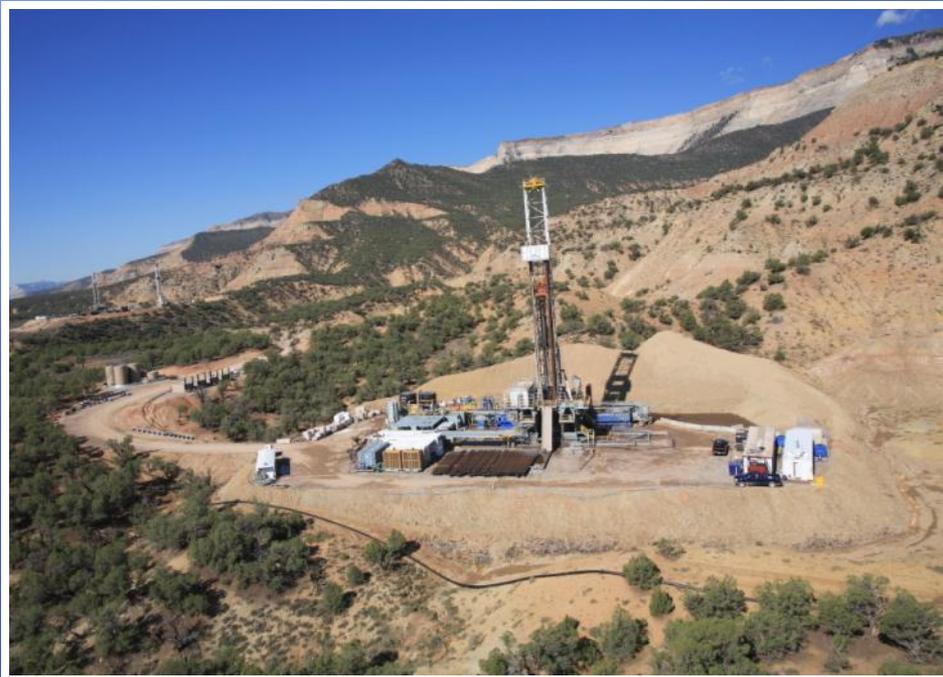
The Gold Book 4th Edition

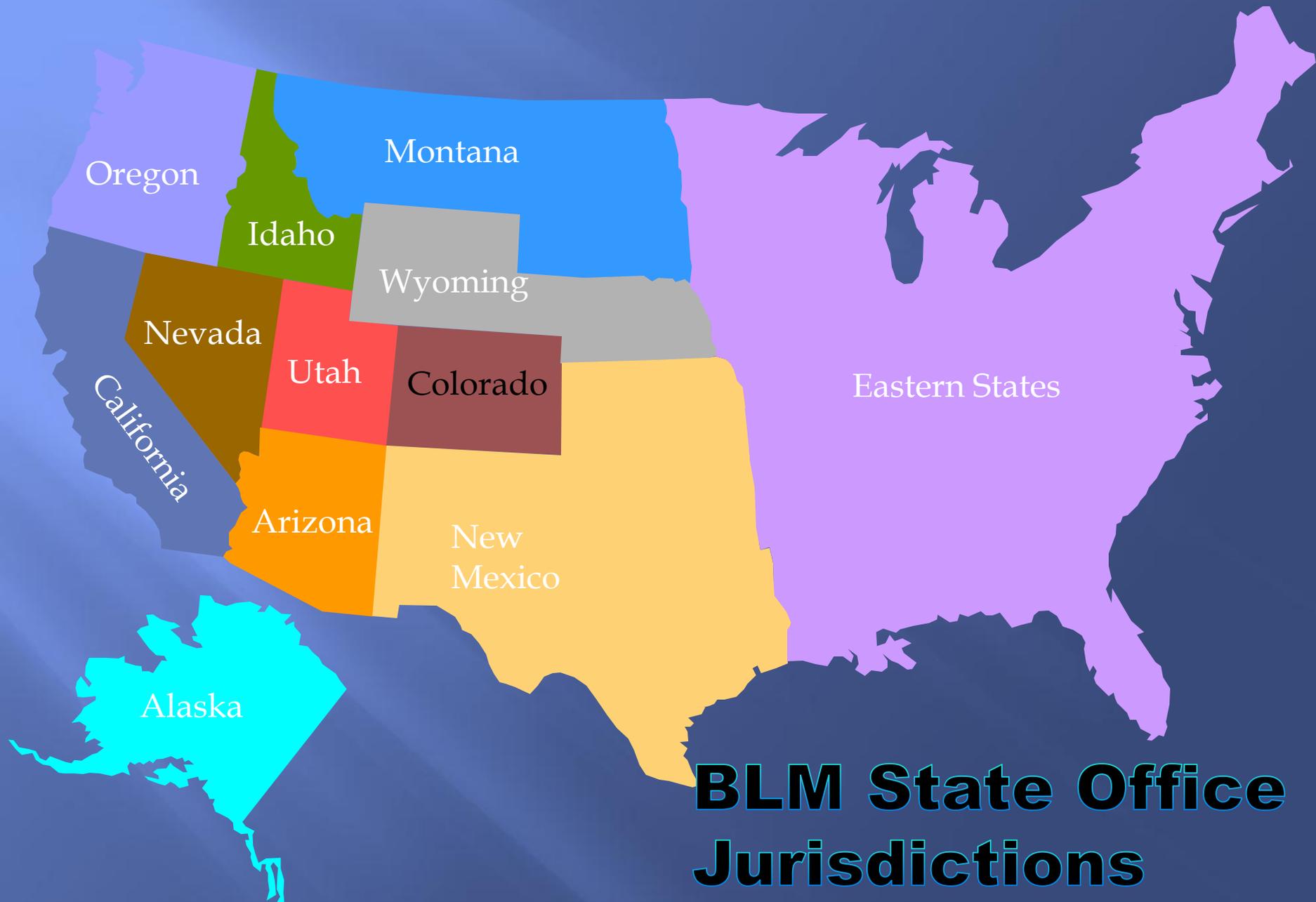
OUR CHALLENGE

Achieving Balance

Developing Energy

Yet Protecting
the Environment





Oregon

Idaho

Nevada

California

Utah

Arizona

Alaska

Montana

Wyoming

Colorado

New Mexico

Eastern States

BLM State Office Jurisdictions

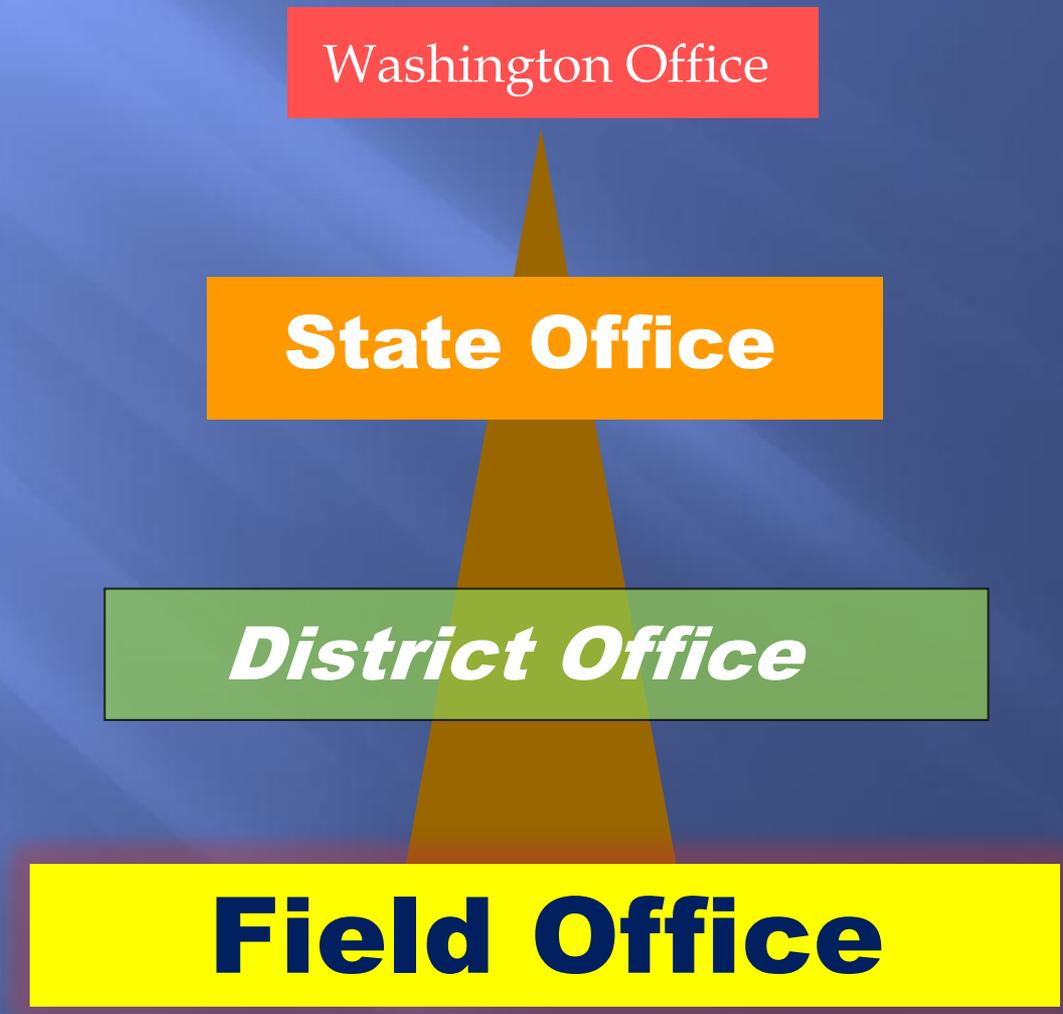
BLM Hierarchy

Washington Office

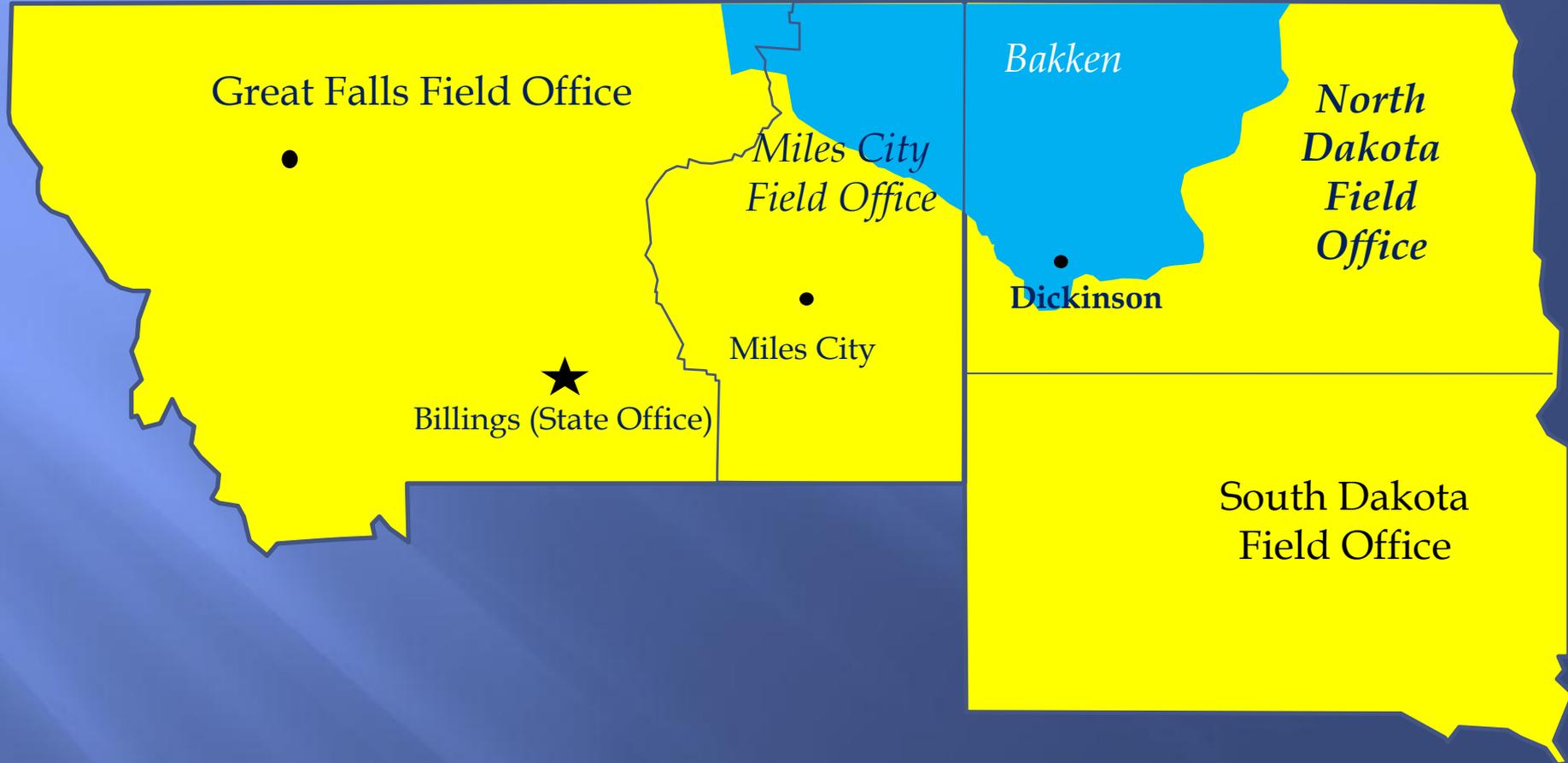
State Office

District Office

Field Office

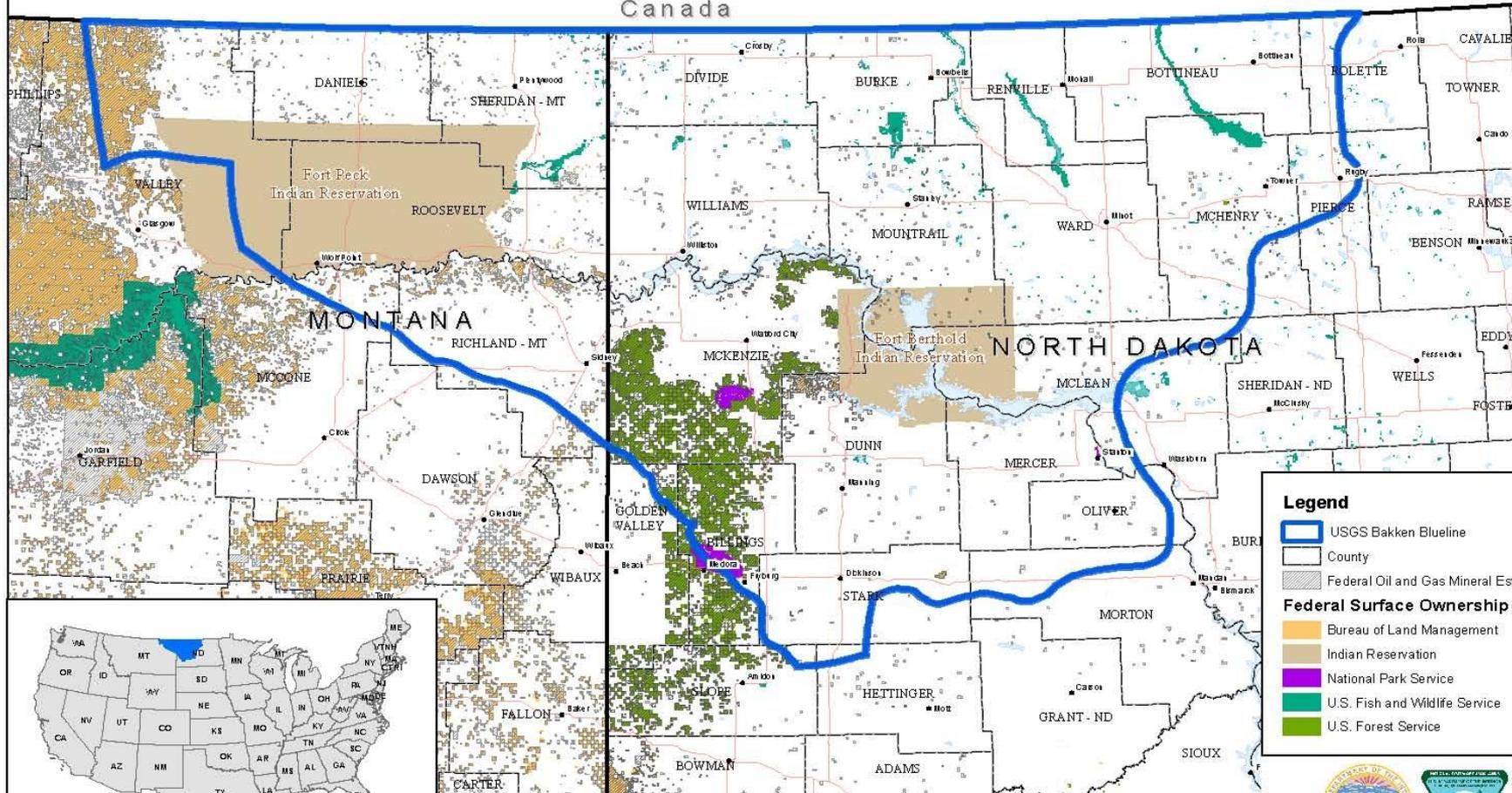


Montana State Office Jurisdiction



Federal Land Status – Bakken Formation

Canada



Legend

- USGS Bakken Blueline
- County
- Federal Oil and Gas Mineral Estate
- Federal Surface Ownership**
- Bureau of Land Management
- Indian Reservation
- National Park Service
- U.S. Fish and Wildlife Service
- U.S. Forest Service



Data Source:
Bakken Formation - U.S. Geological Survey 2008 Assessment Units

No warranty is made by the BLM as to the accuracy, reliability, or completeness of this data for individual use or aggregate use with other data.



U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MONTANA/DAKOTAS

February 14, 2013

Ownership Situations

- ▣ Background
- ▣ Agency Roles
- ▣ IM 2009-78

Split Estate Examples

- ▣ Fee Surface/Federal Minerals
- ▣ Forest Surface/Federal Minerals
- ▣ Indian Surface (BIA)/Federal Minerals
- ▣ State Surface/Federal Minerals
- ▣ Park Service/Federal Minerals
- ▣ Et cetra

Private
Federal

State
Private

← This Presentation
58 Ac. Million Split Estate

State
Federal

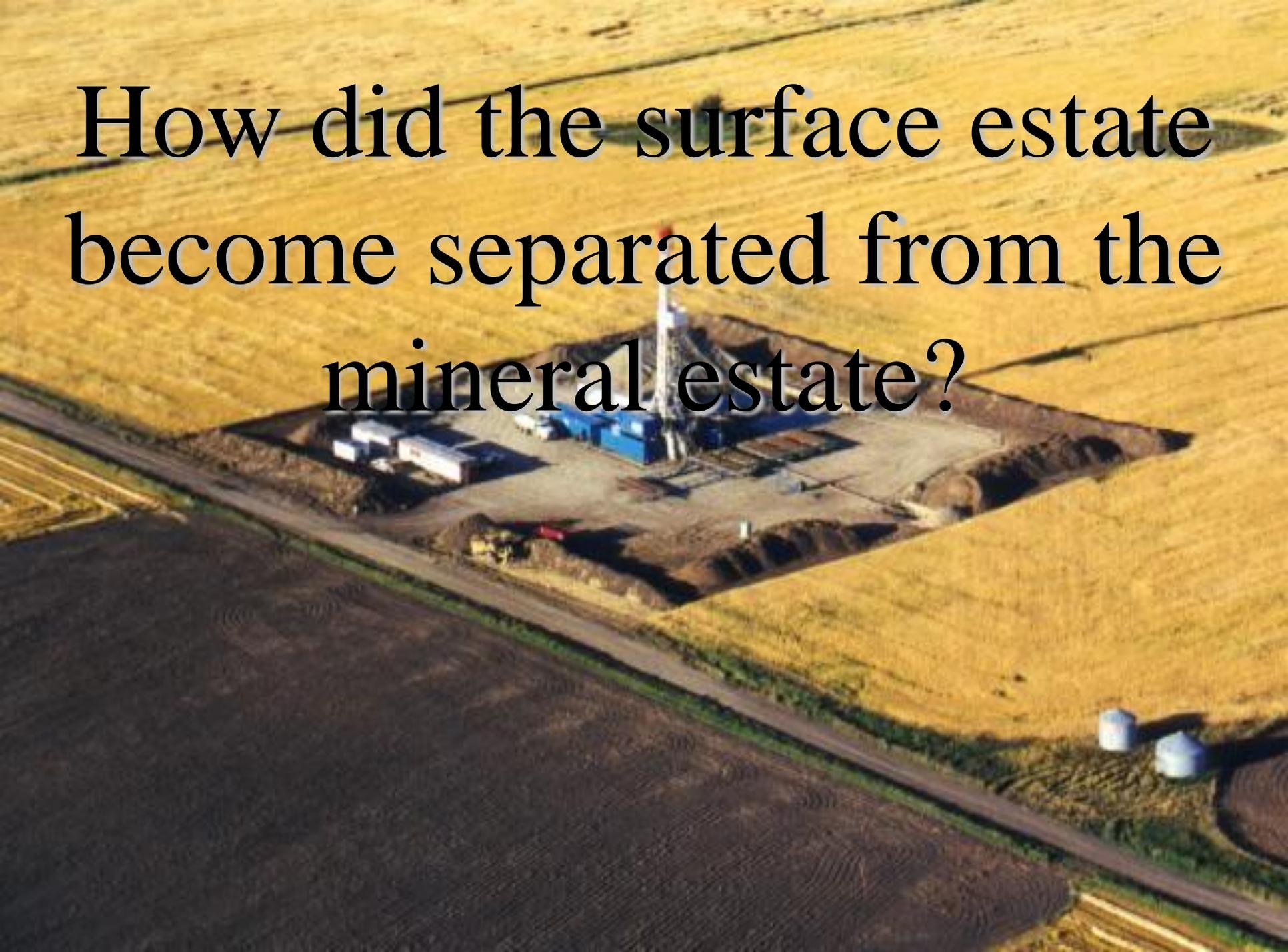
Federal
State

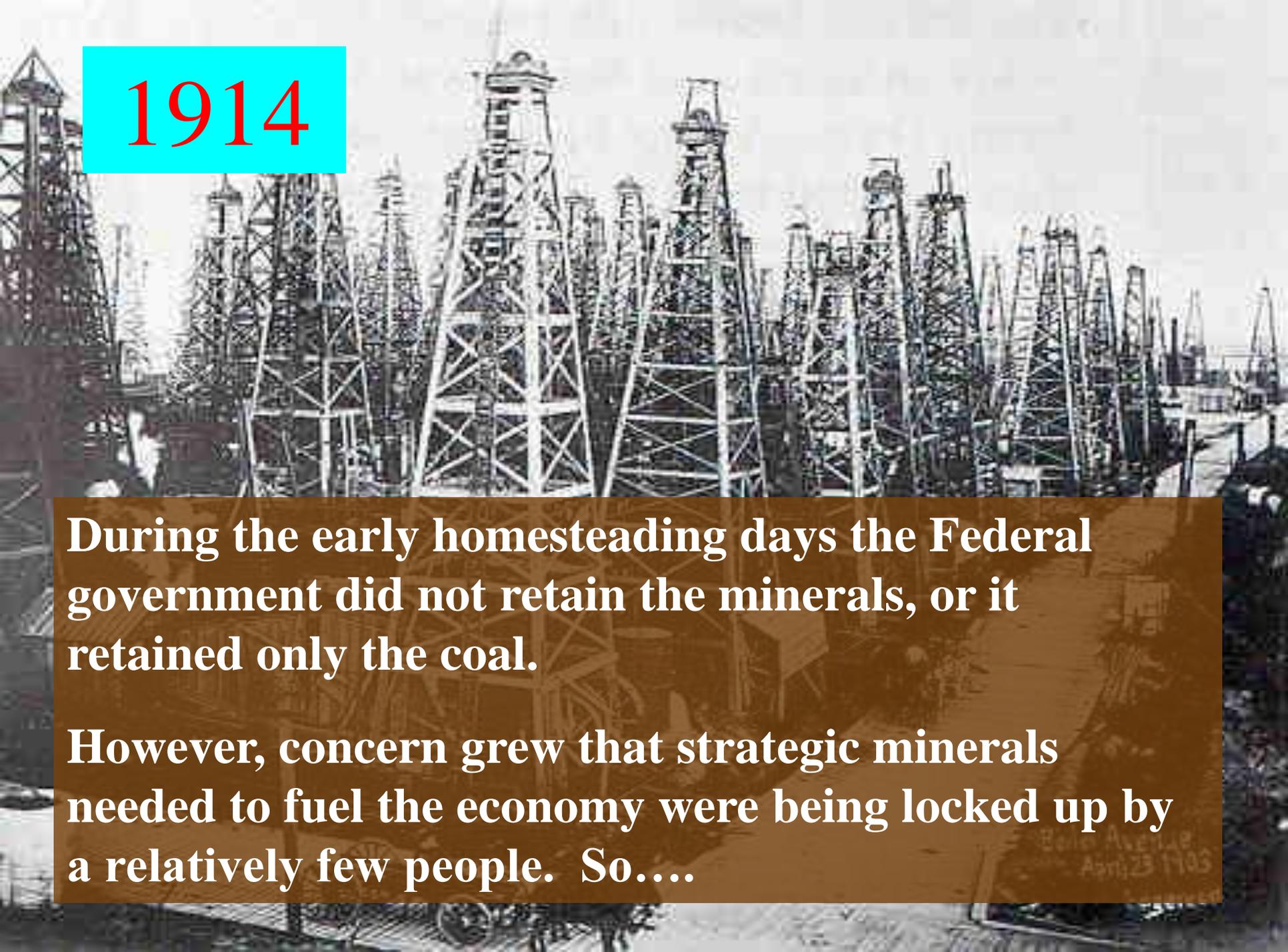
Private
Private

Federal
Federal

Private
State

How did the surface estate
become separated from the
mineral estate?



A black and white photograph of an oil field. In the foreground, several tall, lattice-structured derricks (oil rigs) are visible, extending into the background. The sky is overcast. The image has a historical, slightly grainy quality.

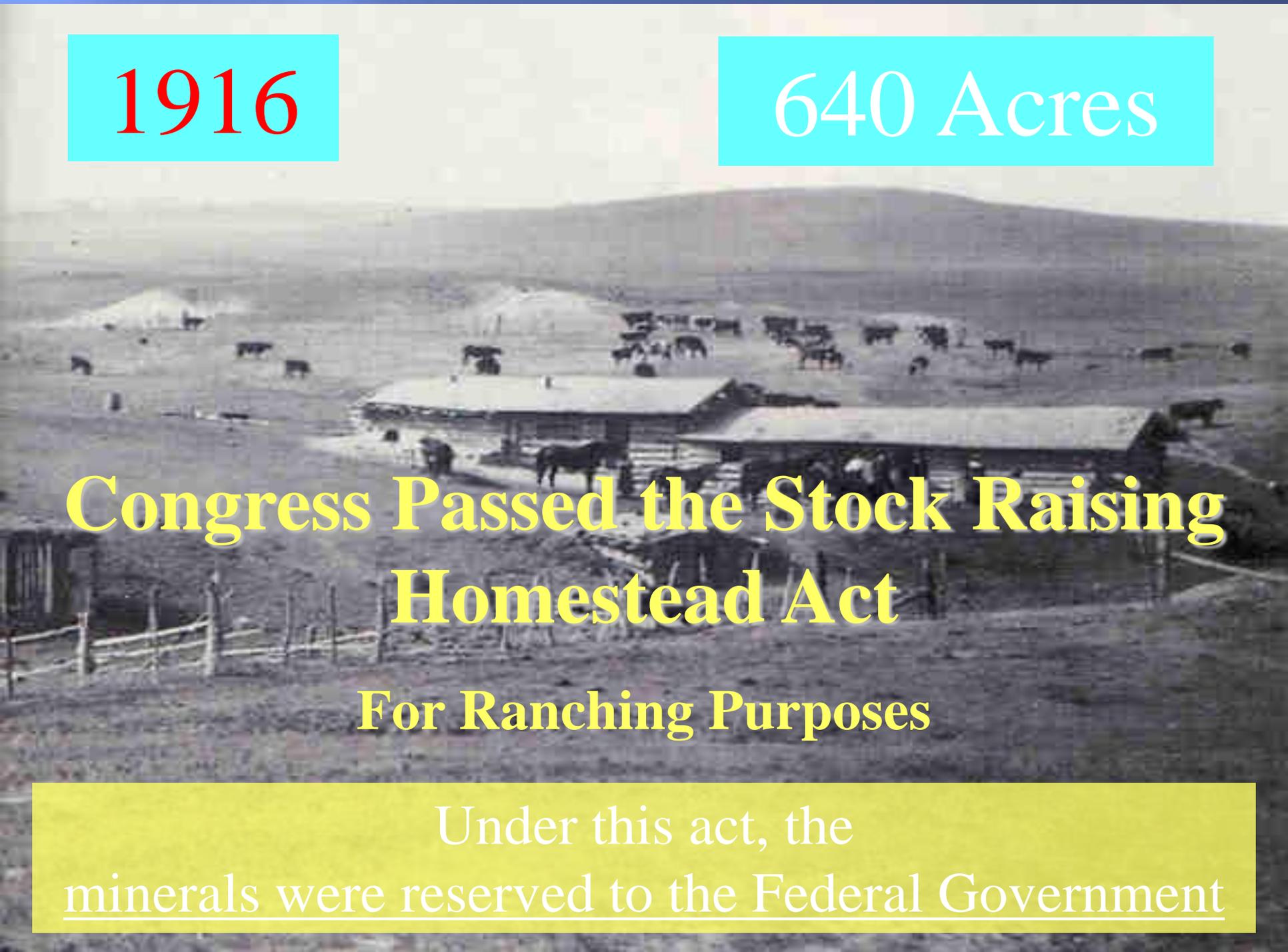
1914

During the early homesteading days the Federal government did not retain the minerals, or it retained only the coal.

However, concern grew that strategic minerals needed to fuel the economy were being locked up by a relatively few people. So....

1916

640 Acres



**Congress Passed the Stock Raising
Homestead Act**

For Ranching Purposes

Under this act, the
minerals were reserved to the Federal Government

Bureau of Land Management (BLM)
Administers Surface and Minerals
for the Federal Government

261 Million Surface Acres

700 Million Mineral Acres

58 Million Acres

NonFederal Surface
Federal Minerals

Forest Service Split Estate

BLM ROLE

- ❑ Issues and administers oil & gas leases
- ❑ Authority and responsibility to provide final approval of all APDs
- ❑ Authority and responsibility to regulate all down-hole operations and directly related surface activities and use

FOREST SERVICE ROLE

- ❑ Authorizes the BLM to offer specific lands for a lease
- ❑ Full responsibility and authority to approve and regulate all surface-disturbing activities associated with oil and gas
- ❑ Analyzes and approves *Surface Use Plan of Operations* of an APD

Indian Split Estate

(Fluid Mineral Procedural Handbook July 2012)

BLM ROLE

- ❑ Pre-leasing (Mineral Valuation)
- ❑ Approves APD and NEPA after consultation with BIA
- ❑ Primary Agency for determination of operator compliance
- ❑ Approves plugging of wellbore and surface restoration

BIA ROLE

- ❑ Advertises and conducts lease sales
- ❑ Responsible Surface Management Agency
- ❑ Approves the location and method of operation
- ❑ Monitors operators to ensure compliance

Private Surface Split Estate

(Split Estate Rights, Responsibilities, and Opportunities 2007)

BLM ROLE

- ❑ Issues and administers Oil & Gas leases
- ❑ Requires surface use agreement or bond
- ❑ Approves APD and NEPA w/consultation from surface owner
- ❑ Conducts compliance of approved APD
- ❑ Approves plugging of wellbore and surface restoration

SURFACE OWNER ROLE

- ❑ Has the right to protest/comment pending lease sales
- ❑ Provided surface use agreement or bond
- ❑ Invited to onsite
- ❑ Operator provides surface use plan
- ❑ Report surface compliance concerns

Split Estate Processing Private Surface

Submission Requirements

- ▣ The Operator must furnish the BLM with the Surface Owner's name, address, phone number.
- ▣ The operator must certify to the BLM that:
 - (1) It made a good faith effort to notify the surface owner before entry; and
 - (2) That an agreement with the surface owner has been reached **or** that a good faith effort to reach an agreement failed.

Operator Self-Certification Format

WO-IM-2003-131

“Permitting Oil
and Gas on Split
Estate Lands and
Guidance for
Onshore Oil and
Gas Order No. 1”

SELF-CERTIFICATION STATEMENT FROM LESSEE/OPERATOR SURFACE OWNER IDENTIFICATION

Federal or Indian Lease No. _____

I hereby certify to the Authorized Officer of the Bureau of Land Management that I have reached one of the following agreements with the Surface Owner; or after failure of my good-faith effort to come to an agreement of any kind with the Surface Owner, have provided a bond and will provide evidence of service of such bond to the Surface Owner:

- _____ I have a signed access agreement to enter the leased lands;
- _____ I have a signed waiver from the surface owner;
- _____ I have entered into an agreement regarding compensation to the surface owner for loss.
- _____ Because I have been unable to reach either 1), 2), or 3) with the surface owner, I have obtained a bond to cover loss or damages and served the surface owner with a copy of the bond.

Surface owner information: (if available after diligent effort)

Surface Owner Name: _____

Surface Owner Address: _____

Surface Owner Phone Number: _____

Signed this _____ -- day of _____, 200__.

(Name of lessee/operator)

I (Surface Owner) accept _____ do not accept _____ the lessee or operator's Surface Owner Agreement under 1, 2, or 3 above.

Signed this _____ -- day of _____, 200__.

(Signature of Surface Owner if an agreement has been reached)

Split Estate Processing

- ▣ BLM or Applicant conduct surveys needed for NHPA, EPA, etc.
- ▣ Federal mineral lessee has the right to the property for this purpose
- ▣ Operator must make good faith effort to notify the surface owner before entry and obtain a surface use agreement

What Can the BLM Offer?

Reduce the Impact
Of Energy Development on
Private Surface

A Choice of Color



FOR MORE INFORMATION,
VISIT: www.blm.gov/bmp

Minimize Footprint



Interim Reclamation



Sundry Notices for New Surface Disturbance

- ▣ The Operator must certify on the Sundry Notice form that they have made a good faith effort to provide a copy of any proposal involving new surface disturbance to the Surface Owner.



Instruction Memorandum 2009-078

- ▣ Addresses processing of APDs for federal minerals from multiple well pads that are located entirely on non-federal surface.
- ▣ In each situation described, at least one of the wells drilled from the same pad is intended to access non-federal mineral estate.

For All Three Scenarios

- ▣ BLM may have responsibility to consider the direct, indirect, and cumulative effects
- ▣ Watch out for connected actions!

All Three Scenarios (cont.)

- ▣ The approval of an APD is a Federal undertaking under Section 106 of the NHPA
- ▣ Even when the resulting impacts are on non-Federal land

Questions?

Foundations of the Federal Agency – Tribal Nation Relationship

Mark Sant, Tribal Coordinator
Bureau of Land Management – Montana/Dakotas
Collaborative Resources Stewardship Workshop
May 28, 2014 – Dickinson, ND



Early European Concepts

Doctrine of Discovery



Fig. 199.—Discovery of America, 12th of May, 1492.—Columbus erects the Cross and baptizes the Isle of Guanahani (now Cat Island, one of the Bahamas) by the Christian Name of St. Salvador.—From a Stamp engraved on Copper by Th. de Bry, in the Collection of "Grands Voyages," in folio, 1590.

Manifest Destiny



Early European Tribal Relations

- Tribes separate sovereign nations
- Government-to-government relations formalized through treaties
- Internal affairs responsibility of the Tribe



US Constitution and Indian Tribes

Article 1, Section 8, Clause 3 (commerce clause) - states that the United States Congress shall have power "To regulate commerce with foreign Nations, and among the several States, and with the **Indian Tribes.**"

Article 6, Clause 2 (supremacy clause) – establishes that laws and **treaties** of the United States are the supreme law of the land.



"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

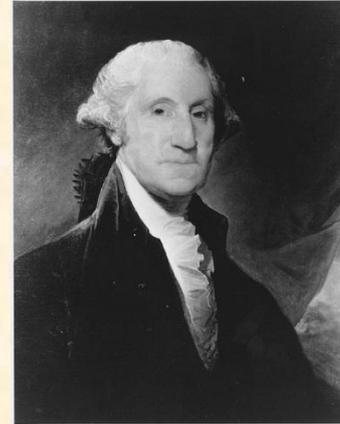


The Trade & Intercourse Act

❖ An Act to Regulate Trade and Intercourse With the Indian Tribes (1790)

Goals:

- Acquire land from tribes for growing country
- Discourage tribal nations from aligning with other foreign powers
- Protect Indians from fraudulent dealings with U.S. Citizens



“Settlement of the Western Country and making peace with the Indians are so analogous that there can be no definition of one without the other . . . policy and economy point very strongly to being on good terms with the Indians.”

George Washington, September 1783

*Portrait Courtesy of the National Archives
Washington, D.C.*



The Treaty Era: Pre-U.S. - 1871

- ❖ The treaty era overlaps other policy eras because the United States continued to make treaties with tribal nations through the removal and reservation policy eras.
- ❖ Treaties are documents of agreement between sovereigns/agreements between nations.
- ❖ The U.S. Constitution declares treaties to be the supreme law of the land.



1868 Ft. Laramie Treaty

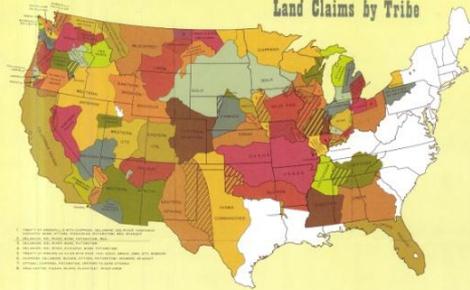
- ❖ 1871 Congress officially ends Treaty making with Tribes subsequent reservations established



1784 - 1819



Land Claims by Tribe



1820 - 1839



INDIAN LAND CESSIONS

by
SAM E. HILLIARD
Louisiana State University



Geographic Design by
SAM E. HILLIARD
and staff of the
Southern Illinois University Geographic Laboratory

INDIAN LAND CESSIONS
 The following table lists the Indian land cessions in the United States, showing the date of the cession, the area ceded, and the tribe or tribes involved. The area ceded is given in square miles, and the tribe or tribes are given in full name. The table is arranged in chronological order of cession.

Date	Area Ceded (sq. mi.)	Tribe or Tribes
1763	540,000	French
1783	500,000	Spain
1800	500,000	Spain
1803	828,000	France
1804	500,000	Spain
1809	500,000	Spain
1810	500,000	Spain
1818	500,000	Spain
1819	500,000	Spain
1820	500,000	Spain
1824	500,000	Spain
1825	500,000	Spain
1829	500,000	Spain
1834	500,000	Spain
1835	500,000	Spain
1836	500,000	Spain
1839	500,000	Spain
1846	500,000	Spain
1848	500,000	Spain
1849	500,000	Spain
1850	500,000	Spain
1854	500,000	Spain
1855	500,000	Spain
1859	500,000	Spain
1860	500,000	Spain
1864	500,000	Spain
1865	500,000	Spain
1869	500,000	Spain
1870	500,000	Spain
1874	500,000	Spain
1875	500,000	Spain
1879	500,000	Spain
1880	500,000	Spain
1884	500,000	Spain
1885	500,000	Spain
1889	500,000	Spain
1890	500,000	Spain
1894	500,000	Spain
1895	500,000	Spain
1899	500,000	Spain
1900	500,000	Spain
1904	500,000	Spain
1905	500,000	Spain
1906	500,000	Spain
1907	500,000	Spain
1908	500,000	Spain
1909	500,000	Spain
1910	500,000	Spain
1911	500,000	Spain
1912	500,000	Spain
1913	500,000	Spain
1914	500,000	Spain
1915	500,000	Spain
1916	500,000	Spain
1917	500,000	Spain
1918	500,000	Spain
1919	500,000	Spain
1920	500,000	Spain
1921	500,000	Spain
1922	500,000	Spain
1923	500,000	Spain
1924	500,000	Spain
1925	500,000	Spain
1926	500,000	Spain
1927	500,000	Spain
1928	500,000	Spain
1929	500,000	Spain
1930	500,000	Spain
1931	500,000	Spain
1932	500,000	Spain
1933	500,000	Spain
1934	500,000	Spain
1935	500,000	Spain
1936	500,000	Spain
1937	500,000	Spain
1938	500,000	Spain
1939	500,000	Spain
1940	500,000	Spain
1941	500,000	Spain
1942	500,000	Spain
1943	500,000	Spain
1944	500,000	Spain
1945	500,000	Spain
1946	500,000	Spain
1947	500,000	Spain
1948	500,000	Spain
1949	500,000	Spain
1950	500,000	Spain
1951	500,000	Spain
1952	500,000	Spain
1953	500,000	Spain
1954	500,000	Spain
1955	500,000	Spain
1956	500,000	Spain
1957	500,000	Spain
1958	500,000	Spain
1959	500,000	Spain
1960	500,000	Spain
1961	500,000	Spain
1962	500,000	Spain
1963	500,000	Spain
1964	500,000	Spain
1965	500,000	Spain
1966	500,000	Spain
1967	500,000	Spain
1968	500,000	Spain
1969	500,000	Spain
1970	500,000	Spain
1971	500,000	Spain
1972	500,000	Spain
1973	500,000	Spain
1974	500,000	Spain
1975	500,000	Spain
1976	500,000	Spain
1977	500,000	Spain
1978	500,000	Spain
1979	500,000	Spain
1980	500,000	Spain
1981	500,000	Spain
1982	500,000	Spain
1983	500,000	Spain
1984	500,000	Spain
1985	500,000	Spain
1986	500,000	Spain
1987	500,000	Spain
1988	500,000	Spain
1989	500,000	Spain
1990	500,000	Spain
1991	500,000	Spain
1992	500,000	Spain
1993	500,000	Spain
1994	500,000	Spain
1995	500,000	Spain
1996	500,000	Spain
1997	500,000	Spain
1998	500,000	Spain
1999	500,000	Spain
2000	500,000	Spain
2001	500,000	Spain
2002	500,000	Spain
2003	500,000	Spain
2004	500,000	Spain
2005	500,000	Spain
2006	500,000	Spain
2007	500,000	Spain
2008	500,000	Spain
2009	500,000	Spain
2010	500,000	Spain
2011	500,000	Spain
2012	500,000	Spain
2013	500,000	Spain
2014	500,000	Spain
2015	500,000	Spain
2016	500,000	Spain
2017	500,000	Spain
2018	500,000	Spain
2019	500,000	Spain
2020	500,000	Spain
2021	500,000	Spain
2022	500,000	Spain
2023	500,000	Spain
2024	500,000	Spain

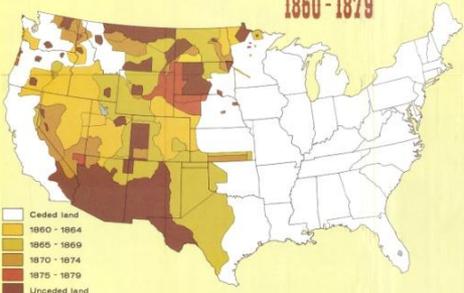
1840 - 1859



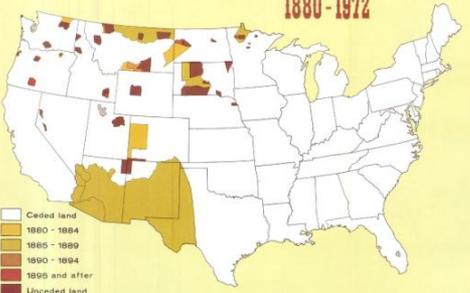
Present Indian Reservations



1860 - 1879



1880 - 1972



By 1881, Indian landholdings in the United States had plummeted to 156 million acres.

By 1934, only about 50 million acres remained (an area the size of Idaho and Washington) as a result of the General Allotment Act* of 1887.

During World War II, the government took 500,000 more acres for military use.

Over one hundred tribes, bands, and Rancherias relinquished their lands under various acts of Congress during the termination era of the 1950s.



Major Changes in Relations

- Treaties of Alliance (pre-US - 1830s) – “Independent Sovereign Nations”
- Domination/Conquest Era (1830s-1887)- Reservation Period, “Domestic dependent nations with limited Sovereignty”
- Assimilation Era (1887-1933)– General Allotment Act, “assimilate into society”, boarding schools and land allotments
- Recognition Era (1934-1945) – Buy Indian and Indian Reorganization Acts, recognition of tribal governments
- Termination Era (1945-1961) – 107 tribes were terminated
- Self Determination Era (1960’s-present) – Indian Self Determination Act



Basic Legal Principles of Federal Indian Law



Federal Indian law is a body of United States law that defines the unique legal and political status of federally recognized Indian tribes and Alaska Native communities.

- Includes treaties, statutes, executive orders, administrative decisions, and court cases



Indian Trust Responsibility

Indian trust responsibilities emanate from Indian treaties, statutes, Executive orders, and the historical relationship between the Federal Government and Indian tribes.

This responsibility is rooted, in large part, in the treaties through which tribes ***ceded portions of aboriginal lands to the United States government*** in return for promises to protect tribal rights as self-governing communities within the reserved lands and certain rights to use resources off of the reserved lands.



What is 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).
- This obligation was first discussed by Chief Justice John Marshall in Cherokee Nation v. Georgia (1831).
- Over the years, the trust doctrine has been at the center of numerous other Supreme Court cases, thus making it one of the most important principles in federal Indian law.



Major Supreme Court Decisions

❖ Marshall Trilogy:

- Johnson v M'Intosh (1823)
- Cherokee Nation v Georgia (1831)
- Worcester v Georgia (1832)



❖ US v Winans (1905)

❖ Seminole Nation v US (1942)

❖ US v Mitchell (1980) and US v Mitchell (1983)

❖ US v Jicarilla Apache Nation (2011)



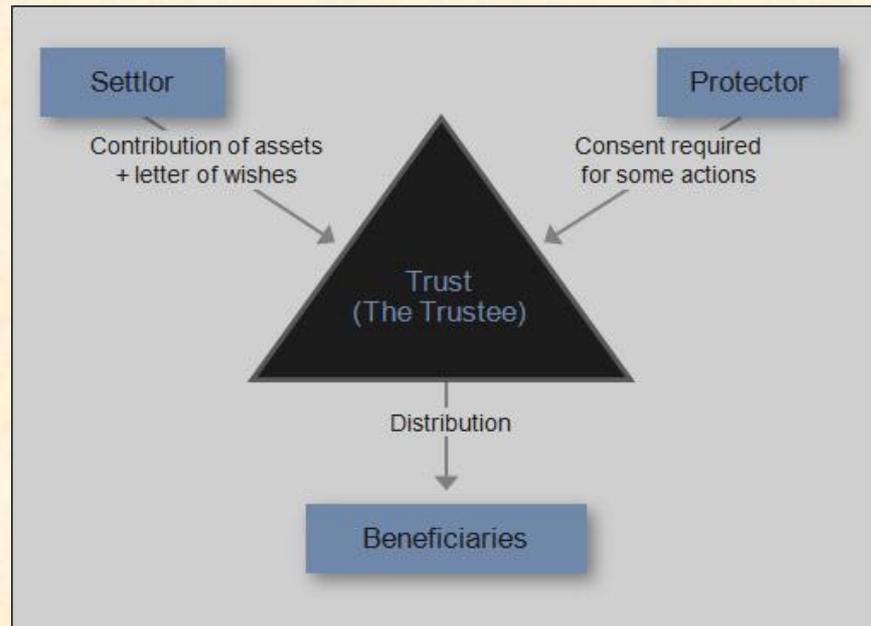
What is the federal Indian trust responsibility? (continued)

- The federal Indian trust responsibility is 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.
- In several cases discussing the trust responsibility, the Supreme Court has used language suggesting that it entails **legal duties, moral obligations, and the fulfillment of understandings and expectations** that have arisen over the entire course of the relationship between the United States and the federally recognized tribes.



What is Fiduciary Trust?

1. Remain **loyal** to the beneficiary
2. Act in the beneficiary's best interests
3. Act with all the **skill, care, diligence, and expertise** at disposal
4. To **preserve, protect, and maintain** the trust property



Federal Trust Responsibility to Tribes

What is it?

“At its broadest, the (trust) relationship includes a mixture of legal duties, moral obligations, understandings and expectancies that have arisen from an entire course of dealing between federal government and the tribes. In its narrowest and most concrete sense...it approximates that of a trustee and beneficiary, with the trustee (the United States) subject in some degree to legally enforceable responsibilities.”
William C. Canby, Jr., *American Indian Law in a Nutshell* 34 (4th ed., West 2004).

How does it impact federal agencies?

Under the trust doctrine the federal government has “charged itself with moral obligations of the highest responsibility and trust which requires agencies to ensure the protection of tribal interests as they fulfill their overall missions.”

Seminole Nation v. United States,
316 U.S. 286



Tribal Consultation

“Federally recognized Indian tribes are sovereign nations exercising government-to-government relations with the United States. Where the **public lands** are concerned, these relations usually take the form of legally required **consultation.**”

The General Authorities requiring tribal consultation:

- Federal Lands Policy and Management Act (FLPMA)
- National Environmental Policy Act (NEPA)
- American Indian Religious Freedom Act (AIRFA)
- E O No. 12898, “Federal Actions to Address Environmental Justice in Minority and Low-Income Populations”
- E O No. 13007, “Indian Sacred Sites”
- E O No. 13175, “Consultation and Coordination with Tribal Governments”

Tribal consultation required under Cultural Resource Authorities:

- National Historic Preservation Act (NHPA)
- Archaeological Resources Protection Act (ARPA)
- Native American Graves Protection and Repatriation Act (NAGPRA)



Government-to-Government Relations and Tribal Consultation Requirements

Government-to-Government Relations

- Each tribe is a separate sovereign, distinct from federal government and separate from state governments.
- As such, each agency is expected to carry out their dealings with tribes in the framework of government-to-government relationship.

Tribal Consultation

Requires **meaningful, timely, on-going** consultation **on the development of federal policies that have tribal implications.**

Differs from “public participation” in that consultation is two-way communication which entails considering views of others with a goal of reaching consensus.

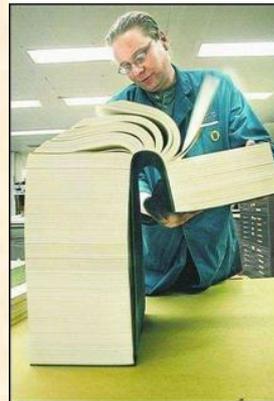


Importance of Consultation

- Critical part of trust doctrine
- Process just as important as substance

Process:

1. Inform early
2. Give time to consider
3. Maintain dialogue
4. Document process
5. Accept recommendations or provide detailed written reasons why not



LET'S CONSULT



Government to Government Executive Order 13175 (2009)

- Agencies must:
 - **Honor** tribal treaty and other rights,
 - **Respect** Indian tribal self-government and sovereignty,
 - **Strive** to meet the responsibilities of the unique legal relationship
 - Grant Indian tribal governments the maximum administrative **discretion** possible



Summary

- ❖ Historically there have been several different eras of Indian policy within the United States with distinct approaches
- ❖ Current policy recognizes Indian tribes as sovereign nations (domestic dependent) with the right to govern themselves and their members
- ❖ United States may impose its laws on tribes and tribal members
- ❖ United States must exert its power consistent with its trust responsibility to ensure the protection of tribal interests
- ❖ The unique federal/tribal relationship is “political” not based on race.

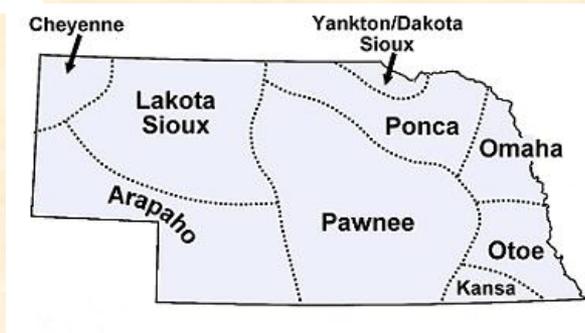
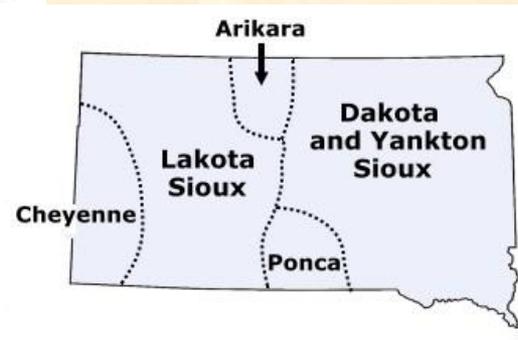
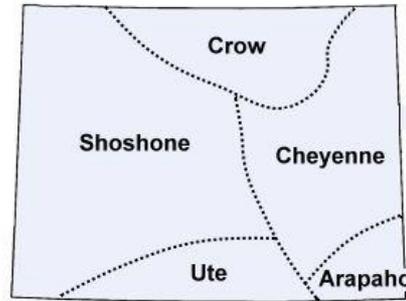
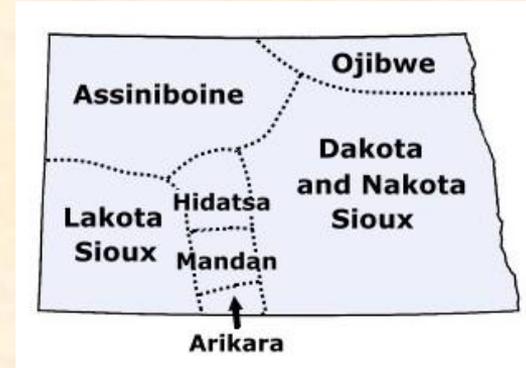
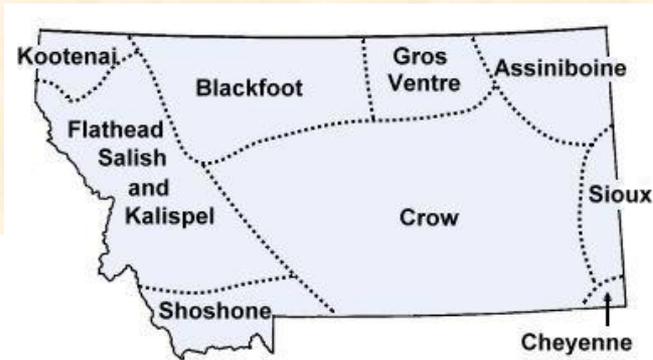


MT/DAKs BLM - Background

- MT/DAKs – Confluence of Three Cultural Areas:
Great Plains, Columbia Plateau, Great Basin
- Reservations
 - Montana has 7 Reservations, 11 Different Tribes
 - South Dakota 8 Reservations all Sioux (Lakota, Nakota, Dakota)
 - North Dakota 4 Reservations, 6 Different Tribes
- Aboriginal Territory
 - Additional 10 Tribes on 8 Reservations in Idaho, Minnesota, Nebraska, Washington, and Wyoming
- Bakken Region
 - 17 Tribes have expressed interests in this area



Aboriginal Territories



Tribal Consultation and the NHPA

“Section 101(d)(6)(B) of the act (NHPA) requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking.”



Tribal Consultation and the NHPA (continued)

“The agency official shall ensure that consultation in the section 106 process provides the Indian tribe or Native Hawaiian organization a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects.” [36CFR800.2(c)(2)(ii)(A)]



Tribal Consultation



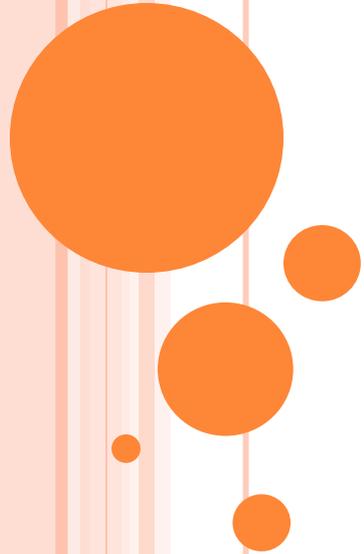
Questions?





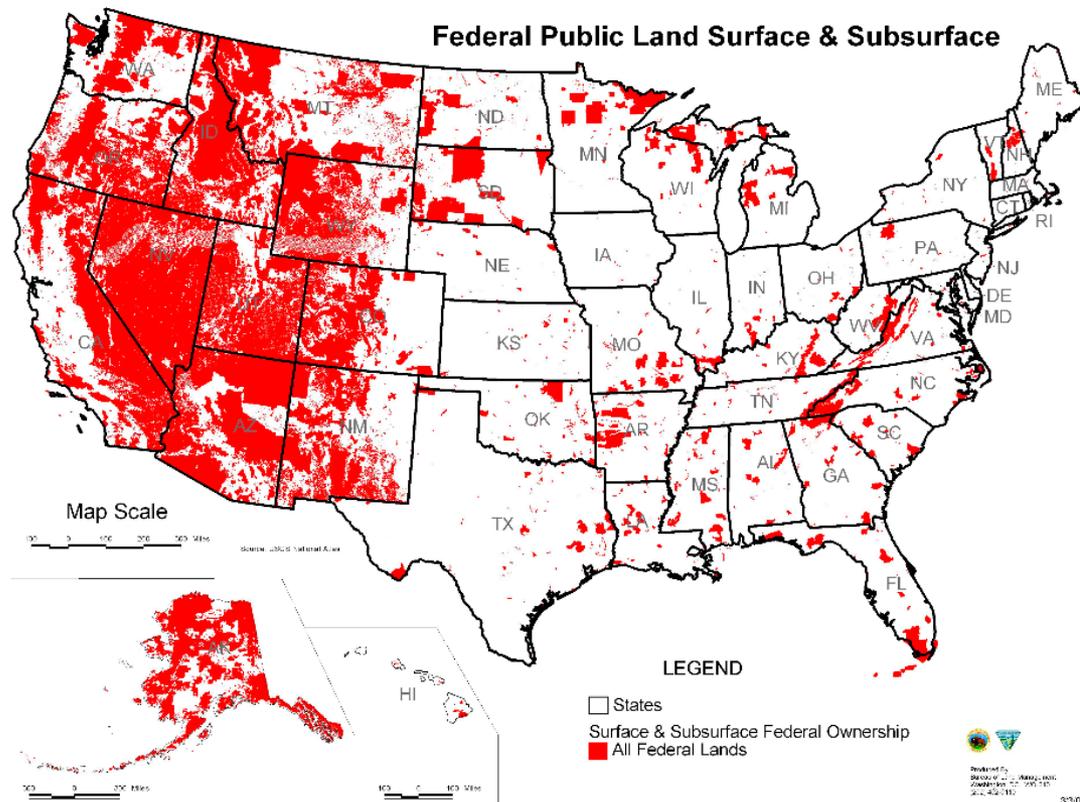
Bureau of Land Management

Fluid Mineral Development



2013 BLM OIL AND GAS QUICK FACTS

- Land/Leases -
 - 47,427 Federal onshore leases
 - 36.1 million acres



2013 BLM OIL AND GAS QUICK FACTS

- Land/Leases -
 - 47,427 Federal onshore leases
 - 36.1 million acres
- Actions -
 - 33,262 Inspections

2013 BLM OIL AND GAS QUICK FACTS

- Land/Leases -
 - 47,427 Federal onshore leases
 - 36.1 million acres
- Actions -
 - 33,262 Inspections
 - 93,600 Producing Wells

2013 BLM OIL AND GAS QUICK FACTS

- Land/Leases -
 - 47,427 Federal onshore leases
 - 36.1 million acres
- Actions -
 - 33,262 Inspections
 - 93,600 Producing Wells
 - 6,711 APDs approved awaiting drilling

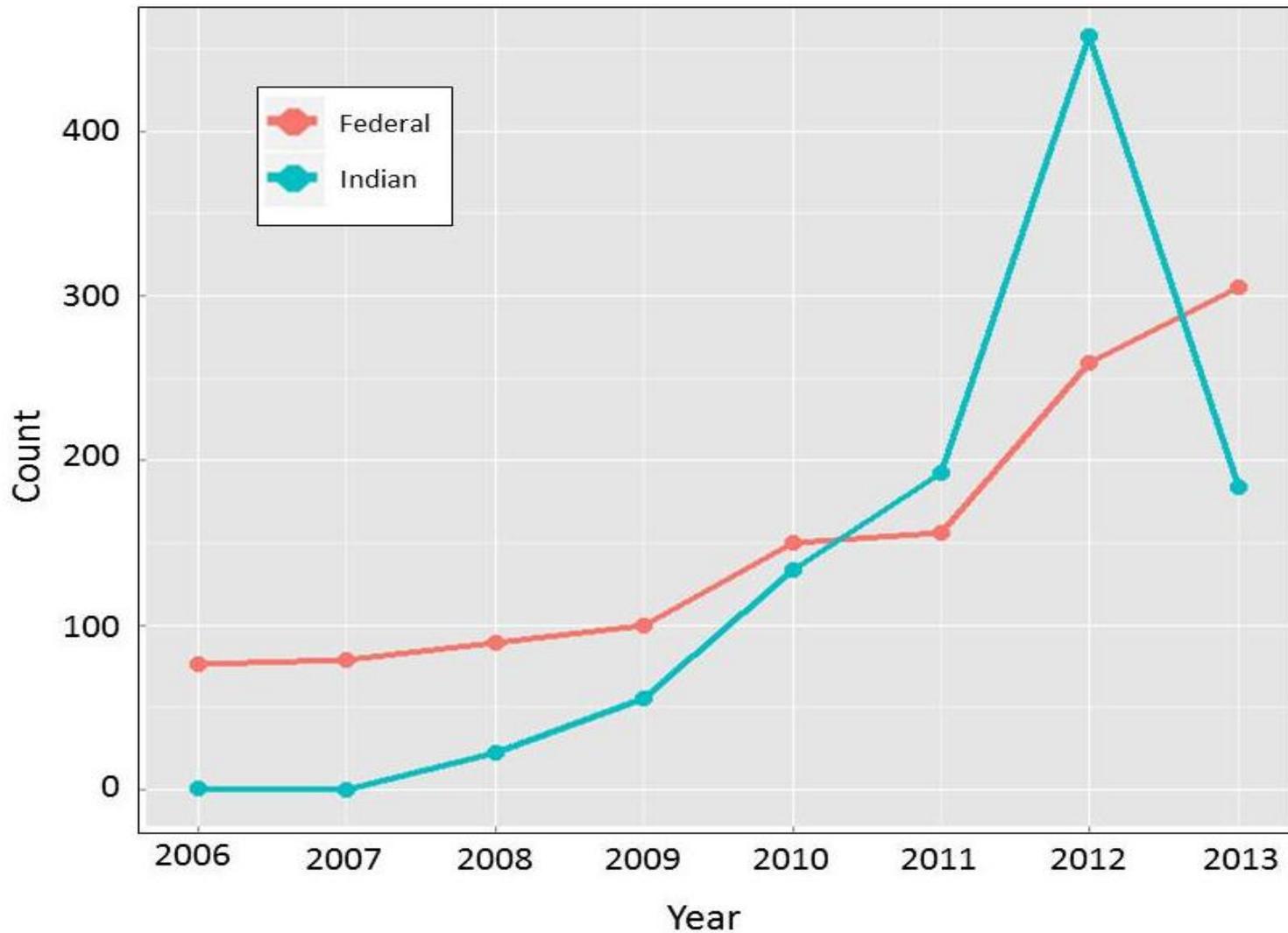
2013 BLM OIL AND GAS QUICK FACTS

- Land/Leases -
 - 47,427 Federal onshore leases
 - 36.1 million acres
- Actions -
 - 33,262 Inspections
 - 93,600 Producing Wells
 - 6,711 APDs approved awaiting drilling
 - 3,546 APDs pending (under review)

NORTH DAKOTA – THE GAME CHANGER



PROCESSED APDs IN NORTH DAKOTA



YOUR STORY

- Over 14 Times more APDs – since 2006
 - How many more APDs do we expect?

YOUR STORY

- Over 14 Times more APDs – since 2006
 - How many more APDs do we expect?
 - How are inspection going?

YOUR STORY

- Over 14 Times more APDs – since 2006
 - How many more APDs do we expect?
 - How are inspection going?
 - How is communication going between
 - Landowners?
 - Operators?
 - BLM?
 - State?

YOUR STORY

- Over 14 Times more APDs – since 2006
 - How many more APDs do we expect?
 - How are inspection going?
 - How is the communication going with...?
 - Landowners
 - Operators
 - BLM
 - State
- How can WO support the great job you are doing?
- How can WO help you achieve your goals?

WASHINGTON, D.C.



WASHINGTON, D.C.



WHAT IS WASHINGTON WORKING ON?

- What can we do to address venting and flaring?

WHAT IS WASHINGTON WORKING ON?

- What can we do to address venting and flaring?
- Regional Mitigation – off-site mitigation
 - Bakken Federal Executive Group (BFEG)
 - Takes a landscape-scale perspective to energy development

WHAT IS WASHINGTON WORKING ON?

- What can we do to address venting and flaring?
- Regional Mitigation – off-site mitigation
 - Bakken Federal Executive Group (BFEG)
 - Takes a landscape-scale perspective to energy development
- Policies for Oil and Gas
 - Wells drilled from private surface
 - Drilling w/o approval and trespass
 - Updated Geophysical Manual and Handbook
 - Updated Split Estate Manual and Handbook

WHAT IS WASHINGTON WORKING ON?

- AFMSS 2.0 – ready in 2017
 - Will require operators to submit APD electronically
 - Will require all items in Onshore Order 1
 - Entire surface use plan of operations (SUPO)
 - Will allow all users to track APD progress in the system

WHAT IS WASHINGTON WORKING ON?

- AFMSS 2.0 – ready in 2017
 - Will require operators to submit APD electronically
 - Will require all items in Onshore Order 1
 - Complete surface use plan of operations
 - Will allow all users to track APD progress in the system
- Master Leasing Plans (MLP)
 - BLM has 15 confirmed MLPs in development
 - Involve preplanning and analysis of distinct areas
 - Minimizes conflict
 - Lander Wyoming – Beaver Rim MLP
 - Carter MLP – part of the Miles City RMP Revision



THANK YOU! FROM WO.

Travis Kern

Natural Resource Specialist

twkern@blm.gov

202-912-7154

It's been great to be back.

PERMITTING PROCESS

Lori Ford
Natural Resource Specialist (NRS)
Bureau of Land Management
North Dakota Field Office
May 2014

GENERAL INFORMATION

- ▣ Outline
 - General APD Information
 - Common APD Deficiencies
 - Notice of Staking (NOS) vs Early Notification
 - Internal Scoping for Potential Conflicts Between Fluid Mineral Development & Resources Within the Proposed Project Area
 - Onsite Inspections
 - Evaluation & Discussion of Potential Conflicts Between Fluid Mineral Development & Resources Within the Proposed Project Area
 - Development of Applicant Committed Measures
 - BMPs

GENERAL INFORMATION

- Pad Placement & COAs
 - Pad Placement Drives the COAs
 - Applicant Committed Measures & BMPs That Are Not Included As Part Of The Proposed Action In The APD Are Carried Forward As COAs
- Sundry Notice (Form 3160-5)
 - Sundry Notice (SN) General Information
 - NOI vs SR
 - FAN

Common APD Deficiencies

- ▣ Existing Roads
 - Lack of a statement in the SUPO that existing roads will be maintained in the same or better condition as than before operations began
- ▣ New or Reconstructed Access Roads
 - Show existing & proposed access road structures (culverts, etc) & label them as such
 - If an access road was already approved in an AAPD, please do not label it as “new” construction in a subsequent APD.
- ▣ Location of Existing Wells
 - X
- ▣ Location of Existing +/-or Proposed Production Facilities
 - Diagram of facilities & lines on or off pad
 - Diagram differentiating between proposed and existing flowlines
 - Proposed flowlines may require additional NEPA and cultural surveys.

Common APD Deficiencies

- ▣ Location and Types of Water Supply
 - Water Haul Route
 - ▣ Show on a map with a reference town
- ▣ Construction Materials
 - Source of materials
- ▣ Methods For Handling The Waste
 - Construction and lining of the cuttings pit
 - No pits are allowed within the boundaries of the Fort Berthold Indian Reservation per Tribal Resolution
- ▣ Ancillary Facilities
 - X

Common APD Deficiencies

- ▣ Well Site Layout
 - Diagram of well site layout
 - Diagram of cuts & fills
- ▣ Surface Reclamation
 - Fully explain what will be done for interim reclamation (pit closure, topsoil placement, seeding, erosion control, establishing drainage, etc.)
 - Closed pits should be covered with a minimum of 4' soil and graded to allow the water to drain and prevent ponding
 - Cut and fill slopes reclamation should be 3:1 & 2:1 respectively

Common APD Deficiencies

- ▣ Surface Ownership
 - Self Certification not included (there are 5 options to select from on this with #5 pertaining to Fee/Fee/Fed mineral development)
 - SUPO sent to Surface Owner
- ▣ Other Information
 - Pest Management
 - Copy and paste errors (information from a previous APD is inadvertently included in a new APD).

**SELF-CERTIFICATION STATEMENT
FROM LESSEE/OPERATOR**

SURFACE OWNER IDENTIFICATION

Federal or Indian Lease No. _____

Well(s) Number and Location _____

I hereby certify to the Authorized Officer of the Bureau of Land Management that I have reached one of the following agreements with the Surface Owner; or after failure of my good-faith effort to come to an agreement of any kind with the Surface Owner, I will provide a bond or comply with State requirements:

- 1) _____ I have a signed access agreement to enter the leased lands;
- 2) _____ I have a signed waiver from the surface owner;
- 3) _____ I have entered into an agreement regarding compensation to the surface owner for damages for loss of crops and tangible improvements.
- 4) _____ Because I have been unable to reach either 1), 2), or 3) with the surface owner, I will obtain a bond to cover loss of crops and damages to tangible improvements.
- 5) _____ Because this well is located on privately owned surface overlying privately owned minerals, and I have been unable to reach either 1), 2), or 3) with the surface owner, I will comply with the state of North Dakota's Oil and Gas Production Damage Compensation requirements (NDCC 38-11.1).

Surface owner information: (if available after diligent effort)

Surface Owner Name: _____

Surface Owner Address: _____

Surface Owner Phone Number: _____

**Early Notification
Vs
Notice Of Staking (NOS)**

Information BLM Needs For Both Early Notification & NOS

Requested Information- Map of the proposed project area (1:24K preferably), Mineral development information: type of mineral to be developed, lease/agreement #, API#, contact information for the operator and the contact person, well name & number, legal land description, county & state; mineral ownership (if Indian- Allottee or Tribe Name, surface owner contact information, and signature & date.

Additional Information- Cut & Fill Diagram and Production Layout Diagram.

Early Notification

- Early notification- Is voluntary and would precede the NOS or filing of the APD.
- The operator contacts the Surface Management Agency/Entity (SMA/SME) and/or the surface owner to request a planning conference as soon as the potential area of development has been identified.
- The operator must provide the SME with a map of the project area to identify potential conflicts with cultural or biological resources.

Early Notification

- Early planning provides the stakeholders an opportunity to identify areas of potential conflict, discuss seasonal restrictions and unusual conditions on the lease area.
- Does not meet the 30 Day Posting Period for the Public notification requirement.

Notice of Staking (NOS)

- ▣ Precedes the APD.
- ▣ Does NOT replace the APD.
- ▣ Purpose- to provide the operator with an opportunity to address site –specific resource concerns while preparing the APD package.
- ▣ Starts the 30 day Public notification process for the Proposed Action.

Notice of Staking (NOS)

- ▣ The SME/SMA will contact the operator within 10 days of receiving the NOS to schedule an onsite.
- ▣ NOS is returned if the APD is NOT submitted within 60 days.
- ▣ Required Information- See Attachment in OO#1: « Sample Format for Notice of Staking ».

APD processing critical steps: What actions are required by the BLM and the Operator?

Within 10 days of receiving an NOS or an APD, the BLM (in consultation with any other applicable Surface Management Agency (SMA)), will:

- Review the NOS or APD for the required information; and
- Schedule an onsite inspection with the operator and SMA, including the private surface owner (if applicable). **NOTE:** This does not imply that the BLM must conduct the onsite inspection within the 10 days, just schedule the onsite.

The BLM and the Federal SMA (i.e., USFS) must provide at least 30 days public notice (posting) of the required information from the APD or corresponding NOS before the BLM may approve an APD for a Federal well.

The regulations do not require the BLM to post an APD for an Indian oil and gas well.

Posting will be in an area of the BLM field office having jurisdiction over the NOS/APD that is readily accessible to the public and, when possible, electronically on the internet (43 CFR 3162.3-1(g); Order 1, III.E.1).

Notice of Staking Option

For an NOS onsite inspection, all parties who attend the onsite inspection will develop a list of resource concerns that the operator must address in the APD, if any.

- The BLM will provide this list to the operator either at the onsite inspection or within 7 days of the onsite by a letter or email (Order 1, III.C).
- The BLM should also include a list of recommended Best Management Practices (BMP) including ideas of interim reclamation needs for consideration by the operator in their APD.

- Within 60 days of the onsite inspection for an NOS, the operator must submit the corresponding APD or the BLM will return the NOS to the operator (Order 1, III.C).
- If the operator chooses to follow the NOS option, but does not submit their APD within 60 days of the onsite inspection, the BLM will return the NOS, void the posting period, and may require a new onsite inspection.

ONSITES

Our Challenge

Achieving Balance

DEVELOPING ENERGY

PROTECTING THE ENVIRONMENT



Onsites

- ▣ Goals
 - Reduce/Eliminate Unnecessary Degradation to the Environment
 - Protect Resources- Avoidance and Mitigation
 - Achieve Optimal Mineral Development.
- ▣ Considerations in pad placement-
 - Minimal Cuts & Fills
 - Topsoil Placement
 - Proximity to Water & Sensitive Resources
 - Visual Resource Impacts
 - Social Values

Location, Location, Location!

Minimal Cuts & Fills



Location, Location, Location!





Location, Location, Location!





AM 8:23 MAR/20/2014



AM 8:22 MAR/20/2014



AM 8:22 MAR/20/2014



PM 1:49 MAY/15/2014



PM 1:50 MAY/15/2014



PM 1:52 MAY/15/2014





PM 1:54 MAY/15/2014



PM 1:56 MAY/15/2014



PM 1:57 MAY/15/2014



PM 1:57 MAY/15/2014



PM 1:57 MAY/15/2014





PM 1:58 MAY/15/2014



PM 1:59 MAY/15/2014



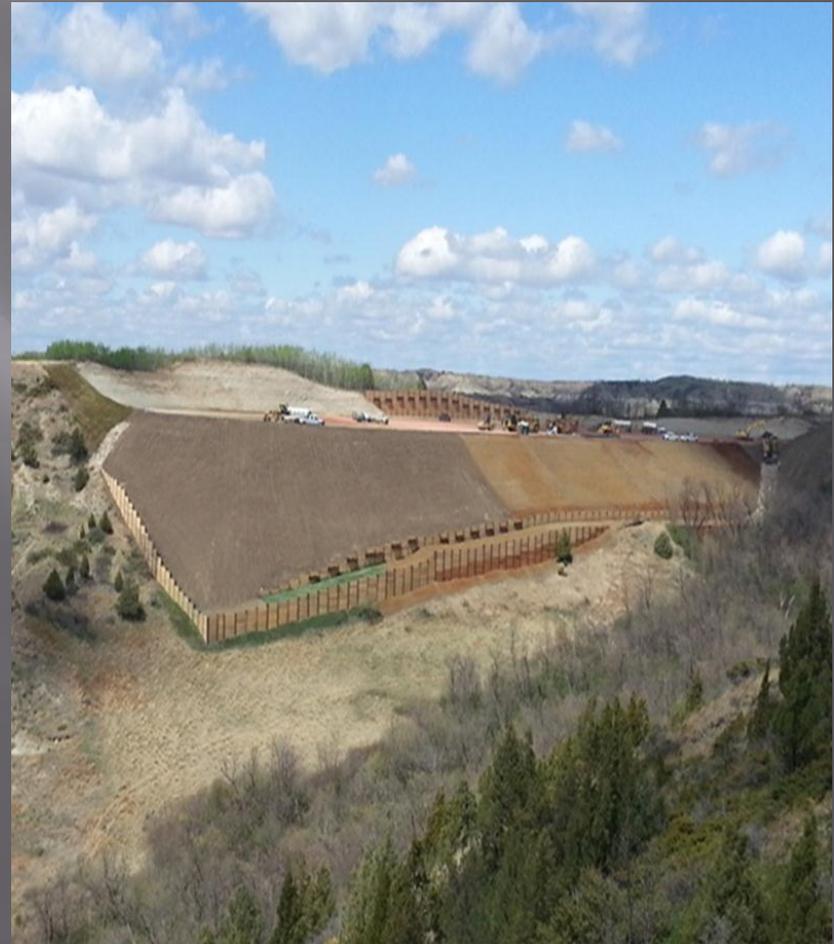
COAs

- ▣ Site Specific COAs
- ▣ Engineered geotextile design for soil & slope stabilization.
- ▣ Tanks placed on cut and out of the viewshed of travelers using the scenic byway.
- ▣ Secondary and tertiary pad containment berms.



Operator Committed Measures

- ▣ OPTIMIZED MULTI-WELL PROCESS
- ▣ Reduction in facilities footprint
- ▣ Closer wellhead spacing- Rig Selection
- ▣ Engineered, geotextile slope stabilization
- ▣ Erosion Control Structures
- ▣ BMPs



Location, Location, Location!

Construct a new pad or

expand the existing pad?



Shared Access Road for Field Development



Facilities Placement





AM 11:33 MAY/15/2014

Viewshed



Viewshed



Applicant Committed Measures

FUGITIVE DUST



POSEIDON TANKS



Best Management Practices

- ▣ By Doing This.....

A Choice of Color



Interim Reclamation



AM 6:18 JUN/19/2013

SUNDRY NOTICES

Form 3160-5

What Is A Sundry Notice For?

- ▣ Three General Categories
 - Notice of Intent (NOI)
 - Subsequent Report (SR)
 - Final Abandonment Notice (FAN)

Regulatory Authorities

- ▣ 43 CFR 3162.3-3
- ▣ “Prior to commencing any operation on the leasehold which will result in additional surface disturbance...the operator shall submit a proposal on Form 3160-5 to the authorized officer for approval. The proposal shall include a surface use plan of operations.”

Regulatory Authorities

- ▣ Onshore Oil and Gas Order No. 1
- ▣ VIII. Subsequent Operations and Sundry Notices

▣ VIII. Subsequent Operations and Sundry Notices

- “Lessee and operators must submit...[a Sundry Notice] before:

- ▣ Undertaking any subsequent new construction outside the approved area of operations; or
- ▣ Reconstructing or altering existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities.”
- ▣ “If at the time the APD was filed, the lessee or operator elected to defer submitting information...(Location of Existing and /or Proposed Facilities)...the lessee or operator must supply this information before construction and installation of the facilities.”

Common Actions Requiring a SN

- ▣ Water Disposal
- ▣ Change to Plans
- ▣ Convert to Injection
- ▣ Deepen
- ▣ New Construction
- ▣ Plug & Abandon
- ▣ Production (Start/Resume)
- ▣ Reclamation
- ▣ Recomplete
- ▣ Temporarily Abandon

NOI or SR For Proposed Activity?

NOI

- ▣ The operator is requesting permission to conduct an action/activity
- ▣ Changes to the APD SUPO
- ▣ Water Disposal

SR

- ▣ The operator is following up on an action BLM directed
- ▣ P&A –plugging the well or reclamation reports.

Final Abandonment (FAN)

- ▣ Submitted after the Plug & Abandonment (P&A) AND the operator is ready to have the FINAL INSPECTION conducted for the release of the bond.
- ▣ This means that final reclamation is complete and the vegetative cover is satisfactory to the authorized officer.

Final Abandonment (FAN)

- ▣ **Regulatory Authorities**

- ▣ 43 CFR 3162.3-4(c)

- “Upon the removal of drilling or producing equipment from the site of a well which is to be permanently abandoned, the surface of the lands disturbed in connection with the conduct of operations shall be reclaimed in accordance with a plan first approved or prescribed by the authorized officer.”

- ▣ Onshore Order No. 1 (XII.B)

- “Final abandonment will not be approved until the surface reclamation work required in the Surface Use Plan of Operations (SUPO) or Subsequent Report of Plug and Abandon has completed to the satisfaction of the BLM or the FS and Surface Managing Agency, if appropriate.”

Surface/Environmental Review of SN

- ▣ If actions approved under a SN will result in new surface or additional disturbance, the proposal must include a SUPO or refer to an approved SUPO.
- ▣ The agency may add COAs to the SN that are developed in the environmental record of review.
- ▣ See 43 CFR 3162.5-1(a)
- ▣ Surface disturbing actions may require an onsite, Interdisciplinary Team (IDT) analysis, additional NEPA analysis and/or consultation.

SN Processing Time

- ▣ SN processing time is variable based upon the complexity of the Proposed Action.
- ▣ In most cases, SNs are processed in 1-2 weeks.
- ▣ Complex actions may require several months.

Water Disposal

▣ Regulatory Authorities

■ 43 CFR 3162.5-1(b)

- ▣ “All produced water must be disposed of by injection into the subsurface, by approved pits, or by other methods which have been approved by the authorized officer.”

■ Onshore Oil & Gas Order No. 7

▣ Disposal of Produced Water

- Injection
- Disposal to pits- NOT PERMITTED BY BLM IN ND
- Other acceptable methods
- Disposal requirements differ for on-lease and off-lease disposal

Water Disposal

- Onshore Oil & Gas Order No. 7
 - Disposal of Produced Water
 - Injection
 - Disposal to pits- NOT PERMITTED BY BLM IN ND
 - Other acceptable methods
 - Disposal requirements differ for on-lease and off-lease disposal

- SN can be denied for Adverse effects to Federal Lease



Any Exceptions?

▣ Questions?

National Environmental Policy Act



Amelia Pennington
Natural Resource Specialist
apennington@blm.gov

NEPA- January 1, 1970

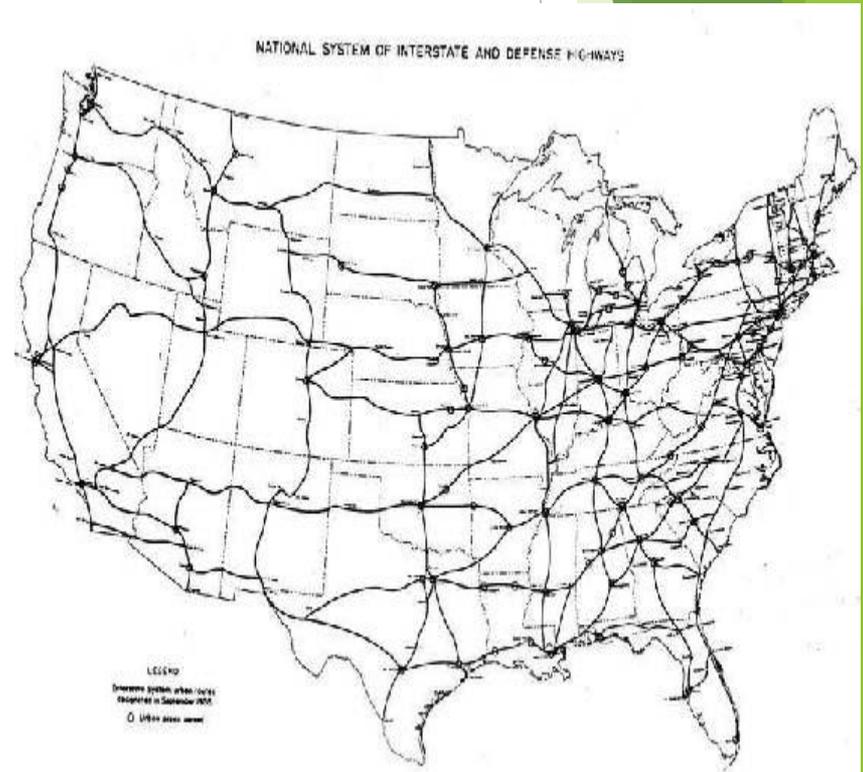
- ▶ Create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.
- ▶ NEPA did not advocate environmental preservation at all costs. Rather, it sought to balance environmental concerns with the social, economic, and other requirements of present and future generations of Americans.

1969 Santa Barbara Oil Spill



Picture from The Coast

Interstate Highway System



BLM and NEPA

- ▶ NEPA establishes a public, interdisciplinary framework for Federal decision-making and ensures that agencies (BLM and all other agencies) take environmental factors into account when considering Federal actions.
- ▶ NEPA does not mandate protection of the environment.
- ▶ Instead, it requires agencies to follow a particular process in making decisions and to disclose the information/data that was used to support those decisions.

When Does NEPA Apply

Federal Action

- ▶ Federal Actions
 - ▶ Actions on federal resources
 - ▶ Building highways
 - ▶ Federal/Indian oil leases and wells
 - ▶ Prescribed fire
 - ▶ And much more....
- ▶ Use of Federal Money

When Does NEPA Apply

Connected Action

If But for this well pad, then this powerline would not be here.

- ▶ Flowlines
- ▶ Roads
- ▶ Powerlines
- ▶ Off site pits
- ▶ Extra Material

WHY NEPA?









How is NEPA Implemented

- ▶ Categorical exclusion-CX
- ▶ These types of proposed activities do not individually or cumulatively have significant environmental effects and may be exempt from requirements to prepare an environmental analysis. These actions are not included in the online registers.

How is NEPA Implemented

Environmental Assessment-EA

An EA is prepared to determine if a proposed action or alternative will significantly affect the quality of the human environment. If the impacts are determined to be insignificant, a Finding of No Significant Impact (FONSI) is prepared and is made a part of the decision. If the impacts are determined to be significant, the proposed action may be rejected, modified, or an Environmental Impact Statement (EIS) may be prepared. Public involvement activities for an EA range from notifying those directly affected by the proposed action to providing review drafts for public comment and conducting workshops and meetings.

How is NEPA Implemented

Environmental Impact Statement-EIS

Major federal actions that may significantly affect the human environment require that an Environmental

How is NEPA Implemented

Determination of NEPA Adequacy- DNA

A Documentation of NEPA Adequacy (DNA) documents that previously prepared NEPA documents adequately describe the environmental consequences of a newly proposed action. In most cases, a DNA is prepared without additional public involvement activities.

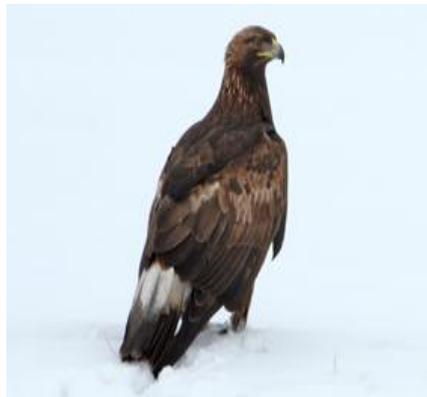
Multiple well pad

- ▶ Let us know the total number of Federal or Indian wells that will be on the pad.

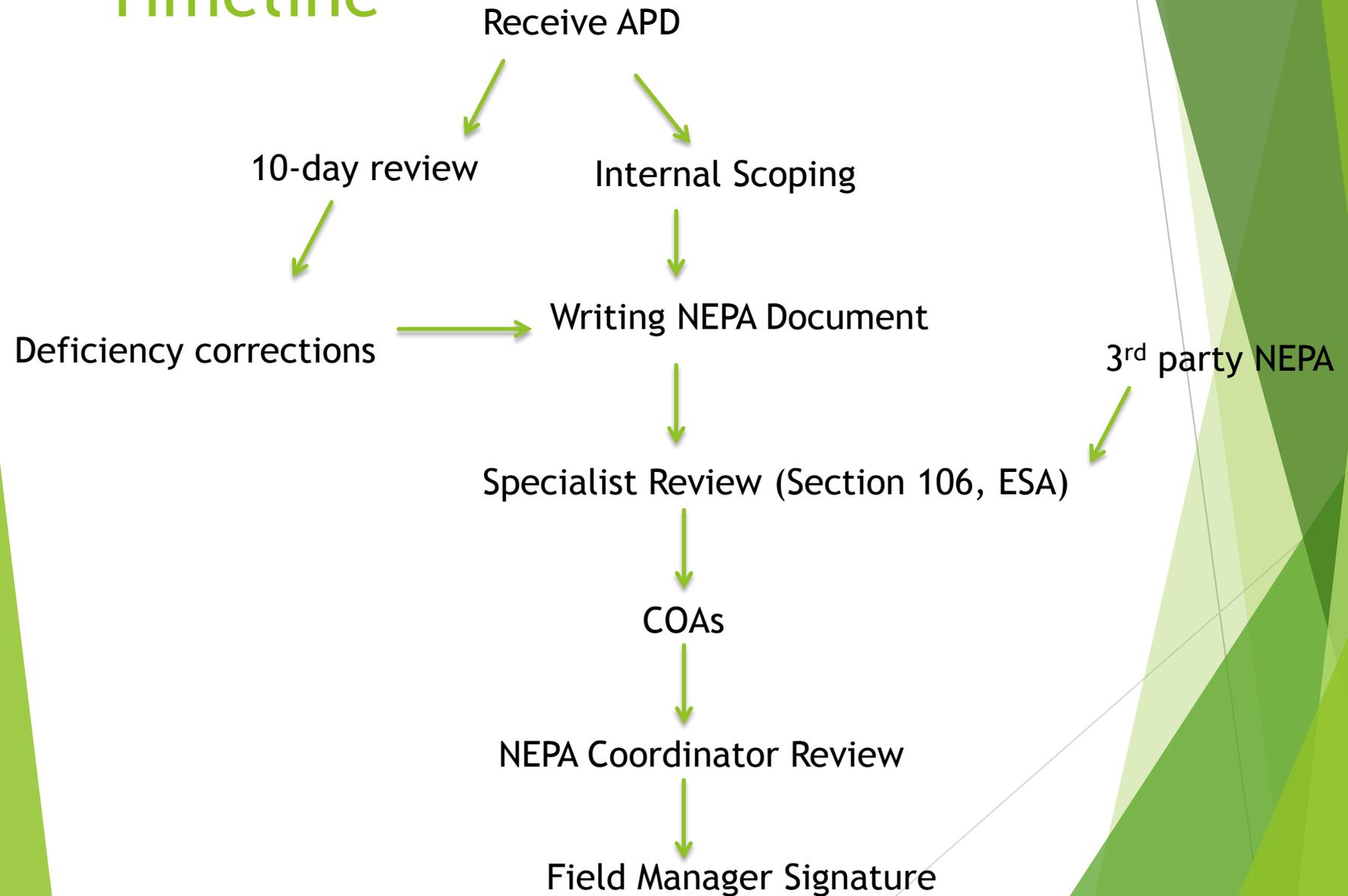


How does NEPA relate to other Federal Acts?

- ▶ Endangered Species Act
- ▶ National Historic Preservation Act
- ▶ Clean Water Act
- ▶ Clean Air Act
- ▶ Migratory Bird Treaty Act
- ▶ Bald and Golden Eagle Act



Timeline



Lease Stipulations/ BMPs/Mitigation/COAs

- ▶ Examples:
 - ▶ Timing Stips
 - ▶ Distance from nesting eagle
 - ▶ Erosion
 - ▶ Interim Reclamation
 - ▶ Etc...



Any Questions?



Environmental Inspections

Mark Glaser
Natural Resource Specialist
Bureau of Land Management
North Dakota Field Office

Introduction

- Inspection of Surface Operations on Federal and Indian Leases.
 - Ensuring environmentally responsible fluid mineral development on federal and Indian leases

Overview



- Laws and Regulations
- Types of Environmental Inspections
 - What we Inspect

Laws

- Mineral Leasing Act (30 U.S.C. § 181 et seq.)

“...ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment of cessation of oil and gas operation on the lease.”

- Federal Oil and Gas Royalty Management Act
(30 U.S.C. § 1718(b))

“Authorized and properly Identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites...for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this chapter.”

Laws

- Federal Onshore Oil and Gas Leasing Reform Act
(30 U.S.C. § 226 (g))

“The Secretary of the Interior... shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources.”

Code of Federal Regulation

- 43 CFR 3160 Onshore Oil & Gas Operations
- 43 CFR 3162.3-1(f) Drilling Applications & Plans
- 43 CFR 3162.3-3 Other Lease Operations
- 43 CFR 3162.5-1 Environmental Obligations
- 43 CFR 3162.5-3 Safety Precautions

Onshore Oil and Gas Order No. 1

- “The operator must comply with the provision of the approved APD and applicable laws, regulations, Orders, and notices to lessees...”

Enforceable Authorities

- 1. Federal Regulations (43 CFR 3160)
- 2. Notices to Lessees (NTLs)
- 3. Onshore Oil and Gas Orders (Onshore Order #1)
- 4. Lease Terms and Conditions
- 5. Approved permit (Conditions of Approval)
- 6. Orders and instructions of the authorized officer

Environmental Inspections Conducted

- Construction
- Drilling
- Interim Reclamation
- Production
- Final Reclamation/Abandonment

Construction Inspection



Topsoil

Construction Inspection

Pad Dimensions



Construction Inspection

Where's the Dirt?



Construction Inspection



Construction Inspection



Erosion Control

Construction Inspection



05/27/2012

Construction Inspection

- Topsoil
- Pad Dimension
- Cuttings Pit
- Erosion Control



Drilling Inspection



Drilling Inspection



Sewage System

Drilling Inspection



Drilling Inspection

Drill Cuttings



Drilling Inspection



Drilling Inspection



Drill Cuttings

04/09/2014 10:24

Drilling Inspection



Cuttings Pit

07/17/2013

Drilling Inspection

- Rig Wash
 - Trench
 - Berm
 - Pipe with Plastic Liner
- Trash
 - On and Off Location
 - Access Road
- Spills / Leaks
 - On and off location
 - Access Road



Drilling Inspection

Sewage

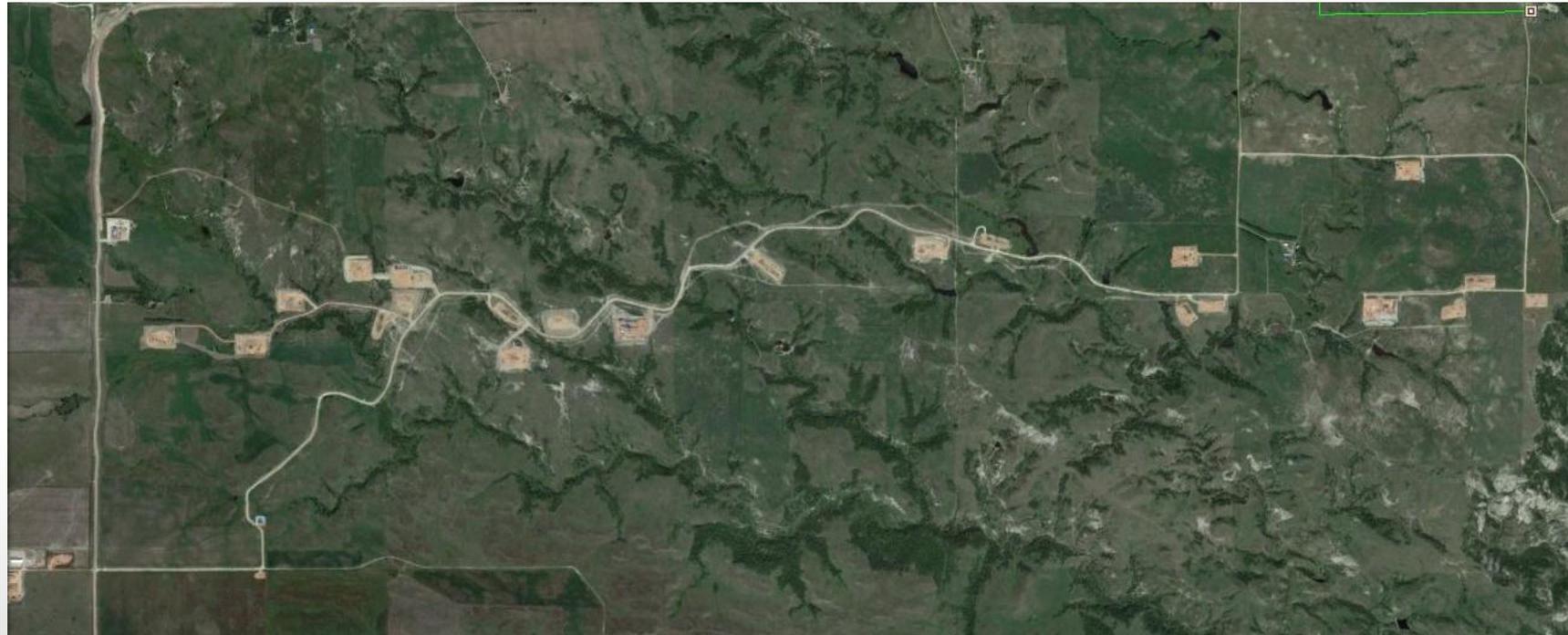
Cuttings

Cuttings Tank/Pit

Rig Wash

Trash

Spills/Leaks



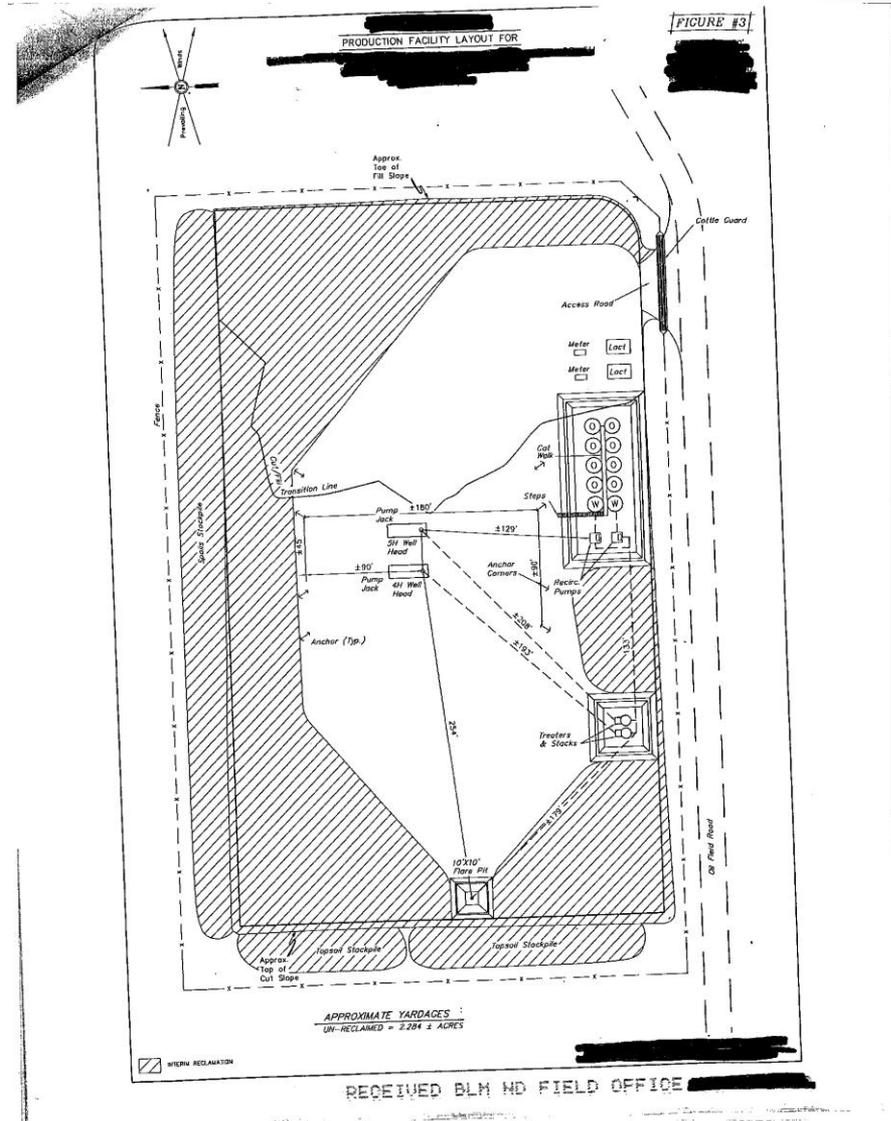
Interim/Production Inspection



Differ in Timing

Interim/Production Inspection

Facility Layout Diagram



Interim/Production Inspection

Color



Interim/Production Inspection



Interim/Production Inspection



Paint the Doors

07/31/2013

Interim/Production Inspection

Wildlife Protection



Interim/Production Inspection



Interim/Production Inspection

Reclamation of Cut and Fill Slopes



04/25/2013

Interim/Production Inspection

Backslope constructed at 3:1



02/27/2013

Interim/Production Inspection

Water Management



06/07/2012

Interim/Production Inspection

Maintenance



02/27/2013

Interim/Production Inspection



Interim/Production Inspection



Interim/Production Inspection



Interim/Production Inspection

- Facility Layout
- Color
- Wildlife Protection
- Reclamation of Cut and Fill Slopes
- Erosion Control
- Vegetation Establishment
- Reduction of Drilling Location
- Signage
- Spills & Leaks

Final Reclamation Inspection



Removal of Surfacing, Facilities above and below

Final Reclamation Inspection

Natural Contours



Final Reclamation Inspection

Grass Seeded, Erosion Control in Place



Final Reclamation Inspection



Final Reclamation Inspection



Final Reclamation Inspection

- Facilities Removed
- Seeding Complete
- Near Natural Contour
- Erosion Controlled
- Topsoil Spread
- Vegetation Established



Questions



ENFORCEMENT ACTIONS

Daniel Velder
Natural Resource Specialist
North Dakota Field Office

Enforcement actions

- ▣ Written and Verbal
- ▣ Compliance
- ▣ Operator is responsible for subcontractor activities

Verbal Warnings

- ▣ Verbal Warnings: can only be used for minor, inadvertent, non-reoccurring violations that will be corrected immediately prior to the inspector leaving the location

Written

- ▣ Incident of Noncompliance (INC)
- ▣ Order of the Authorized Officer
 - Also known as a Written Order (WO)
- ▣ Letter format

INC's

- ▣ INC: issued to address violations (Minor and Major)
- ▣ Violation: a specific regulatory requirement (43 CFR §3160), Onshore Order, Notice to Lessee, lease term, approved permit Conditions of Approval, or Orders of the Authorized Officer has not been complied with (Minor Violation)
- ▣ Noncompliance that causes or threatens immediate, substantial, and adverse impacts to public health and safety, the environment, production accountability, or royalty income (Major Violation)
- ▣ Authorized by 43 CFR §3163.1(a) and 43 §CFR 3165.3(a)

WO's

- ▣ Problem: a concern or issue identified during an inspection that is not covered by a specific regulatory requirement
- ▣ Authorized by 43 CFR §3165.3(a)







2012/05/21 11:43



2011/08/23 23:55

Forms

Form 3165-18
(October, 1999)

Number WOAS14036
Page _____ of _____

Certified Mail - Return Receipt Requested (855)6888520

IDENTIFICATION
 ID _____
 Lease _____
 CA _____
 Unit _____
 PA _____

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT NOTICE OF WRITTEN ORDER

Bureau of Land Management Office		Operator	
NORTH DAKOTA FIELD OFFICE			
Address 99 23RD AVENUE WEST, SUITE A DICKINSON ND 58601		Address _____	
Telephone _____		Attention _____	
Inspector _____		Attn Addr _____	

Site Name	Well Facility/FMP	1/4 1/4 Section	Township	Range	Meridian	County	State
Site Name	Well Facility/FMP	1/4 1/4 Section	Township	Range	Meridian	County	State
Site Name	Well Facility/FMP	1/4 1/4 Section	Township	Range	Meridian	County	State

The following condition(s) were found by Bureau of Land Management Inspectors on the date and at the site(s) listed above.

Date	Time (24-hour clock)	Corrective Action to be Completed by	Date Corrected	Authority Reference

Remarks: _____

When the Written Order is complied with, sign this notice and return to above address.

Company Representative Title _____ Signature _____ Date _____

Company Comments _____

Warning

The Authorized Officer has authority to issue a Written Order in accordance with 43 CFR 3161.2. Written Order correction and reporting time frames begin upon receipt of this Notice or 7 business days after the date it is mailed, whichever is earlier. Each stipulation must be corrected within the prescribed time from receipt of this Notice and reported to the Bureau of Land Management Office at the address shown above. If you do not comply as noted above under "Corrective Action to be Completed By," you shall be issued an Incident of Noncompliance (INC) in accordance with 43 CFR 3163.1(a). Failure to comply with the INC may result in assessments as outlined in 43 CFR 3163.1 and may also incur civil penalties (43 CFR 3163.2). All self-certified corrections must be postmarked no later than the next business day after the prescribed time frame for correction.

Section 109(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982, as implemented by the applicable provisions of the operating regulations at Title 43 CFR 3163.2(f)(1), provides that any person who "knowingly or willfully" prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information required by this part shall be liable for a civil penalty of up to \$25,000 per violation for each day such violation continues, not to exceed a maximum of 20 days.

Review and Appeal Rights

A person contesting a decision shall request a State Director review of the Written Order. This request must be filed within 20 working days of receipt of the Notice with the appropriate State Director (see 43 CFR 3165.3). The State Director review decision may be appealed to the Interior Board of Land Appeals, 801 North Quincy Street, Suite 300, Arlington, VA 22203 (see 43 CFR 3165.4). Contact the above listed Bureau of Land Management office for further information.

Signature of Bureau of Land Management Authorized Officer	Date	Time

FOR OFFICE USE ONLY

Number	Date	Type of Inspection
		ES

Form 3165-9
(December 1989)

Number INCAS010
Page _____ of _____

Certified Mail - Return Receipt Requested (855)6888520

IDENTIFICATION
 ID _____
 Lease _____
 CA _____
 Unit _____
 PA _____

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT NOTICE OF INCIDENTS OF NONCOMPLIANCE

Bureau of Land Management Office		Operator	
NORTH DAKOTA FIELD OFFICE			
Address 99 23RD AVENUE WEST, SUITE A DICKINSON ND 58601		Address _____	
Telephone _____		Attention _____	
Inspector _____		Attn Addr _____	

Site Name	Well Facility/FMP	1/4 1/4 Section	Township	Range	Meridian	County	State
Site Name	Well Facility/FMP	1/4 1/4 Section	Township	Range	Meridian	County	State

THE FOLLOWING VIOLATION WAS FOUND BY BUREAU OF LAND MANAGEMENT INSPECTORS ON THE DATE AND AT THE SITE LISTED ABOVE.

Date	Time (24 - hour clock)	Violation	Gravity of Violation

Corrective Action To Be Completed By	Date Corrected	Assessment for Noncompliance	Assessment Reference

Remarks: _____

When violation is corrected, sign this notice and return to above address.

Company Representative Title _____ Signature _____ Date _____

Company Comments _____

WARNING

Incidents of Noncompliance correction and reporting timeframes begin upon receipt of this Notice or 7 business days after the date it is mailed, whichever is earlier. Each violation must be corrected within the prescribed time from receipt of this Notice and reported to the Bureau of Land Management office at the address shown above. Please note that you already may have been assessed for noncompliance (see amount under "Assessment for Noncompliance"). If you do not comply as noted above under "Corrective Action To Be Completed By" you may incur an additional assessment under 43 CFR 3163.1 and may also incur Civil Penalties (43 CFR 3163.2). All self-certified corrections must be postmarked no later than the next business day after the prescribed time for correction.

Section 109(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982, as implemented by the applicable provisions of the operating regulations at Title 43 CFR 3163.2(f)(1), provides that any person who "knowingly or willfully" prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information required by this part shall be liable for a civil penalty of up to \$25,000 per violation for each day such violation continues, not to exceed a maximum of 20 days.

REVIEW AND APPEAL RIGHTS

A person contesting a violation shall request a State Director review of the Incidents of Noncompliance. This request must be filed within 20 working days of receipt of the Incidents of Noncompliance with the appropriate State Director (see 43 CFR 3165.3). The State Director review decision may be appealed to the Interior Board of Land Appeals, 801 North Quincy Street, Suite 300, Arlington VA 22203 (see 43 CFR 3165.4). Contact the above listed Bureau of Land Management office for further information.

Signature of Bureau of Land Management Authorized Officer	Date	Time

FOR OFFICE USE ONLY

Number	Date	Assessment	Penalty	Termination

Type of Inspection
ES

Form Basics

- ▣ Two copies sent to operator: one to sign and return to BLM and other for operator's file
- ▣ Well name & number
- ▣ Corrective Action Date
- ▣ Violation (INC) or Problem (WO)
 - We may attach photos of violations/problems
- ▣ Sign and return form
 - We may request operator attach photos of correction
 - We may request sundry as part of correction
(Sundry needs to be Notice of Intent)

Can't Comply in Time?

- ▣ Request an extension
 - Typically Sundry Notice
 - We will evaluate if an extension is warranted
- ▣ Keep us updated
- ▣ We will do follow-up inspections

What if Don't Comply?

- ▣ WO
- ▣ INC
- ▣ Immediate Assessment
- ▣ Monetary Assessment
- ▣ Shut Down Order
- ▣ Forfeiture of Bond
- ▣ Work Completed at Risk/Expense of Operator
- ▣ Lease Cancellation
- ▣ Civil Penalties
- ▣ Criminal Penalties

Example of Penalties

- ▣ Major Violation (INC): if not complied with, \$500 for each day nonabatement continues
- ▣ Criminal Penalties: Upon conviction, \$50,000 fine and/or imprisonment for up to 2 years

Operator's Right to Appeal

- ▣ Operator may request a State Director Review (SDR)
- ▣ Must file SDR within 20 business days of operator's receipt of WO or INC decision
- ▣ If adversely affected by the SDR decision, it can be further appealed to the Interior Board of Land Appeals (IBLA) within 30 days of receipt of SDR decision

Conclusion

- ▣ Order of the Authorized Officer (WO)
 - Problem
- ▣ Incident of Noncompliance (INC)
 - Violation
- ▣ Forms
 - What operator needs to do to comply
- ▣ Other enforcement tools

QUESTIONS?

Undesirable Events

- ▣ NTL 3A
- ▣ Reporting Requirements

Objectives

- ▣ 1. Understand the operator's obligations under Notice to Lessees (NTL) - 3A
- ▣ 2. Be aware of potential reporting requirements under other applicable laws and regulations

Regulatory Authorities

- ▣ “All spills or leakages of oil, gas, produced water, toxic liquids, or waste materials, blowouts, fires, personal injuries, and fatalities shall be reported by the operator in accordance with these regulations and as prescribed in applicable order or notices. The operator shall exercise due diligence in taking necessary measures, subject to approval by the authorized officer, to control and remove pollutants and to extinguish fires. An operator’s compliance with the requirements of the regulations in this part shall not relieve the operator of the obligation to comply with other applicable laws and regulations..”

(43 CFR 3162.5-2(c))

NTL-3A

- ▣ “Operators of onshore Federal and Indian oil and gas leases shall report all spills, discharges, or other undesirable events in accordance with the requirements of this Notice.”

Major Undesirable Event

- ▣ Oil, saltwater, and toxic liquid spills that result in the discharge of 100 or more barrels of liquid (unless held in secondary containment),
- ▣ Accidents resulting in the venting of 500 or more MCF of gas,
- ▣ Any fire which consumes these volumes,
- ▣ Any spill, venting, or fire that occurs in a sensitive area,
- ▣ Accidents that involve a fatal injury, and
- ▣ Blowouts (loss of well control)

Other-Than-Major Undesirable Event

- ▣ Oil, saltwater, and toxic liquid spills that result in the discharge of ≥ 10 but < 100 barrels of liquid (or > 100 barrels in secondary containment),
- ▣ Accidents resulting in the venting of ≥ 50 but < 500 MCF of gas,
- ▣ Any fire which consumes these volumes, and
- ▣ Accidents that involve a major or life-threatening injury

Other reporting and response requirements

- ▣ There are multiple, complex requirements for reporting and response to hazardous materials releases
- ▣ Reporting to BLM under NTL-3A does not relieve the operator from responsibilities of reporting under other regulations or statutes (i.e., CERCLA, EPCRA, etc.)

NTL-3A Reporting Requirements

- ▣ Major Events
 - ▣ ASAP, no more than 24 hours

- ▣ Other-than-major
 - ▣ Within 15 days of the event

Written Report Content

- ▣ Date & time of occurrence, reporting to BLM and other agencies
- ▣ Location, surface ownership, lease number
- ▣ Nature and cause of event
- ▣ Damages
- ▣ Action, duration of control events & response
- ▣ Volumes discharged, recovered, lost
- ▣ If fatal injuries, cause of death
- ▣ Preventative actions
- ▣ Other requested information

Common Red Flags

- ▣ •Hydrocarbons or toxic fluids enter or threaten to enter waterbodies or shallow aquifers
- ▣ •Proximity to public dwellings, facilities, visitation points/ threat to human health
- ▣ •Lack of notification, control, and/or response on part of operator

Questions?