

**Department of the Interior
Tribal Consultation Annual Report
Bureau of Safety and Environmental Enforcement
Tribal and Alaska Native Claims Settlement Act (ANCSA) Corporation
Consultations**

Fiscal Year (FY) 2022 Annual Report

Introduction:

The Bureau of Safety and Environmental Enforcement (BSEE) is committed to following the directives of Executive Order 13175 and Public Law 108-199 requiring Federal Government consultation with Tribal governments throughout the Continental United States, Alaska, and Hawaii. BSEE sees its trust responsibility as a vital obligation that the Bureau has integrated into its mission, focusing on protecting Tribal and individual Indian lands, assets, resources, treaties, and similarly recognized rights. BSEE's jurisdiction usually begins 3 miles from the shoreline outwards on the Outer Continental Shelf (OCS) off the Alaska, Pacific, Gulf of Mexico, and Atlantic coasts. BSEE regulates activities that may have direct or indirect impacts to the integrity of the shoreline and its ecology, offshore habitat, marine mammals, and other critical species, or submerged historical or archaeological sites. BSEE strives to ensure that permitted activities that may have effects on indigenous communities are open, transparent, and thorough.

Tribal nations have a direct link to the land and are keenly aware of the relationship between people and the natural environment, knowing what works together and how changes impact the balance of nature. Through consultation, BSEE incorporates Indigenous Knowledge and Cultural Intellectual Properties provided by Tribal nations to enhance BSEE's knowledge of Tribal interests and ties to the natural resources in question. Moreover, the consultation process yields vital information related to the location of Traditional Cultural Places, archaeological sites, cemeteries and/or individual burials, and other places of importance to Tribal nations, using meaningful conversations, historical and ethnographic data, and archaeological studies. As part of the consultation, BSEE defers to Tribal leaders for what information learned through formal government-to-government consultations should remain protected.

BSEE's Tribal consultation policies and procedures provide Native American groups the opportunity to engage with the bureau through government-to-government consultation, listening sessions, correspondence and informal dialogue, and collaboration. BSEE remains committed to continuing communications with Tribal governments, Alaska Native Organizations, Native Hawaiian Organizations, and other indigenous communities by providing opportunities for open and transparent communication and collaboration throughout the decision-making process.

1. Summarize and list all consultation topics.

Pacific Region:

Programmatic Environmental Impact Statement (PEIS) for Oil and Gas Decommissioning Activities on the Pacific Outer Continental Shelf

– BSEE and the Bureau of Ocean energy Management (BOEM) hosted government-to-government consultations on February 1, 2022, on the decommissioning of eight (8) out-of-service platforms in the Santa Barbara Channel off the southern California coast. Local federally recognized Tribes were invited to provide comments but three— the Soboba Band of Luiseno Indians, Santa Rosa Band of Cahuilla Indians, and the Pala Band of Mission Indians—deferred to the Santa Ynez Band of Chumash Indians. Reengagement with Tribes will occur when BSEE receives an application to decommission.

2. List all Tribes consulted.

No Tribes from the Atlantic seaboard or Gulf of Mexico Region, nor any Alaska Native Corporations, participated in consultations with BSEE during FY 2022.

PEIS for Oil and Gas Decommissioning Activities on Pacific OCS

Tribes Consulted: Santa Ynez Band of the Chumash Indians, the Soboba Band of Luiseno Indians, Santa Rosa, and the Pala Band of Mission Indians.

3. List the location of each consultation by city and state.

EIS for Oil and Gas Decommissioning Activities on Pacific OCS Location: Virtual Consultation via Microsoft Teams

4. Summarize and list all issues and recommendations.

PEIS for Oil and Gas Decommissioning Activities on Pacific OCS

Issues/Recommendations:

The Santa Ynez Band of Chumash Indians are currently involved with three separate Federal projects off the coast of California, including BSEE’s Decommissioning PEIS, and expressed that the current workload for NEPA and NHPA is the highest in recent memory. The Santa Ynez presented several issues in the questions below:

Issue:

Will BSEE’s decommissioning PEIS combine the NEPA and NHPA Section 106 process?

BSEE’s Recommendation: BSEE will not be using the NEPA substitution process to fulfill NHPA Section 106 obligations. The two processes will follow similar timelines and will be independent of each other.

Issue: *For BSEE's PEIS, the Santa Ynez Band of Chumash Indians would like to continue combined government-to-government and NHPA Section 106 consultations. Combining the consultations with assist with their current Federal workload.*

BSEE's Recommendation: BSEE agreed

Issue: *Will there be any underwater archaeological surveys of the area during the decommissioning process?*

BSEE's Recommendation: Unknown at this time but will be determined after receipt of decommissioning plans submitted by operator and discussed prior to any plan approvals.

Issue: *Will the Tribal significance of the Channel Islands and Point Conception be a consideration in the NEPA and Section 106 process for the PEIS?*

BSEE's Recommendation: BSEE and BOEM representatives highlighted the scope of the PEIS and the OCS versus coastal resources. BSEE requested further discussion to determine the area of significance. BOEM will also be in discussions regarding geographical scoping areas and historic properties. The agencies agreed to find another opportunity to discuss seafloor survey and cultural landscapes involved in the PEIS.

Issue: *As part of the NHPA Section 106 process, are there any additional consulting parties currently?*

BSEE's Response: In addition to the Santa Ynez Band of Chumash Indians, three other consulting parties responded to BSEE's Section 106 invitation: BOEM, the Santa Barbara Maritime Museum, and the Juaneño Band of Mission Indians Acjachemen Nation – Belardes.

Issue: *How would BSEE like the Tribe to proceed?*

BSEE's Recommendation: As requested for the PEIS, continue combined government-to-government and NHPA Section 106 consultation meetings as needed. BSEE is available at the Tribe's schedule.

5. Summarize successes and accomplishments and include recommendations for improvements to the consultation process.

PEIS for Oil and Gas Decommissioning Activities on Pacific OCS:

Successes/Accomplishments: BSEE provided early notification to the Tribes in the area and developed a working relationship with the designated lead Tribe.

Recommendations for improvements to the consultation process: If an area/region is involved with multiple agencies and projects, as is the current situation with the Santa Barbara Channel, BSEE should work with affected Tribes to coordinate meetings and workload of representatives engaged.

Engagement Activities:

Carbon Capture and Sequestration: On March 21, 2022, BSEE's Tribal Liaison Officer (TLO) sent email communication to Tribal Nations with potential interest in activities on the Pacific, Alaska, Gulf of Mexico, and Atlantic OCS and provided a general overview of carbon sequestration and BSEE's congressionally mandated initiative to develop an oversight program

for carbon sequestration activities on the OCS. This communication also indicated that BSEE would host informational sessions to provide the Tribes with additional information on BSEE's carbon sequestration program development. Two tribes, the Southern Ute Indian Tribe and the Mashantucket Pequot Tribal Nation, responded to the BSEE TLO and expressed an interest in having further conversations with BSEE.

BSEE is moving forward with planning the listening sessions. The Environmental Compliance Division and BSEE's Tribal Liaison Officer are working with the regulation writers in Office of Offshore Regulatory Programs (OORP) and the OORP Senior Technical Advisor as well as the dedicated BSEE Carbon Sequestration Outreach Coordinator to plan BSEE's listening sessions.

BSEE Tribal Policy

In June 2022, BSEE's TLO sent a letter via email to Tribes and ANCSA Corporations informing them of BSEE's intention to build out its Tribal program. Once an early draft of the National Tribal Engagement Program (NTEP) Bureau Interim Directive (BID) was ready for comments, it was shared with internal stakeholders (i.e., Office of Policy and Analysis, Environmental Stewardship Coordinators, OORP, and Oil Spill Preparedness Division).

In July 2022, the Tribal Team addressed all internal comments from BSEE on the draft BID. The Tribal Team drafted letters that were sent via email by the TLO notifying Tribes and ANCSA Corporations the NTEP BID was available for review and comment. The letters provided a 45-day review period and requested engagement no later than September 6, 2022. No Tribes or ANCSA Corporations responded.

BSEE Planned Rulemaking Activities

In July 2022, working in collaboration with BSEE's OORP Regulations and Standards team, BSEE TLO sent notification and information to federally recognized Tribes of upcoming rulemakings to determine potential interest and to provide an opportunity for Tribes to request formal consultation. From the list of nine (9) rules, BSEE received interest from the Choctaw Nation, Mashpee Wampanoag, Native Village of Kotzebue, and the Southern Ute. Planning for consultations is ongoing.

BSEE Expands Tribal Consultations: The National Tribal Engagement Program Successes and Accomplishments to Improve the Consultation Process within BSEE

In 2021, BSEE's Office of Policy and Analysis undertook a "significant program evaluation" of the Tribal program within BSEE. The result of that internal review was a final report in June 2022, *Evaluation of BSEE's Coordination with Indian Tribes and Alaska Native Claims Settlement Act Corporations*, to determine whether BSEE's Tribal consultation activities were producing intended outcomes and to identify opportunities to further enhance and build out the bureau's Tribal Program. The Assistant Secretary for Land and Minerals Management supported the efforts to re-design the Program and as a result BSEE's Director Sligh designated a "Tribal Sprint Team" to undertake the recommendations suggested in the June 2022 report. Those efforts to build out the program include hiring dedicated staff, drafting a budget, obtaining resources,

and building out a national policy directive, national handbook, and standard operating procedures to guide consultations across all regional areas in which BSEE operates.

BSEE Participation in National Events and Listening Sessions

DOI Strategic Plan Consultations: October 19, 2021, BSEE's Environmental Compliance Division (ECD) Chief attended the DOI Strategic Plan Consultations, led by Deputy Assistant Secretary for Policy, Management and Budget, Eric Werwa.

White House Tribal Nations Summit: BSEE TLO and supporting ECD staff attended the November 15-16, 2021, virtual meetings held by The White House Tribal Nations Summit. Later that month the White House released a report highlighting the administration's commitment for building relationships, health, Tribal lands/rights, Climate Change, national/cultural resources, economic opportunities, and safety and prevention of violence against women, children, and the elderly.

BSEE – USFWS Bi-Annual Training: BSEE Tribal Liaison Officer assisted the U.S. Fish and Wildlife Service, National Park Service, Bureau of Indian Affairs, and Bureau of Land Management on September 28, 2021; October 13, 26 – 28, 2021; November 2 – 4, 16 and 17, 2021, virtually in their bi-annual training of new DOI Alaska employees regarding agency relationships with the Tribes, Native Organizations, and ANCSA Corporations throughout the year.

MOU Tribal Treaty Rights: ECD staff and the Tribal Liaison Officer responded to the Department's January 11, 2022, data call regarding the Memorandum of Understanding on Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights. The data call was a direct request of the TLOs and was submitted on January 25, 2022, via email, to the DOI White House Council on Native American Affairs, Office of the Assistant Secretary - Indian Affairs.

BSEE Environmental Stewardship Week – Virtual: BSEE Tribal Liaison Officer coordinated the virtual presentation, "Perspectives on Environmental Stewardship," with speakers from the North Slope Borough Department of Wildlife Management, Ms. Taqulik Hepa and Mr. Billy Adams, on June 10, 2022.

National Congress of American Indians (NCAI) – Anchorage Alaska: BSEE's TLO attended the NCAI's 2022 Mid-Year Conference and Marketplace June 12-16, 2022. This year was the first in-person conference since the pandemic began. The theme was "Thinking Beyond Self-Determination." The conference targeted Tribal leaders, NCAI members, Native youth, and partners from across Indian Country. Topics of discussion included Nation-to-Nation engagements, proactive strategy development, advocacy, and more.

Tribal Consultation Training for BSEE and BOEM Staff: ECD staff coordinated and planned with the National Offshore Training Center a Tribal consultation training titled *Consulting with Tribal Nations*, held on June 28, 29, and 30, 2022. A total of 25 participants from BSEE and

BOEM attended the training, which resulted in 24 DOI Talent credit hours of Tribal Consultation Training.

Closing Comment: Planning for FY 2023

The on-going plan of action for BSEE's National Tribal Consultation Program includes early and often notification to Tribes and Alaska Native Corporations regarding BSEE actions that may have a direct and substantial impact. Furthermore, BSEE is coordinating a Tribal Roundtable for the Director to engage Tribes and have an open discussion. BSEE is also hiring a dedicated Tribal Liaison Officer, a Tribal Coordinator as an advisor to the TLO, and full-time Regional Tribal Liaisons for Alaska, Pacific, and Gulf of Mexico (which includes the Atlantic seaboard) regions, who will also promote internal communication and educational opportunities within the Bureau. Lastly, by participating in national events and listening sessions, offering Tribal consultation training, and the development of a National Tribal Engagement Program, BSEE is improving the Bureau's consultation process through these multiple endeavors. The program has dedicated funding within the Bureau.

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