The original documents are located in Box 4, folder "Mineral Leases and Royalties" of the Bradley H. Patterson Files at the Gerald R. Ford Presidential Library.

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President

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August 5, 1975

The Honorable Gerald R. Ford
The White House
Washington, D.C. 20500

Dear President Ford:

I am absolutely outraged by the reports in the enclosed article from the New York Times indicating that the Interior Departments Audit and Investigation Office has concluded that Indian tribes are not receiving "all royalty payments due them" for leases on their reservations.

We shall appreciate receiving an immediate report of the tribes and the amounts of money they have been denied and your plans for restitution including interest on the money due and not paid to them.

Our studies of the leases made by the Federal Government for Indian resources reveal that they are among the poorest in the world to begin with. To find that even their meager terms are not being met is simply outrageous.

We shall appreciate hearing from you at your earliest convenience.

Sincerely,

LaDonna Harris
President

cc: Senator Jackson
Senator Abourezk

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AMERICANS for INDIAN OPPORTUNITY

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LaDonna Harris
President

August 13, 1975

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TM

The Honorable Gerald R. Ford
The White House
Washington, D.C. 20500

Dear President Ford:

Due to my negligence, I did not put in the enclosure with our President's letter to you on August 5, 1975, which was an article from the New York times concerning royalty payments to Native Americans on their leases.

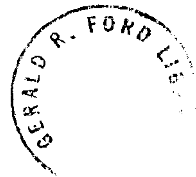
Please accept my deepest apologies.

Sincerely yours,

Charlene Nephew

Charlene Nephew
Secretary to LaDonna Harris
President

Enclosure



THE NEW YORK TIMES, SUNDAY, JULY 27, 1975

U.S. Failing to Get Its Due in Oil Royalties

Problem Is Pinpointed As Official Ineptitude

By E. W. KENWORTHY

WASHINGTON—The United States Government is not getting full value from onshore gas and oil leases on Federal lands, according to a review of the royalty accounting system by the Interior Department's Office of Audit and Investigation.

Nor, the study concludes, are Indian tribes receiving "all royalty payments due them" for leases granted on their reservations—a finding that the Office of Audits says raises questions about the Interior Department's proper discharge of its "trust responsibility."

These conclusions were reached after an investigation lasting from March to December last year of royalty collections, which, under the 1920 Mineral Leasing Act, are the responsibility of the Interior Department's United States Geological Survey.

The report found that the losses sustained by the Federal Government, the states with which Federal income is shared, and Indian tribes were attributable to the Geological Survey's undervaluation of oil and gas production, inadequate and confusing reporting procedures on production and sales by oil companies, delayed royalty payments, poor accounting procedures, failure to conduct reviews of company reports and staff deficiencies in both "expertise and numbers."

The report said that it was impossible to put a figure on the total losses, but there was reason to believe them "significant," probably on the order of several million dollars a year.

For example, it found that undervaluation of gas production in just one year by the Northern Rocky Mountain area offices cost the Government $136,000 in royalties, and that "the real loss is probably several times that figure."

Again it discovered that a postaudit by just one of the Geological Survey's six area offices that covered only 10 per cent of the accounts under its supervision produced $362,000 in added royalties.

The highly critical report comes at a time when the Geological Survey has been under fire on other fronts. Its expertise has been called in question by oil company geologists who have regarded the survey's estimates of the nation's undiscovered, recoverable oil as highly optimistic and unrealistic.

In the early 1960's the survey's estimate ranged from 400 billion to 590 billion barrels. Last year, however, Vincent E. McKelvey, the survey's director, estimated it to be 200 billion to 400 billion barrels. And a few weeks ago, the estimate was dropped to 50 billion to 127 billion barrels—roughly the estimate of oil company and independent geologists.

In another area, the General Accounting Office disclosed that several high level survey officials were stockholders in companies affected by actions of the survey.

There have been complaints on Capitol Hill and from consumer and environmental organizations for a long time that the upper echelons of the Geologic Survey were too heavily staffed with scientists and engineers who had come from the oil and gas industries or who intended to go into such employment after Government service.

However, there was not the slightest suggestion in the audit report of any collusion between officers in the survey's Royalty Accounting System and oil and gas producers. Nor was any evidence adduced of deliberate cheating of the Government by the companies.

Rather the failure of the Government to get all the royalty income it could and should receive was set down to an inexpert accounting system and imprecise reporting procedures that often led to company errors and delays in payments.

There was an oblique suggestion that the Geological Survey, an agency made up largely of scientists and engineers, was more interested in oil exploration and development than in collecting royalties, and that therefore the survey should be relieved of the latter responsibility.

In commenting on the understaffing of the Royalty Accounting System, which has only 54 employes, and its lack of expertise, the report said that interviews suggested this was due to "a negative attitude on the part of management."

A scientific organization, the report said, had a tendency to "underestimate the importance of other disciplines or to relegate other disciplines to minor roles."

If this was putting it mildly, the report also put it bluntly when it said: "The Conservation Division [of the survey] has never come to grips with the issues of establishing fair product value and verifying production volume." Royalty payments are based on volume of output.

Nevertheless, the report credited the Conservation Division with recognizing the shortcomings in royalty collection and requesting the study.

Furthermore, in a lengthy comment on the audit report, the Conservation Division endorsed many of the recommendations made. For example, the division, under direction of Russell Wayland, said: "We agree that there is a need to expand the present accounting staff and that . . . more professional accountants should be hired."

The survey now administers 12,386 leases on Federal and Indian lands, involving 31,399 producing oil and gas wells.

Under the law and regulations, lessees winning competitive bids pay from 12½

to 25 per cent royalty on oil and either 12½ or 16 2/3 per cent on gas produced from the leases. The royalty rate depends on the daily average production per well—the greater the production, the higher the rate.

The leases are sold in competitive bidding when they contain geological structures indicative of oil and gas potential. On non-competitive leases—those on unknown geologic structures—the production royalty is 12½ per cent on both oil and gas.

Total royalty proceeds are not peanuts—amounting as they did to $220-million in 1974. This was nearly double the 1973 figure because of the sharp rise in the price of new oil following the Arab embargo imposed late in 1973 and the subsequent surge in the price of imported oil. Of this amount, $33.4-million went to Indian tribes.

The Federal income split is 37.5 per cent to the states where the leases lie, to be used for schools and highways; 52.5 per cent to the Federal Reclamation Fund, and 10 per cent to the Federal Treasury.

Among the practices uncovered by the review, undervaluation occurred when a simple sales price was taken.

The supervisor of each Geological Survey area office, on the basis of production reports by the lessees, is empowered to set the value on which royalties are to be paid.

In setting an "estimated reasonable value," the supervisor is required to consider "the highest price paid for a part or a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters."

Thus the value for royalty computation is not necessarily the sales price received by the producer. However, the review found that with few exceptions, the Geological Survey computed royalties on the sale price. It particularly noted that, in setting gas values, area offices gave "virtually no consideration" to area prices established by the Federal Power Commission for sale of natural gas in interstate commerce.

The review gave two causes for this situation—lack of established guidelines for area offices and lack of capable staff.

As to reporting procedures, the review found that "information needed is not always required to be submitted and the information that is required is not always submitted, or sometimes not submitted on time and often submitted in a nonstandard format."

Data, the review went on comes in "from different sources at different times during the month." Thus, the operator may submit a production report; the lease holder may submit a sales the lessee and the purchaser and royalty report, and the various purchasers may, or may not, submit statements of their purchases.

The purchasers' statements are the only method that the Geological Survey has of verifying the producer's stated sales volumes and values. The trouble is that the purchasers' statements are not required and are supplied, as the audit stated, "strictly through the generosity of the purchaser." Area offices receive such statements for only about 70 to 80 per cent of the leases. Furthermore, the study said, were often the same company, "which makes the control mechanism unreliable."

This confused reporting system is further fragmented where a lease is held by several companies — all of which are permitted to file separate reports on their proportional ownership of production and royalties due. The area offices then compound the confusion by accumulating all the separate ownership statements into one "balance carry-forward amount" for the whole lease.

"As a result," the report said, "the statement becomes almost meaningless to the lease interest holders and the Geological Survey because neither can readily differentiate which portion of the account balance carry-forward applies to each lease interest."

The upshot was that "delinquent balances were allowed to accumulate until the Geological Survey determined royalties due from each lease interest and submitted appropriate billings." In some cases, the study said, "years may elapse" between the account reviews.

This situation was responsible, the report stated, for the large amount of late payments, although it added that many companies had become "somewhat lax" about making payments within the required month after production. The total overdue amount in December, 1973, was $3.3-million, which resulted in interest loss to the Government for the year of $104,000.

Among the recommendations of the audit team were standardized and timely reporting, "meaningful penalties" for reporting of royalties due and for late payments (present penalties are described as "meaningless"); separate accounting for multiple interests in a lease and frequent reviews of accounts.

Most important, however, were the personnel recommendations: a 37-person increase in staff (eight accountants and 29 clerks); creation of a team comprising a lawyer, an engineer, an accountant and an economist to be responsible for valuation of production in all areas, and appointment of a systems manager to oversee all aspects of a centralized royalty accounting system no one official is now in charge, the report said.

The estimated cost of these added positions was [illegible] a year.

That said, the Office of Audit and Investigation has turned to investigating offshore practices, conducting a study of royalty collections from leases on the outer continental shelf.

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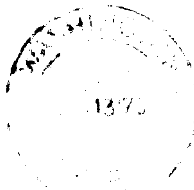

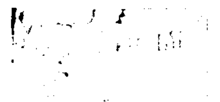

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