



# SOUTHERN UTE INDIAN TRIBE GROWTH FUND

February 2025

## ENERGY OVERVIEW

The Tribe's journey in energy began more than 70 years ago when it began leasing Tribal Minerals, under the Department of Interior, on the Reservation. The Tribe has exercised its right to self-determination in energy consistently since the 1980s through the development of the Tribe's Department of Energy and over the past 30 years through our commercial energy businesses.

It is extremely important for any federal legislation related to development or restriction of development to ensure that Tribal Lands are not lumped in with federal or public lands, as that infringes on tribal sovereignty.

### The key pillars are:

#### Carbon Intensity

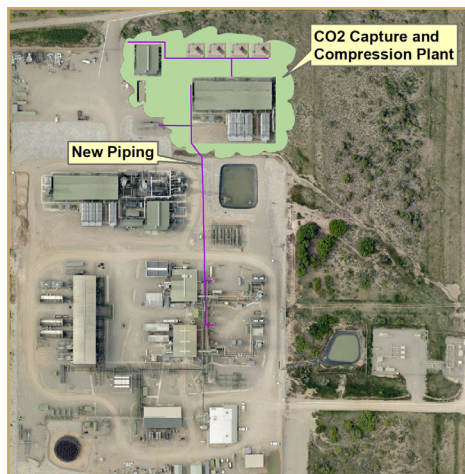
Target the lowest carbon intensity production



Gulf of Mexico Deepwater are some of the lowest carbon intensity barrels of oil produced around the world.

#### Carbon Capture

Embrace Carbon Capture (put carbon back in the ground)



Arkansas Loop Gas Treating Site (Existing) and Red Sage Carbon Capture Facility (New in green highlight).

#### Technology

Support New Technology and Infrastructure Development



Tribe's Utility Scale Solar Facility.

### Included in this packet are project summaries for:

1. Protecting Investment in 45Q Tax Credit Projects (CO2 Capture & Sequestration Project),
2. National Environmental Policy Act (NEPA) in Indian Country,
3. Grants Supporting Responsible Tribal Mineral Development in Rural Communities,
4. Protecting Tribal Minerals through Oversight on Overriding Royalty Interests (ORRI), and
5. Tribal Energy Finance Program (TEFP).



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## Protecting Investment in 45Q Tax Credit Projects

### OVERVIEW OF THE PROJECT

Red Cedar Gathering Company ("Red Cedar"), a joint venture controlled by the Southern Ute Indian Tribe, is completing construction of a state-of-the-art carbon dioxide (CO<sub>2</sub>) capture and sequestration project located on the Southern Ute Indian Reservation in southwest Colorado. The Section 45Q tax credit (26 USC 45Q), as expanded and extended by the Inflation Reduction Act (Section 13104(d)), is essential to the economic viability of this project. Construction began in mid-2023 to install approximately 20 miles of high-pressure pipeline along with the installation of a new carbon capture facility, estimated to cost approximately \$100 million dollars with commercial operations to begin mid-2025. Projects of this type significantly reduce emissions, strengthen U.S. energy security, and position our nation as a global leader in the clean energy economy.

### KEY HIGHLIGHTS

**Economic Benefits:** Creates high-quality jobs in engineering, construction, and operations.

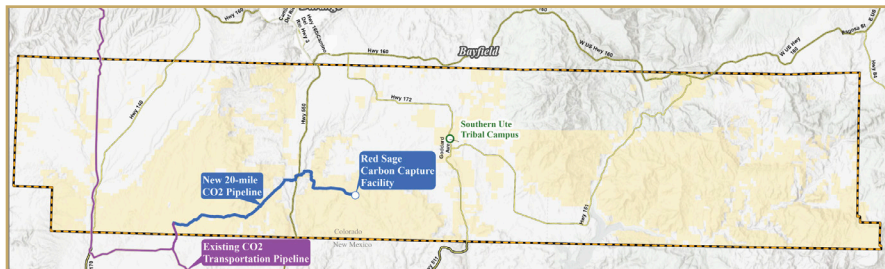
**Environmental Impact:** Captures approximately 300,000 metric tons of CO<sub>2</sub> annually.

**Energy Security:** Supports domestic energy production while addressing emissions and providing better access to certain LNG markets (i.e. Europe).

### IMPORTANCE OF 45Q TAX CREDITS

The current 45Q program is a critical incentive driving private investment in carbon capture technology. Altering or pausing the program could:

1. Jeopardize the viability of ongoing and planned CO<sub>2</sub> capture projects.
2. Undermine private sector confidence in the government's commitment to clean energy initiatives.
3. Delay progress toward achieving bipartisan climate and energy goals.



Carbon Capture and CO<sub>2</sub> Infrastructure on Southern Ute Reservation.

### SUPPORT FROM LAWMAKERS

We urge policymakers to protect and preserve the current value of the 45Q tax credits as well as the ability for Tribes to access direct/elective pay attribute without delay or modification. Any changes to the program's structure or value could derail essential projects like ours, harming American competitiveness in the global clean energy economy. Any amendments to the Section 45Q tax credit must grandfather existing projects, like ours, that require the current Section 45Q tax credit in order to remain economically viable.

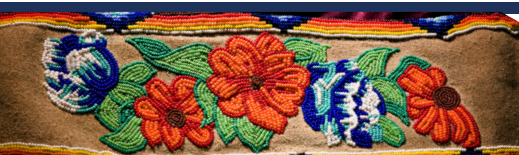


Photo: Aerial View of Carbon Capture Facility.



Photo: Installation of CO<sub>2</sub> Pipeline.

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## National Environmental Policy Act (NEPA) in Indian Country

### NEPA OVERVIEW

The National Environmental Policy Act of 1969 was established as a procedural framework for ensuring harmony between humans and the environment. NEPA requires that federal agencies evaluate the potential environmental impacts of their actions prior to taking those actions. NEPA also enhances public participation in the federal planning and decision-making process. Because Indian Lands are generally held in trust with the federal government, development activities on Indian Lands frequently require federal approval, subjecting Indian tribes to the same NEPA process that applies to decision-making on federal public lands. NEPA is pervasive in Indian Country and, unfortunately, too often impedes the exercise of tribal autonomy and self-determination.

### FISCAL RESPONSIBILITY ACT OF 2023 (FRA)

The Fiscal Responsibility Act of 2023 (FRA) amended NEPA for the first time since 1969 and provided a significant benefit to Tribes by codifying a Tribe's ability to act as a Joint Lead Agency in the NEPA process. This change enhances tribal sovereignty by allowing Tribes to fully participate and drive the NEPA process for activities on their lands. In January of 2025, the Southern Ute Tribal Council adopted a resolution supporting the Tribe acting as a co-lead agency with the Bureau of Land Management in preparing a programmatic NEPA analysis for oil and gas development of the Mancos Shale formation on its Reservation in southwest Colorado.

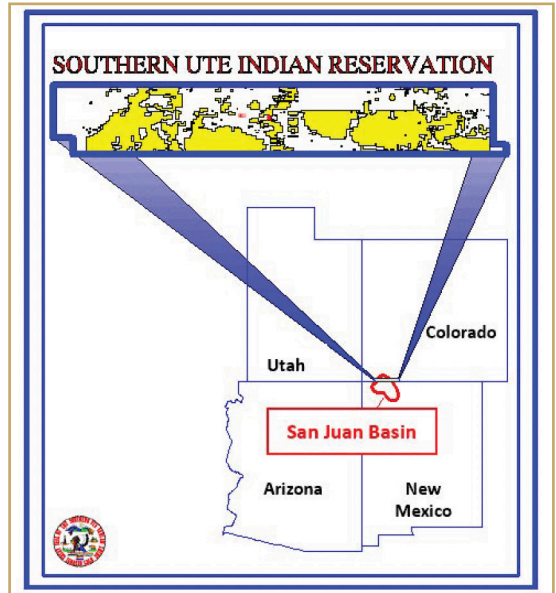
### NEPA MODIFICATIONS FOR TRIBAL SOVEREIGNTY

In Indian country, NEPA should serve as a tool to inform tribal decision-making and not a regulatory obstacle that tribes must overcome to develop their resources, generate revenue, conduct business, and exercise self-determination. Additional changes to NEPA and its regulations are needed to accomplish this. Examples include:

1. Making a clear distinction in the law between NEPA for tribal trust resources and NEPA for federal public resources.
2. Limiting public participation in the NEPA process for tribal trust resources to tribal members and those directly impacted by the NEPA-triggering action.
3. Allowing Indian tribes to conduct their own environmental review, as a substitute for NEPA, where the action triggering NEPA arises from federal trust ownership of tribal resources.
4. Clarifying and simplifying laws around Tribal Energy Resource Agreements (TERA).

### SUPPORT FROM LAWMAKERS

We urge policymakers to enhance tribal autonomy and self-determination by amending NEPA and its regulations to provide Indian tribes with more control over the NEPA process as it applies to the use and development of tribal trust resources.



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## Grants Supporting Responsible Tribal Mineral Development in Rural Communities

### SOUTHERN UTE DEPARTMENT OF ENERGY GRANTS

The Southern Ute Indian Tribe, through the Southern Ute Department of Energy, oversee numerous grants associated with energy production and distribution on the Southern Ute Indian Reservation. These grants are critical for development of the Tribe's natural resources and protection of the environment. Responsible development of tribal minerals supports tribal sovereignty and self-determination and enables domestic energy production and energy security.

#### BIA ORPHANED WELL PROGRAM

**\$497,850 Awarded in 2023**

*(Infrastructure and Investment Jobs Act Section 40601)*

The Tribe received a grant to conduct an inventory of potentially orphaned wells on the Reservation. The identification and evaluation of orphaned wells is a major step in mitigation of health and safety risks and will provide benefits for tribal membership as well as all residents in the area. Identification and subsequent elimination of potential hazards through plugging and abandonment will mitigate these health and safety risks.

#### US DOE GRID RESILIENCY FORMULA GRANT

**Awarded Annually since 2023**

*(Infrastructure and Investment Jobs Act Section 40101(d))*

The Tribe has been awarded annual funding from the U.S. Department of Energy to improve grid resiliency, decrease power outages, and prevent wildfires caused from electrical faults. This grant is being completed with La Plata Electric Association (LPEA), the local electrical co-op, under a cost sharing arrangement where the Tribe contributes 15%, LPEA contributes 30% and the grant provides the remaining funding for upgrades to LPEA's system.

#### BIA DEMD MANCOS SHALE METHANE INTENSITY AND DIAGNOSTIC FRACTURE INJECTION TESTS

**\$585,00 Awarded in 2024**

The Tribe received an award from the BIA's Division of Energy and Mineral Development to complete a natural gas methane intensity study to support future development and production of natural gas from existing and undeveloped formations. This work includes appraisal and diagnostic fracture injection tests for determining commercial viability of natural gas production from the Mancos Shale.

### SUPPORT FROM LAWMAKERS

Tribal Nations account for about 2% of land in the US and a disproportionate amount of energy resources (e.g., fossil fuel, uranium, renewables, and critical minerals). The appropriation of funds to Tribes is part of the U.S.'s trust and treaty obligations and the government to government relationship given Tribes unique political status in America. Tribes can and must play a critical role in US energy security.



Photo: Stewart #1 Orphaned Well

# LPEA

La Plata Electric Association, Inc.

A Touchstone Energy® Cooperative



# GDO

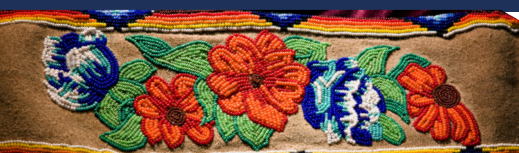
GRID DEPLOYMENT OFFICE



Photo: Vacuum Recloser for Grid Resiliency

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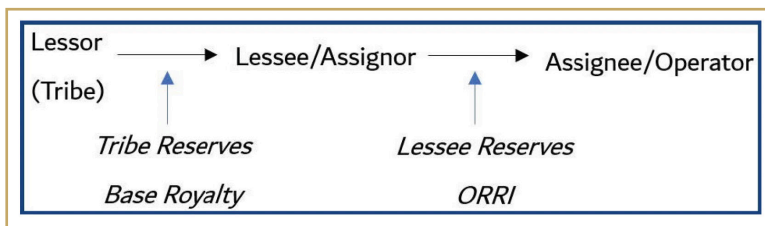
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## Protecting Tribal Minerals through Oversight on Overriding Royalty Interests (ORRI)

### OVERRIDING ROYALTY INTEREST (ORRI)

When an Indian tribe grants a new mineral lease, it typically reserves a “base royalty” - a share of the minerals produced from the lease (usually 12.5% or 16.7%). An “overriding royalty interest” or “ORRI” is a royalty carved out of the lessee’s interest in a lease. For example, a lessee may convey its interest in a lease to a third party, reserving an ORRI for itself (e.g., a 12.5% ORRI). ORRIs increase the total royalty burden on a lease.

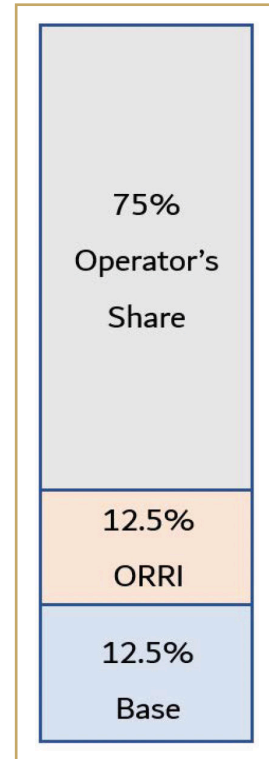


### PROBLEMS WITH ORRIS

- By increasing the total royalty burden on a lease, ORRIs make mineral development less profitable for the operator. An ORRI may be the difference between a well operating at a profit and a well operating at a loss.
- ORRIs cause operators to prematurely abandon otherwise profitable wells. When operators are forced to continue operating despite a loss, because the loss is due to an ORRI, it increases the risk that their wells may ultimately be orphaned.
- Valuable minerals that might otherwise be developed, absent the ORRIs, are left in the ground.
- Some leases on the Southern Ute Indian Reservation have ORRIs that, in aggregate, exceed 25%. These ORRIs cost the Tribe valuable royalty revenues.

### ADDRESSING ORRIS ON INDIAN LEASES

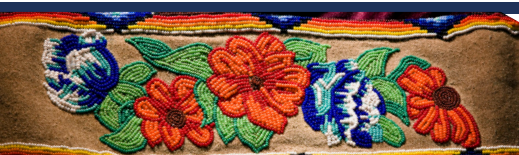
1. ORRIs should not be flatly prohibited on Indian leases. However, more oversight is needed to protect against excessive ORRIs that discourage the full, timely development of Indian minerals.
2. Under existing regulations, ORRIs may be carved out of Indian leases without review and approval by the Tribal lessor or Bureau of Indian Affairs. See 25 C.F.R. §§ 211.53(d), 225.33. This needs to change to protect Tribal lessors.



### SUPPORT FROM LAWMAKERS

We urge policymakers to protect tribal mineral resources by requiring Bureau of Indian Affairs or Tribal lessor approval before Overriding Royalty Interests may be carved out of Indian leases. Specifically, 25 C.F.R. § 211.53(d) and § 225.33 should be amended to require BIA or Tribal lessor approval before an ORRI may be applied to an Indian Lease.

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## Tribal Energy Finance Program (TEFP)

### INDIAN ENERGY

Tribal Nations account for about 2% of land in the United States and a disproportionate amount of energy resources including fossil fuel, renewable, uranium, critical minerals that support U.S. Energy Security. Meanwhile Tribal households earn more than 25% less than the average American household<sup>1</sup>. Many Tribal Nations lack the technical, organizational and financial capacity to progress responsible energy development projects for their communities.

### TEFP BACKGROUND

The Energy Policy Act of 2005 established a Tribal Energy Loan Guarantee that was significantly underfunded and disadvantaged when compared to other energy finance programs. In 2017, Congress finally began funding the program. In 2022, the loan program's authority was increased from \$2 Billion to \$20 Billion and expanded to include direct loans through the Federal Financing Bank, under the Inflation Reduction Act. To date only one financing project has been approved, the Viejas Microgrid Project.

### RECOMMENDATIONS TO IMPROVE INDIAN ENERGY FINANCE

The Department of Energy should consider restructuring and moving TEPF to the Office of Indian Energy (OIE). The overarching objective of a relaunched TEPF within the OIE ought to be to partner with Tribes to allow tribal access to capital and assist Tribes with connections to technical talent to develop resources that benefit the tribe. Areas for consideration should include:

- Establishing best practices to streamline the process and get loans approved in months rather than years,
- Allocating resources within the program to evaluate projects (such as underwriting and engineering),
- Developing and implementing training programs that build energy development and finance capacity at both OIE and Tribes,
- Staffing OIE with qualified personnel, and
- Moving away from project developers and focusing on tribal partners.

Indian Country needs a partner to assist in the evaluation, development and financing large-scale energy projects.

NOTES: <sup>1</sup> United States Census Bureau "Income in the United States: 2023"

### SUPPORT FROM LAWMAKERS

A restructured TEPF housed in the OIE is well positioned to facilitate compelling, profitable, inter-generational energy development for Tribal Nations and regional communities. TEPF ought to be an efficient, professional conduit for accessing loan capital while addressing impediments to capital availability. Responsible development and management of Tribal energy resources can reverse the reality of Native American households earning significantly less than the average American household.



USGS Map Depicting Indian Reservations in Lower 48



US EIA Map Depicting Lower 48 Shale Plays

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