

**TESTIMONY
OF
DARRYL LACOUNTE
ACTING DIRECTOR
BUREAU OF INDIAN AFFAIRS
U. S. DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE**

June 13, 2018

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, my name is Darryl LaCounte and I am the Acting Director for the Bureau of Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present an update on behalf of the Department regarding Indian Affairs' role in the development of Indian energy and our continued commitment to address the high risk designation in the Government Accountability Office (GAO) High Risk Report (GAO-17-317 High Risk Series).

As the Committee is aware, the Department agreed with GAO's recommendations and we continue to address the recommendations by implementing widespread reform to help foster energy independence among Tribes who are interested in developing their resources. As the High Risk report notes, GAO made fourteen recommendations to the Bureau of Indian Affairs (BIA), via three reports. We are pleased to report that we've made progress on a number of the recommendations, some have been closed, and we plan to submit closure packages for other recommendations in the near future.

GAO 15-502

Recommendation 1: To ensure it can verify ownership in a timely manner and identify resources available for development, BIA should take steps to complete its GIS mapping module in TAAMS.

We are pleased to announce that the Indian Affairs GIS Map Viewer has been deployed, as of August 31, 2017. As of February 22, 2018, BIA addressed the requirements for this Recommendation, and demonstrated the system with ample evidence to close this recommendation.

Recommendation 2: To ensure it can verify ownership in a timely manner and identify resources available for development, BIA should work with BLM to identify cadastral survey needs.

The BIA and the BLM, in a coordinated and focused effort, prepared a Reimbursable Service

Agreement between the two agencies to identify and deliver the much needed survey-related products and services. We are continuing to evaluate the cadastral survey requests that have been approved for funding for completion by BLM.

BLM and BIA reviewed and established a database that contains the information necessary to identify ownership. An intake mechanism was developed by the Indian Energy Service Center for making new survey requests. The BIA drafted instructions and will provide guidance on how to make requests and how to track the progress of incoming requests from BIA Regional offices. Implementation and full deployment of the cadastral survey process is scheduled no later than September, 2018.

Recommendation 3: To improve the efficiency and transparency of its review process, BIA should develop a documented process to track its review and response times.

Previously we stated that the BIA was in the process of evaluating and reviewing the approval process and information stored in TAAMS in order to improve efficiencies and timeliness in processing workloads. Since then, the BIA subject matter experts provided modifications to enhance TAAMS to incorporate a tracking mechanism for proposed mineral related transactions. A Change Request for the system was presented to the TAAMS Change Management Board in January, 2018. In February, the Board vetted and approved the system enhancements.

To support and demonstrate BIA's commitment to enhance and streamline business processes, a National Policy Memorandum (NPM-TRUS-34-A1) has been issued regarding the utilization of a Tracking sheet for Communitization Agreements in addition to Rights-of-Way. Once developed, this tracking system will include permanent tracking in TAAMS by September 30, 2018.

Recommendation 4: To improve the efficiency and transparency of its review process, BIA should enhance data collection efforts to ensure it has data needed to track its review and response times.

Data tracking is under development for TAAMS enhancements to capture review and response times. The enhancements will be reviewed by regional offices with active oil and gas transactions to improve business transactions.

The Fluid Minerals Handbook updates will include the new process, time frames, and reporting requirements. Our target completion date is September 30, 2018.

Recommendation 5: Provide additional energy development-specific guidance on provisions of Tribal Energy Resource Agreement (TERA) regulations that tribes have identified to Interior as unclear.

On August 31, 2017, after reviewing tribal comments, our Department's Office of Indian Energy and Economic Development (IEED) placed on its web site guidance to tribes seeking an approved TERA or which seek to assume energy-related administrative functions under Public Law 93-638. As a result, the GAO closed Recommendation 5 on March 8, 2018.

In addition, IEED plans to prepare and place on its web site by the end of this calendar year a downloadable primer on how a tribe can apply for a TERA. This task was not required by Recommendation 5 but IEED believes it will enhance tribal understanding of the TERA approval process.

GAO 16-553

Recommendation 6: Establish required time frames for the review and approval of Indian Communitization Agreements (CAs) to ensure a more timely CA process.

The Department is continuing its work to ensure CA processes for review and approval are timely. As noted previously, a National Policy Memorandum (Memorandum) was issued that establishes a tracking mechanism to monitor the existing time frames for review and approval of Indian CAs. As mentioned previously, the procedure to modify TAAMS is in development.

The process will be outlined in the Standard Operating Procedure (SOP) supported by the intent of the Interagency Agreement. The Interagency Agreement is signed by BIA, BLM, OST, ONRR and IEED to process federal Indian energy transactions. Each Agency has a role and responsibility to support resource development including training. SOP training specific to Indian Oil and Gas Leasing Activities is June 12 - 13, 2018 at the National Indian Training Center in Albuquerque NM.

We are pleased to announce that BIA can close out this Recommendation. BIA has made the necessary enhancements to TAAMS which establish processing steps and required data entry. The time frames and process established through this recommendation will be utilized as the business rules for the development of the CA tracker that will be added to TAAMS in the near future that will address recommendation number 7.

Recommendation 7: Develop a systematic mechanism for tracking Indian CAs through the review and approval process to determine, among other things, whether the revised CA process meets newly established time frames.

The BIA developed a systematic mechanism to track Indian CAs through the review and approval process. Until TAAMS can be modified to incorporate the key identifiers and data

fields, the BIA, in the meantime, is utilizing a centralized tracking spreadsheet. BIA leads the development and deployment of this tracking spreadsheet in consultation and coordination with BLM. BIA received an extension from GAO to complete this recommendation by the end of FY 2018. We are on target to meet this timeframe to complete and close out this recommendation.

Recommendation 8: Assess whether the revised CA process is achieving its objective to improve the timeliness of the review and approval of Indian CAs, and if not, make changes as appropriate.

Effective coordination to identify areas of improvements to key data fields have been progressive to assure TAAMS capabilities capture all aspects of the CA process. The bureaus will continue to coordinate to collect data, which will assist in identifying and implementing any necessary process modifications. It is important to know that this Recommendation falls in line with other TAAMS system enhancements already underway. It is expected that training will be provided to personnel to use these system enhancements by the end of this fiscal year 2018. The system enhancements scheduled for training are the GIS Mapping (Complete February, 2018), Title Status Reports (TSR), and Acquisition & Disposal modules. Once the CA module is complete, follow up to the SOP training will be coordinated and implemented.

GAO 17-43

Recommendation 9: Include the other regulatory agencies in the Service Center, such as Fish and Wildlife Services, the Environmental Protection Agency, and the Army Corps of Engineers, so that the Service Center can act as a single point of contact or a lead agency to coordinate and navigate the regulatory process.

The IESC is committed to establishing formal Memorandums of Understanding (MOUs) for each of the recommended agencies. On January 10, 2018, the United States Army Corps of Engineers (USACE) signed the MOU with IESC. On June 1, 2018, the U.S. Fish and Wildlife Service's Principal Deputy Director also signed the MOU with IESC. The remaining draft MOU is in the review and signature approval process with the Environmental Protection Agency (EPA). We anticipate all MOUs to be signed before the end of 2018.

Recommendation 10: Direct the Bureau of Indian Affairs to establish formal agreements with IEED and DOE that identify, at a minimum, the advisory or support role of each office.

In an effort to improve communication between the two offices, an MOU was signed between IEED and the Department of Energy (DOE) outlining a partnership going forward. The IESC prepared an addendum to the MOU with IEED and DOE to finalize the agreement. The addendum is currently in the surname process within the Department.

Recommendation 11: Direct Bureau of Indian Affairs to establish a documented process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center's activities.

The IESC developed a process that allows key agencies to provide input and requests for service received on behalf of tribes from the IESC. The process includes guidance on the prioritization of task orders. The Executive Management Group of the IESC is comprised of the directors of the BIA, BLM, ONRR, and Office of the Special Trustee for American Indians (OST). The IESC began utilizing the intake forms in August 2017 to obtain input regularly from stakeholders. IESC is on target to close this recommendation.

Recommendation 12: Direct the Bureau of Indian Affairs to document the rationale for key decisions related to the establishment of the Service Center, such as alternatives and tribal requests that were considered.

The Department created the Indian Energy & Minerals Steering Committee (IEMSC), which is a group that helps to ensure that the Department meets its trust responsibility to federally recognized Indian tribes and the individual Indian mineral owners. The IEMSC is an inter-agency forum for Indian energy and mineral resource development, royalty management coordination, and information exchange. This committee is comprised of senior representatives from the BIA, BLM, ONRR, OST, and the Solicitor's Office. On February 6, 2018, the IEMSC addressed energy issues and opportunities in Indian Country. The recent major accomplishments of the IEMSC include:

- Ensuring consistent answers across the Department to questions in Indian country;
- Working through issues involving underground injection;
- Streamlining activities across agencies to avoid duplication of effort; and
- Created multi-agency policy for communitization agreements.

In addition, this committee sponsors three Federal Partners groups that focus on Fort Berthold; Uintah and Ouray; and Oklahoma, Texas, and Kansas.

Recommendation 13: Direct the Bureau of Indian Affairs to incorporate effective workforce planning standards by assessing critical skills and competencies needed to fulfill BIA's responsibilities related to energy development and by identifying potential gaps.

IESC identified energy and minerals workforce data collected from a multi-agency survey to align with workforce needs for energy and minerals management. The information gleaned from the survey confirmed common needs across agencies in the areas of engineering, engineering technicians and environmental science disciplines at the forefront of identifying the availability of the resources for economic development.

Based on responses to the survey and current data, BIA attrition over the past 5 years has resulted in a potential gap of 33 to 50 engineers, engineering technicians, and environmental scientists, within the Trust functions across the BIA. Current retirement statistics show that 59% of the employees who occupy these positions are eligible for retirement now or within 5 years.

With the data collected from the survey and knowledge of the gaps that need to be filled, the BIA will work with the IESC and partner bureaus to develop effective workforce standards to address the need for the skills and competencies needed for energy development. The BIA's goal is to develop a draft energy and mineral workforce standards by the end of FY 2018, but no later than the end of that calendar year.

Recommendation 14: Direct the Bureau of Indian Affairs to establish a documented process for assessing BIA's workforce composition at agency offices taking into account BIA's mission, goals, and tribal priorities.

In previous testimony, BIA indicated it was assessing the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. The same data and results from the survey conducted will provide a starting point for BIA to establish a documented process that will allow BIA to assess its workforce composition. The composition will, of course, take into consideration BIA's mission and goals, and also tribal priorities.

Presently, Workforce planning is conducted by the Regional Division managers working directly with the respective Deputy Directors with respect to Regional priorities as identified for this Recommendation. Once the workforce plan is finalized it is presented and reviewed with the Regional Director for further analysis and final approval. Amended organizational charts are reviewed and approved by the Regional Director; and as appropriate by the Director of BIA.

We expect the workforce plan to include a documented assessment component for our workforce composition. The BIA is on target to complete this documented assessment by the end of FY 2018, but no later than the end of that calendar year.

Conclusion

Thank you for the opportunity to present an update on our progress in addressing the GAO recommendations from past reports and the GAO High Risk Report (GAO-17-317 High Risk Series). I would be glad to answer any questions the Committee may have.