

**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**

**March 12, 2019**

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. Thank you for the opportunity to provide 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). GAO's recently issued report, GAO-19-157SP, provides the updated status of the Department's efforts to address these recommendations.

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), in three reports. As of June 13, 2018, Recommendations 1 and 5 had been closed. BIA made a commitment to close Recommendations 2, 3, 4, and 6, by the end of September 2018, and Recommendations 7, 8, 9, 13, and 14 by the end of the calendar year.

The GAO recommendations are incorporated into our operations and have proven to benefit our modernization initiatives and improve efficiencies while building progressive relationships in collaboration with parties engaged in Indian energy.

*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.**

As announced in my last visit on June 13, 2018, the Indian Affairs GIS Map Viewer has been deployed as of August 31, 2017. BIA addressed the requirements for this Recommendation, and is closed as of February 22, 2018.

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

The BIA and the BLM established a Reimbursable Service Agreement between the two agencies to deliver the much needed survey-related products and services. BLM and BIA 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.

Specifically, BIA and BLM established a Reimbursable Service Agreement (RSA) for Cadastral Surveys complete for Fiscal Years 2015, 2016, 2017, and 2018; established the Cadastral Survey Inventory established in 2015, completed the BIA Guidance on October 10, 2018; and completed the Cadastral Survey Implementation on October 1, 2018. Implementation and full deployment of the cadastral survey process was complete in 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.**

System enhancements in the Trust Asset and Accounting Management Systems (TAAMS) were developed to track Mineral Leases from submission, approval, and recordation. As of September 30, 2018, the module was complete and implemented in the suite of TAAMS Modules. The module provides transparency in tracking and monitoring the status of a Mineral Lease throughout the review and approval process. In addition BIA provided TAAMS Minerals Module Training Guides and Webex Training, where we tracked attendance to ensure delivery of information and support.

The BIA updated the 2012 Fluid Minerals Handbook (52 IAM X-H, to assist Staff in the review and approval of new Oil and Gas Leases. The Handbook establishes a standard for processing new leases, whether the result of a lease advertisement and sale or the result of negotiations between the parties to the lease. It includes new or updated flowcharts and templates, language and content updates and corrections. The Handbook is complete and currently in the final stages of clearance for release by our Regulatory Affairs office, which is expected in early May 2019.

**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.**

As in Recommendation 3, BIA developed system enhancements to TAAMS and updated the Fluid Minerals Handbook. TAAMS can now track mineral leases from submittal to approval and recordation. This tool adds to the BIA agencies' transparency in identifying the status of a mineral lease throughout the review and approval process. Management can also access TAAMS and determine the status of a lease. The TAAMS Enhancement request was approved

by the TAAMS Change Management Board (TCMB) in 2017, and the enhancements were incorporated into the system by September 30, 2018.

The BIA has the capability of capturing key dates along the review and approval process for a lease package, including, but not limited to, the initial receipt, confirmation of a complete lease package, approval and recording of the leases. This module has been completed and added to the suite of modules in TAAMS as of 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.**

In the last testimony, we reported that 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 on August 31, 2017. As a result, the GAO closed Recommendation 5 on March 8, 2018.

**GAO 16-553**

**Recommendation 1: Establish required time frames for the review and approval of an Indian Communitization Agreement (CA) to ensure a more timely CA process.**

As communicated previously, the Department continues its work to ensure timely review and approval of Indian Communitization Agreements (CA). 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. The TAAMS CA system enhancements were completed by September 30, 2018.

The process is outlined in the Standard Operating Procedure (SOP) and 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. SOP training specific to Indian Oil and Gas Leasing Activities was held on June 12-13, 2018, at the National Indian Training Center in Albuquerque, New Mexico. Additionally, we held another training on December 11-12, 2018, at the Federal Center in Lakewood, Colorado.

**Recommendation 2: 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.**

A national tracking mechanism was established to identify timeframes and captures the status of transactions in the system of record, TAAMS. This tool adds to the agencies' transparent identification of the status of any CA application within the review process. The system has the capability of capturing key dates along the review and approval process for a CA package,

including, but not limited to, the initial receipt, confirmation of a complete package, technical review request sent to BLM, and the recommendation received from BLM.

BIA developed and implemented the tracking functionality Bureau-wide through TAAMS effective September 30, 2018. With the system enhancements in TAAMS, BIA tracks CAs from submittal to approval and recordation. This CA suite of modules in TAAMS is complete as of September 30, 2018.

**Recommendation 3a: 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.**

This recommendation is consistent with activity completed in relation to other recommendations. As of September 30, 2018, the Communitization Agreement (CA) tracking module was added to the Trust Asset and Accounting Management System (TAAMS) to expedite the review and approval of Indian CA's. The CA module provides agency wide transparency on the status of any CA application process.

The BIA has the capability of capturing key dates during the review and approval process, including, but not limited to, the initial receipt, confirmation of a complete package, technical review request sent to the Bureau of Land Management (BLM), and recommendations received from BLM. SOP training specific to Indian Oil and Gas Leasing Activities was held on June 12 - 13, 2018, and December 11-12, 2018.

As previously reported, since 2017, BIA has utilized a Google Tracking Sheet to track national Indian CA's from submission to approval. The Google Tracking Sheet was BIA's interim approach to track the approval of CA's, gather information on timeframes and status, and establish a baseline to ensure improvement of timeliness of the Indian CA review and approval process. Data from the Google Tracking Sheet is important and utilized to track timeframes in TAAMS to assist in establishing metrics for processing agreements.

**GAO 17-43**

**Recommendation 3: Include the other regulatory agencies in the Service Center, such as FWS, EPA, 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 Indian Energy Service Center (IESC) fosters and establishes working relationships with other federal agencies to enhance Indian Energy opportunities. The BIA is committed to collaborating and establishing formal Memorandum of Understanding (MOUs) with other federal agencies to expedite oil and gas development. The purpose of the MOU is to enhance cooperation, efficiency, and effectiveness of Energy and Mineral issues.

In 2017, the IESC submitted formal invitations to each agency regarding the implementation of MOUs with the United States Fish & Wildlife Service (USFWS), Environmental Protection Agency (EPA), and United States Army Corps of Engineers (USACE). As a result of the formal invitations, IESC participated in several conference calls and meetings with each agency to discuss the request of the Government Accountability Office (GAO) and the benefits of the formal MOUs.

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. On June 14, 2018, the Environmental Protection Agency approved the MOU with IESC.

**Recommendation 4: Establish formal agreements with IEED and DOE that identify, at a minimum, the advisory or support role of each office.**

A formal MOU was established between the Office of Indian Energy and Economic Development (IEED) and the Department of Energy (DOE) on June 21, 2016. On August 9, 2018, an Addendum to the MOU between IEED and DOE was approved by myself, the Acting Director of the Bureau of Indian Affairs. On September 5, 2018, the Addendum to the MOU with IEED and DOE was approved by the Assistant Secretary – Indian Affairs. The purpose of the addendum was to invite the Bureau of Indian Affairs-Indian Energy Service Center to participate in the MOU between IEED and DOE.

**Recommendation 5: Establish a documented process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center activities.**

In my last report, I testified 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. This process is still in use, and this recommendation can be closed.

**Recommendation 6: 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.

**Recommendation 7: 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.**

As the Acting Director, I identified the top workforce planning priorities with the goal of the most effective development and execution of workforce planning, so that the organization is able to leverage its human capital to accomplish its strategic goals. The Office of Trust Services (OTS) developed metrics to capture benefits or challenges in workforce planning.

To ensure the most efficient and cost-effective workforce, the BIA requires competent staff with technical skills for Energy and Mineral Development on Indian lands. As previously reported, a multi-agency survey was collected in order to better understand and 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 five years has resulted in a potential gap of 33 to 50 Engineers, Engineering Technicians, and Environmental Scientists in BIA Trust operations. Current retirement statistics project that 59% of the employees who occupy these positions are eligible for retirement now or within 5 years.

The OTS workforce planning consists of developing and implementing an Energy and Minerals Student Internship Program. The purpose is to address skills gaps across Indian country. This will contribute to an overall national strategy to attract, recruit, train, develop, and retain highly qualified Indian and Alaskan Natives within the BIA, Tribes, or Tribal Enterprises. Approximately 20 Pathways Student internship positions for engineering and engineering technician career fields have been approved and will be funded by the OTS this Fiscal Year. Selections and recruitment is targeted for March 29, 2019.

**Recommendation 8: 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, we indicated it was assessing the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. The BIA continues to identify and assess its energy and minerals workforce composition using data collected from a multi-agency survey to develop a strategy to implement a large scale process that ensures that current decisions and actions impacting the workforce are aligned with short and long-term strategic needs for energy and minerals management. OTS prepared an Indian Energy and Minerals Workforce Planning Action Plan dated August 9, 2018 and is prepared to close this recommendation.

## **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. The BIA is confident that all of these recommendations have been addressed and believe they should be closed. We look forward to improving our own evaluation and reporting capacity and structure within Indian Affairs through this process. I would be glad to answer any questions the Committee may have.