

**TESTIMONY
OF
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U. S. DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE**

September 13, 2017

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, my name is Michael Black and I am the Acting Assistant Secretary for Indian Affairs at the Department of the Interior. Thank you for the opportunity to come back and present an update on behalf of the Department of the Interior (Department or DOI) 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 we stated in our testimony in May, 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. I am happy to note that we've made progress on a number of the recommendations and plan to submit closure packages for those recommendations in the near future.

As the former Director of BIA and current Acting Assistant Secretary, I know these issues well and acknowledge that we have a significant amount of work to do. My testimony today will update the Committee on our progress towards implementation of the various GAO recommendations.

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.

Previously, Indian Affairs testified that the Trust Asset and Accounting Management System (TAAMS) was not designed as a geospatial mapping system, but is simply a system to reflect legal descriptions as they appear on documents recorded as required by federal law.

In our previous testimony we also stated that the BIA would not be building out the GIS mapping module in TAAMS. Rather, the BIA would utilize commercially available, off-the-shelf mapping technology to integrate data viewing and map creation capabilities into TAAMS at the desktop. The GIS Map Viewer is based upon verified legal land descriptions and ownership data available in TAAMS with base reference data for mapping.

We are pleased to announce that the Indian Affairs Information Technology Change Advisory Board and Architectural Review Committee granted the Authority to Operate the GIS Map Viewer and that the GIS Map Viewer has been deployed, as of August 31, 2017. The GAO closure package is currently being prepared.

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 inventories and our FY17 survey requests have been approved for funding and completion by BLM.

An example of our progress is the Nevada Native Nations Land Act of 2016, passed by Congress last year, which transferred 71,137 acres of BLM and Forest Service lands to six different tribes; these lands are being surveyed now by BLM to establish tribal trust land descriptions and boundaries.

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.

We previously stated that the BIA was in the process of evaluating and reviewing the current realty review and approval process and information stored in TAAMS in order to improve efficiencies and timeliness in processing workloads. BIA subject matter experts have been developing requirements for tracking proposed mineral documents within TAAMS. Due to the fact that modifications to data systems must be reviewed by multiple entities within the Department, a request for an extension of time has been requested until the end of FY18. The BIA is waiting to hear whether this extension has been granted.

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.

The Indian Energy Service Center has been working closely with BIA, ONRR, and BLM IT personnel to navigate system and software access challenges. Currently, access testing is ongoing but preliminary results indicate the IESC experiences significant efficiency gains as the office

gains access to systems and software. For example, IESC ONRR staff has access to the BIA TAAMS system allowing for greater efficiency and transparency for each of the offices in the processing of Indian oil and gas projects.

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.

After the previous hearing, the Office of Indian Energy and Economic Development (IEED) reviewed Tribal comments regarding the term, “inherently federal functions.” We noticed that the term “inherently federal functions” is the only provision of the TERA regulations that Tribes have described to IEED as unclear. IEED consulted with the Department’s Office of the Solicitor (SOL), which determined that this term can only be defined on a case-by-case basis when tribes have made a request to take over a specific federal program, function, service and activity (PFSAs). On August 31, 2017, IEED placed on its web site guidance to tribes with an approved TERA or which seek to assume energy-related administrative functions under Public Law 93-638. The GAO closure package is currently being prepared.

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 are timely. 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. This tracking mechanism will provide the data which will be used to establish standard and reasonable time frames for CA review and approval. The time frames will also be incorporated into the BIA Fluid Mineral Estate Procedural Handbook and the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures as updates to this document occur. On April 27, 2017, the Department received notice than an extension was granted by OIEA to extend the target date to the end of FY18.

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 is still developing 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 is utilizing a centralized tracking spreadsheet on the Google platform. BIA leads the development and deployment of this tracking spreadsheet in consultation and coordination

with BLM. We received an extension from GAO to complete this recommendation by the end of FY18 and are on track to meet our target.

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.

BIA and BLM will continue to use the tracking spreadsheet mentioned above, and, upon completion, the enhanced TAAMS capabilities, to monitor and assess the results of the efforts to streamline the Indian CA review and approval process. The bureaus will continue to coordinate to establish a process for review of the collected data, which will assist in identifying and implementing any necessary process modifications.

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 Indian Energy Service Center (IESC) is working to implement Memoranda of Understanding (MOU) with the appropriate Department bureaus and other Federal agencies involved in the development of Indian energy and mineral resources and to define roles and responsibilities regarding the development of those resources on trust lands. MOUs are being developed with the Fish and Wildlife Service (FWS), Environmental Protection Agency (EPA), Army Corps of Engineers (Corps), as well as IEED and Department of Energy (DOE).

The BIA/IESC, through the Indian Energy Minerals Steering Committee (IEMSC), has also established Federal Partners Groups, where needed, which include: BIA, BLM, Office of Natural Resource Revenue (ONRR), Corps, FWS, and EPA. These groups provide field knowledge on energy and mineral issues and serve to facilitate and focus the single point of contact desired by the respective parties regarding the processing of energy development for each region.

Currently, Federal Partner Groups are being established for the Navajo Region, the Southwest Region, and the Rocky Mountain Region. Federal Partner Groups for the Great Plains Region, the Eastern Oklahoma/Southern Plains Regions, and the Western Region are currently meeting on a regular basis.

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.

BIA recognizes that in addition to the identification of potential energy resources, there must be

organized coordination between agencies to fully develop and/or protect Indian energy and mineral resources.

In an effort to improve communication between the two offices, an MOU was recently signed between IEED and DOE outlining a partnership going forward. The IESC reviewed this MOU with the intent of also entering into the existing agreement. The IESC prepared an addendum to the MOU with IEED and DOE to finalize the agreement. The addendum is currently in the surname process.

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 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), are engaged in this effort. The IESC began utilizing the intake forms in August, to obtain input regularly from stakeholders, and currently has no data to report.

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 development of the IESC was the result of a concept paper produced by a multi-agency team formed by the IEMSC. The multi-agency team held a tribal listening session, received written comments, and conducted conference calls in an effort to gather input from relevant stakeholders. The final version of the concept paper also included an organization chart which set forth the IESC chain-of-command. The IEMSC accepted and approved the concept paper as presented by the multi-agency team. At this point, the BIA believes this recommendation is complete and the GAO closure package is currently being prepared

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.

The BIA is continuing the process of identifying and implementing a workforce plan regarding positions associated with the development of Indian energy and minerals. As we testified in May before the Committee, the IESC will collect data directly from BIA, BLM, ONRR, and OST employees in an effort to identify workload and necessary technical competencies. Then, the IESC will work with partner bureaus to assess skills and competencies needed for energy and mineral workforce standards. The initial survey was distributed in August 2017 to key employees across BLM, ONRR, OST and BIA; results are being analyzed. The BIA is on target and expects

to complete this recommendation by the end of 2017.

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.

The BIA is assessing the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. This includes collecting data directly from BIA, BLM, ONRR, and OST employees. The BIA is on target to complete this assessment by December 31, 2017.

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.