




OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

SEP 30 2016

Memorandum

To: Kristen Sarri
Principal Deputy Assistant Secretary for Policy, Management and Budget

From: Jeff Carlson 
Director, Energy Audits Unit

Subject: Verification Review of Recommendations for the Inspection Report No. CR-IS-BIA-0001-2014 - Records Management at Selected Bureau of Indian Affairs' Agency Offices Verification Review
Report No. 2016-EAU-073

The Office of Inspector General (OIG) has completed a verification review of three recommendations presented in inspection report, "Records Management at Selected Bureau of Indian Affairs' Agency Offices," (CR-IS-BIA-001-2014), issued January 31, 2014.

The objective of this verification review was to determine whether the three recommendations were implemented by selected agencies of the Bureau of Indian Affairs (BIA) as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget. PFM reported to OIG that each of the three recommendations in the report had been resolved and implemented. The results of our review are detailed below.

Results of Review

We concur that Recommendations 1 and 3 are resolved and implemented. We do not concur, however, that BIA has resolved and implemented Recommendation 2. Our review found that Recommendation 2 was not implemented properly in two areas.

Recommendation 2: Ensure that the recommendations contained in the 2009 report citing records management deficiencies at the Southern Ute Agency are implemented.

The 2009 report that was referred to in our recommendation was issued by the realty officer of BIA's Uintah & Ouray Agency on November 25, 2009, and is referred to below as the 2009 report.

The first area that was not addressed properly was the 2009 report's recommendation to record oil well surface structures in the Trust Asset and Accounting Management System (TAAMS) or implementing a Surface or Mineral Access Agreement.

Action Taken:

BIA did not take any action. BIA stated, “The Agency is unaware of any regulation that requires recording of Oil Well Surface Structures in the Trust Asset and Accounting Management System (TAAMS) or implementing a Surface or Mineral Access Agreement. However, all associated activities leading to production are completed and encoded into TAAMS (See Attachment 1 for Maintenance and Disposition Plan).”

OIG Review:

We reviewed the 2009 report, which stated:

“Well pad encumbrances (well surface damage, access and pipeline corridors) are authorized under an Application for Permit to Drill [APD], and ultimately under the mineral lease. There is no known Tribal or BIA permit, other than APD concurrence that is required by Onshore Oil and Gas Order No. 1 that authorizes the construction of any surface infrastructure. The well encumbrances, whether it be the well pad, pipeline, [or] access/pipeline corridors, needs to be encoded into TAAMS as well as be recorded by the LTRO [Land, Title, and Realty Office]. Since there is no encumbrance document other than the APD concurrence, an encumbrance document (Mineral Access Agreement) needs to be created that is both accepted by the LTRO and the Superintendent that will ultimately authorize surface construction. BIA needs to ensure this document is created and accepted prior to authorizing any surface construction on trust lands.”

In addition, we reviewed Attachment No. 1 provided by BIA to see if encumbrance information was input into TAAMS as recommended. The attachment did not provide any evidence of any well pad encumbrances within TAAMS (i.e. nonland trust assets such as the well pad, pipeline, access/pipeline corridors, etc.) nor did it provide a Mineral Access Agreement to support surface construction activities. This document only detailed the maintenance and disposition of certain files.

We also found that the Indian Affairs Manual, Part 51, Chapter 3, Paragraph 3.3 – Release #12-18, dated 04/30/2012 states:

- Nonland trust asset documents must be filed at the Land, Title, and Realty Office (LTRO) immediately after the approval of the document by a properly authorized Federal official.
- The current system-of-record for nonland trust asset documents is the Trust Asset and Accounting Management System (TAAMS), which includes the TAAMS Image Repository (TIR).

This clearly demonstrates BIA has a policy requiring personnel to record oil well surface structures (e.g. well pad encumbrances) into TAAMS.

The second area that was not addressed properly was access to records must be controlled and records must be current and complete.

Action Taken:

BIA labeled its trust record folders with the following notice:

1. Access to these records is limited to authorized personnel only.
2. Information may not be disclosed from this file unless permitted pursuant to 43 C.F.R. § 2.56.
3. These records may not be altered or destroyed except as authorized by 43 C.F.R. § 2.52.
4. The Privacy Act contains provisions for criminal penalties for knowingly and willfully disclosing information from this file unless properly authorized.

OIG Review:

We compared the C.F.R. citations referenced on BIA's label to the most current C.F.R. language. We found the first citation (43 C.F.R. § 2.56) addressed reducing or waiving Freedom of Information Act (FOIA) fees, and the second citation (43 C.F.R. § 2.52) related to how FOIA fees will be billed. Thus, the citations do not inform the user of Privacy Act requirements. The C.F.R. was revised in 2014 and Privacy Act provisions were moved from Subpart G to Subpart K. BIA needs to update these references accordingly.

Conclusion

We conclude that Recommendation 2 should be re-opened for implementation and tracking. We request that PFM provide a written response to this memorandum by October 30, 2016 indicating whether it reinstated Recommendation 2. If applicable, the response should provide PFM's reasons for not reinstating the recommendation.

We informed BIA officials of the results of this review on September 29, 2016 via a telephone exit conference.

If you have any questions concerning this memorandum, please contact me at 303-236-9243.

cc: Olivia Ferriter, Deputy Assistant Secretary, Policy Management and Budget
Allen Lawrence, Division Chief, Internal Control and Audit Follow-up, PFM
Michael Black, Director, Bureau of Indian Affairs
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