



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

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Memorandum

To: Allen Lawrence
Division Chief, Internal Control and Audit Follow-up, Office of Financial Management

From: Jeff Carlson 
Director, Energy Audits Unit

Subject: Verification Review – Recommendations for the Report, “BIA Needs Sweeping Changes to Manage the Osage Nation’s Energy Resources” (CR-EV-BIA-0003-2013)
Report No. 2017-EAU-033

The Office of Inspector General (OIG) has completed a verification review of 9 of the 33 recommendations presented in our October 2014 evaluation report, “BIA Needs Sweeping Changes to Manage the Osage Nation’s Energy Resources” (CR-EV-BIA-0003-2013). Our evaluation report found that the Bureau of Indian Affairs’ (BIA) Osage Agency’s (Agency) oil and gas management program is fundamentally flawed, thereby preventing the Agency from effectively managing the Osage Nation’s mineral estate. BIA can only reform the program through sweeping changes in how the Agency conducts its oil and gas activities.

The evaluation report made 33 recommendations, which if implemented, would improve BIA’s management of the Osage Nation’s oil and gas program. BIA concurred with 28 recommendations, partially concurred with 2 recommendations and did not concur with 3 recommendations in a memorandum response to the draft report dated September 26, 2014. In addition, BIA stated in its memorandum that most, if not all, of the recommendations within the evaluation report had been identified and are in some state of implementation. We considered 5 of the 33 recommendations resolved and implemented based on BIA’s memorandum and subsequently referred 28 recommendations to the Office of Financial Management (PFM), Office of Policy, Management and Budget for tracking of the recommendation’s implementation on October 23, 2014.

Our objective for this review was to determine whether BIA implemented the recommendations as reported to PFM. To accomplish our objective, we reviewed the supporting documentation that BIA officials provided to PFM, discussed issues with staff, and collected and reviewed additional supporting documentation, as necessary, to verify each recommendation’s implementation independently. The scope of this review was limited to determining whether BIA implemented Recommendations 1, 3, 6, 9, 14, 16, 17, 18, and 21 from the evaluation report. BIA determined sufficient action was taken to implement these nine recommendations and requested they be closed.

Recommendations Verified as Closed

Based on our review, we conclude that the following seven recommendations have been resolved and implemented and should be closed:

Recommendation 3: Develop and implement official, comprehensive internal Agency policies and procedures that govern, guide, and regulate oil and gas activities.

Recommendation 6: Develop and implement internal policies and procedures to enhance the Agency's drilling permit review process in partnership with BLM [Bureau of Land Management].

Recommendation 14: Develop and implement oversight procedures to ensure compliance with the NEPA [National Environmental Policy Act] for all Osage Nation oil and gas activities.

Recommendation 16: Realign emphasis on gauging to other, more effective, oversight activities such as inspections, and instead of gauging for production verification, only gauge during inspections and for purposes of determining possible instances of fraud.

Recommendation 17: Reevaluate existing gauging practices and develop and implement a more efficient and effective gauging program if the Agency continues to emphasize gauging. This could include risk-based gauging.

Recommendation 18: Identify all high-risk leases, develop and implement a risk-based strategy to annually inspect all high-risk leases, and include a plan to inspect all leases over a specified time.

Recommendation 21: Develop and implement an Agency action plan to identify and track leases that it should terminate for nondevelopment, nonproduction, and noncompliance with lease terms.

Recommendations Agreed to be Closed

We determined the following two recommendations have not been resolved and implemented, but we agree should be closed:

Recommendation 1: Use its authority to correct program deficiencies by modifying 25 C.F.R. part 226 to mirror other Indian Country oil and gas regulations.

Actions Taken: BIA proposed changes to 25 C.F.R part 226 relating to developing the Osage Nation's minerals estate by releasing the final rule that revised Government regulation. The changes were to take effect on July 10, 2015. Before the final rule became effective, a U.S. District Court postponed the implementation and later issued an injunction preventing the final rule from taking effect. Based on this ruling, BIA recommended the final rule be remanded and the changes to 25 C.F.R. part 226 were never implemented. BIA is currently working on changes to 25 C.F.R. part 226, which should meet the intent of the recommendation.

Our intent for the recommendation was greater accountability and oversight, which would be achieved through changes to 25 C.F.R. part 226. Due to BIA's good faith effort to implement the intent of this recommendation, we consider this recommendation closed.

Recommendation 9: Develop and implement supplemental Agency guidance that includes how lessees should measure gas and subsequently calculate royalties based on energy quality.

Actions Taken: BIA developed a requirement for a lessee to include the quality of gas in its royalty calculation. This requirement was to be clarified in the updated 25 C.F.R part 226. The C.F.R change was not achieved due to a U.S. District Court's injunction preventing the final rule from taking effect. Therefore, BIA has not implemented the requirement. BIA is currently working on changes to 25 C.F.R. part 226 that should include provisions regarding gas measurement and valuation.

Establishing guidance indicating how lessees should include the quality of gas in their royalty calculation was the recommendation's intent. Even though this guidance was never implemented, we consider this recommendation closed due to BIA's good faith effort to implement the recommendation's intent.

Conclusion

We informed BIA and PFM officials of these results. Based on our findings, we may conduct a future review of the issues surrounding Recommendations 1 and 9.

cc: Olivia Ferriter, Deputy Assistant Secretary, Policy, Management and Budget
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