United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

JUL - 8 2008

The Honorable Byron L. Dorgan
Chairman
Committee on Indian Affairs
Washington, DC 20510-6450

Dear Chairman Dorgan:

I am writing to follow up on our meeting of June 19, 2008, with Secretary Kempthorne, other Department of Interior officials, and tribal leaders from the three Affiliated Tribes of the Ft. Berthold Indian Reservation (Reservation). At this meeting, we discussed possible options to overcome obstacles to timely oil and gas development on the Reservation. You asked us to develop a plan to resolve the issue and asked that it be submitted to you on or about July 7, 2008. Please find enclosed the Plan we have developed to promote timely oil and gas development on the Reservation.

Under the Plan, the Department of the Interior (Department) will take immediate steps to address the oil and gas development needs on the Fort Berthold Reservation. The Department will fund and implement the enclosed Plan during the current fiscal year and improve upon how the Department meets the needs on the Reservation. The Plan will provide staffing commensurate with the Reservation's needs. We will immediately take steps to hire a total of nine new positions to manage mineral and leasing development activities on the reservation. Fiscal Year 2008 funding has been identified for these new positions, and we are committed to fund these positions in Fiscal Year 2009 as well. We will take these needs into account in formulating our Fiscal Year 2010 budget request. Of the nine positions, six will be located at the Fort Berthold Agency office (Agency). In the interim period before these positions are filled, the Department has detailed to the Great Plains Region and the Agency, staff from other regions with experience in Indian Country oil and gas leasing with the capacity to help reduce the processing time the influx of requests the Agency is experiencing.

In addition, the Plan provides for streamlining compliance with the requirements of the National Environmental Policy Act (NEPA) by developing a programmatic approach to NEPA review which will reduce the amount of time required for processing an Application for Permit to Drill as land owners and developers submit future site-specific applications.

The Plan's comprehensive inclusion of legislative and intra-Departmental obligations assists the Department in upholding the United States trust responsibilities on the Reservation. The Bureau of Indian Affairs (BIA), the Bureau of Land Management, Minerals Management Services and the Office of Special Trustee are the primary Departmental agencies responsible for executing the tribal trust responsibility when leasing Indian minerals. The Plan promotes

continued quality collaboration among these offices that comports with the existing Memoranda of Understanding among the Department's offices. Additionally the Plan accounts for the various legislative mandates that define the unique trust responsibilities on the Reservation.

Oil and gas leasing development on the Reservation will soon result in over $100 million worth of disbursements to the Three Affiliated Tribes and their members. The Department's investment of time and resources to implement a plan for the Reservation will build upon the existing capacity for successful oil and gas development.

We hope that this plan resolves your concerns. Thank you for your continued interest in this important issue.

Sincerely,

George T. Skibine
Acting Deputy Assistant Secretary
For Policy and Economic Development

Enclosure

Fort Berthold Agency Oil and Gas Division Staffing/Funding Plan

Prepared:
July 2008

INTRODUCTION

The purpose of this plan is to identify the functions associated with oil and gas pre-leasing, leasing, exploration and production activities on the Fort Berthold Reservation and the resources needed to accomplish these functions.

The plan has been developed to ensure the agencies ability to carry out the Federal Government's Trust responsibility while promoting the development of oil and gas resources on the reservation.

Williston Basin/Bakken Formation

The Fort Berthold Indian Reservation lies entirely within the Williston Basin, a geological area with known reserves of oil and gas. The Bakken formation is an oil shale which lies favorably within the reservation boundaries. Recent U.S.G.S reports indicate that the Bakken formation holds up to 4 billion barrels of recoverable crude oil using horizontal drilling and fracturing technology. The Fort Berthold Reservation is favorably located for exploration in the Bakken formation.

Oil and Gas Exploration/Production Potential

Based on the production that surrounds the reservation and the fact that the reservation is essentially unexplored, there is a high likelihood of discovering very significant reserves within the reservation. Estimates of the potential on the Fort Berthold Reservation are:

- 100 wells drilled on the reservation at $5 million each = $500,000,000 economic activity (not including the extensive production infrastructure that will accompany the wells).
- 67 barrels a day (approximate current Parshall field average) from the 100 wells time 365 days a year =2,445,500 barrels a year times $120 per barrel = $293,460,000 per year gross revenue.
- Potential gross revenue over 10 year life of wells; 10 years times $293,460,000=$2,934,600,000

- **Potential annual royalty to trust land owners @ 18% royalty rate = $528,228,000.**

NOTE: Based on the size of the reservation and the fact that there are now approximately 1,546 oil and gas leases, the total drilling program on the reservation may greatly exceed 100 wells. The Three-Affiliated Tribes and the State of North Dakota have recently approved a joint oil and gas tax share agreement. Extensive exploration on the reservation will result in a positive economic impact to State and Tribal government from taxation, in addition to making a significant impact to the economy of western North Dakota.

ROLES AND RESPONSIBILITIES

The Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Minerals Management Services (MMS), and Office of the Special Trustee (OST) are the primary Interior Department Agencies responsible for executing the Secretary's Trust Responsibility as it relates to the leasing of Indian minerals.

The two Memorandums of Understanding cited below describe the roles and responsibilities of the respective agencies.

BLM MOU WO600-9111: Memorandum of Understanding between the Bureau of Indian Affairs (BIA),the Bureau of Land Management (BLM), and the Minerals Management Service (MMS) regarding working relationship affecting mineral lease activities.

This MOU describes the working relationships between BIA, BLM, and MMS in carrying out the Department of the Interior's responsibilities for Federal onshore and Indian lease management and accounting. The purpose of the MOU is to achieve common standards and methods for creating an efficient and effective working relationship between the Bureaus and for achieving the common goal of improved minerals accountability for Federal and Indian leases.

BLM-MOU-MT920-0121: Memorandum of Understanding among: U.S. Department of the Interior – Bureau of Land Management; Montana State Office; and U.S. Department of the Interior – Bureau of Indian Affairs; Rocky Mountain and Great Plains Regional Offices concerning: The Management of Oil and Gas Functions on Indian Lands in Montana, North and South Dakota.

This MOU provides for continued coordinated management of oil and gas commodities on Indian lands in Montana, North Dakota and South Dakota, which are managed by

the Rocky Mountain and Great Plains Regional Offices of the Bureau of Indian Affairs, and for which the BLM also has trust responsibilities.

OPERATION AND LOCATION

Regional Office – The BIA Regional Office performs coordination activities, direction, oversight, and technical support to the Fort Berthold Agency in all aspects of the oil and gas activities.

The Regional Office works directly with the Superintendent, Deputy Superintendent, Realty Officer, and Realty Specialist (O&G) and serves as the liaison between the Fort Berthold Agency, Regional Office and Central Office. OST, BLM, and MMS.

The Regional Office is located at 115 4th Ave., SE, Aberdeen, South Dakota

Field Offices – The Fort Berthold Agency performs the oil and gas leasing, drilling, production and reclamation activities on the Fort Berthold Reservation.

The Fort Berthold Agency works directly with the Tribes, approximately 4,800 beneficiaries, oil companies, OST, BLM, MMS and the BIA Regional Office.

The Fort Berthold Agency is located at 202 Main St., New Town, North Dakota

OIL AND GAS
FUNCTIONS PERFORMED

Pre-leasing. Pre-leasing tasks include, but are not limited to, identifying lands to be leased, assisting mineral owners in negotiations upon request, preparing advertisement for competitive sales, establishing minimum fair market value, conducting the sale, preparing abstract of successful bidders, preparing and mailing award letters, requesting and printing Title Status Reports-TSRs, requesting and printing Tract Owner/Address/Interest Reports-TOAIRs, verifying legal descriptions and ownership, reviewing submitted leases and Tribal Indian Minerals Development Act-IMDAs, verifying consents needed, verifying all required signatures are original, witnessed or notarized, verifying bonding, approving leases, encoding leases into Trust Asset Accounting Management System and receipt and processing of bid deposits.

Leasing. Leasing tasks include, but are not limited to, reviewing and approving leasing documents, i.e., Communitization Agreement-CAs, Unitization Agreements-UAs, Applications for Permit to Drill-APDs, assignments, modifications, etc., encoding documents into TAAMS/RDRS, submitting documents to LTRO for recording, requesting and printing TSRs, requesting and printing TOAIRs

Exploration: The permitting tasks include, but are not limited to, review of the Notice of Staking -NOS, the Application for Permit to Drill-APD, Seismic Permits, Environmental Assessments, Archeological and Cultural Inventories, Permission to Survey and Rights of Way-ROW Applications, preparation of recommendation letters and approval letters, requesting and printing TSRs, requesting and printing TOAIRs, On-site Inspections, preparing grants of easements for ROWs, encoding documents into TAAMS, submitting documents to LTRO for recording, producing and mailing of invoices. All of these activities are accomplished while maintaining our trust responsibilities to the beneficiaries and the trust resources.

Production: Production tasks include, but are not limited to, monitoring lease compliance, interim and final reclamation, plugging of the wellbore, return of bonds, maintaining well files, monitoring monthly production reports from TAAMS/MMS, responding to undesirable events.

GOALS AND OBJECTIVES

The goal of the oil and gas leasing activities of the Fort Berthold Agency are identified below:

Goal #1: Enhance Service to the Beneficiaries.

Objectives:

- Establish additional FTEs to accomplish the increased workload involved in the oil and gas leasing activities.
- Improve accountability of oil and gas leasing activities to the beneficiaries.
- Ensure timely and accurate maintenance of TAAMS.
- Improve outreach activities to beneficiaries.
- Ensure invoices to oil companies and payments to beneficiaries are received in a timely and efficient manner.
- Provide and maintain training of personnel.

Goal #2: Protection of the Environment and Resources.

Objectives:

- Increase lease compliance staff to monitor oil and gas leasing operations.
- Ensure all oil and gas activities are conducted in accordance with applicable laws and regulations.
- Ensure orderly common corridor systems to minimize the footprint of oil and gas development.
- Ensure that the development of oil and gas resources are accomplished in an environmentally sound manner.

Goal #3: Boost the economic value of the Fort Berthold Reservation.

Objectives:

- Ensure the maximum value is realized from the oil and gas resources.
- Create additional income for the tribe and individual tribal members.
- Improve economy through spending within the community.
- Provide potential for economic development, cultural and social benefits to the tribe and individual tribal members through the leasing activities.

STAFFING PLAN

The staffing proposal includes a total of nine (9) new positions to manage the Indian Mineral Leasing and Development Activities for the Fort Berthold Agency. Nine Additional FTE's were determined to be at the most efficient level to manage the anticipated workload based on 4,000 negotiated leases and anticipated 500 APD's based on 250 working days in the calendar year. Six (6) of the new positions will be located at the Agency office:

- **(2) Realty Specialists:** Duties will include Pre-leasing, Leasing, and Production activities; Customer Service; and Technical Assistance.
- **(1) Realty Assistants:** Duties will include Pre-leasing, Leasing, and Production activities, Files Maintenance, Tracking and Technical Assistance.
- **(2) Lease Compliance Specialists:** Duties will include activities related to exploration and production activities; Lease Monitoring, reclamation activities, ROW compliance.
- **(1) Program Analyst:** Duties will include budget management activities, administrative duties, customer service activities, and tracking activities.

The Realty Specialist and Realty Assistant position descriptions have been nationally standardized. The Knowledge, Skills and Abilities for each of these positions have also been standardized. Thus, the new positions will not have to go through the classification process which will speed up the recruitment process. The standardized position description for a Realty Specialist (Contracts Management) includes all duties associated with tenure & management activities such as: leasing, right-of-way, lease compliance/monitoring, etc.

Three (3) of the proposed positions will be located at the Great Plains Regional Office, These positions will provide Regional level coordination, policy and technical assistance activities to the Agency. These positions will also be utilized to promote and support development of O&G resources on other reservations throughout the Region:

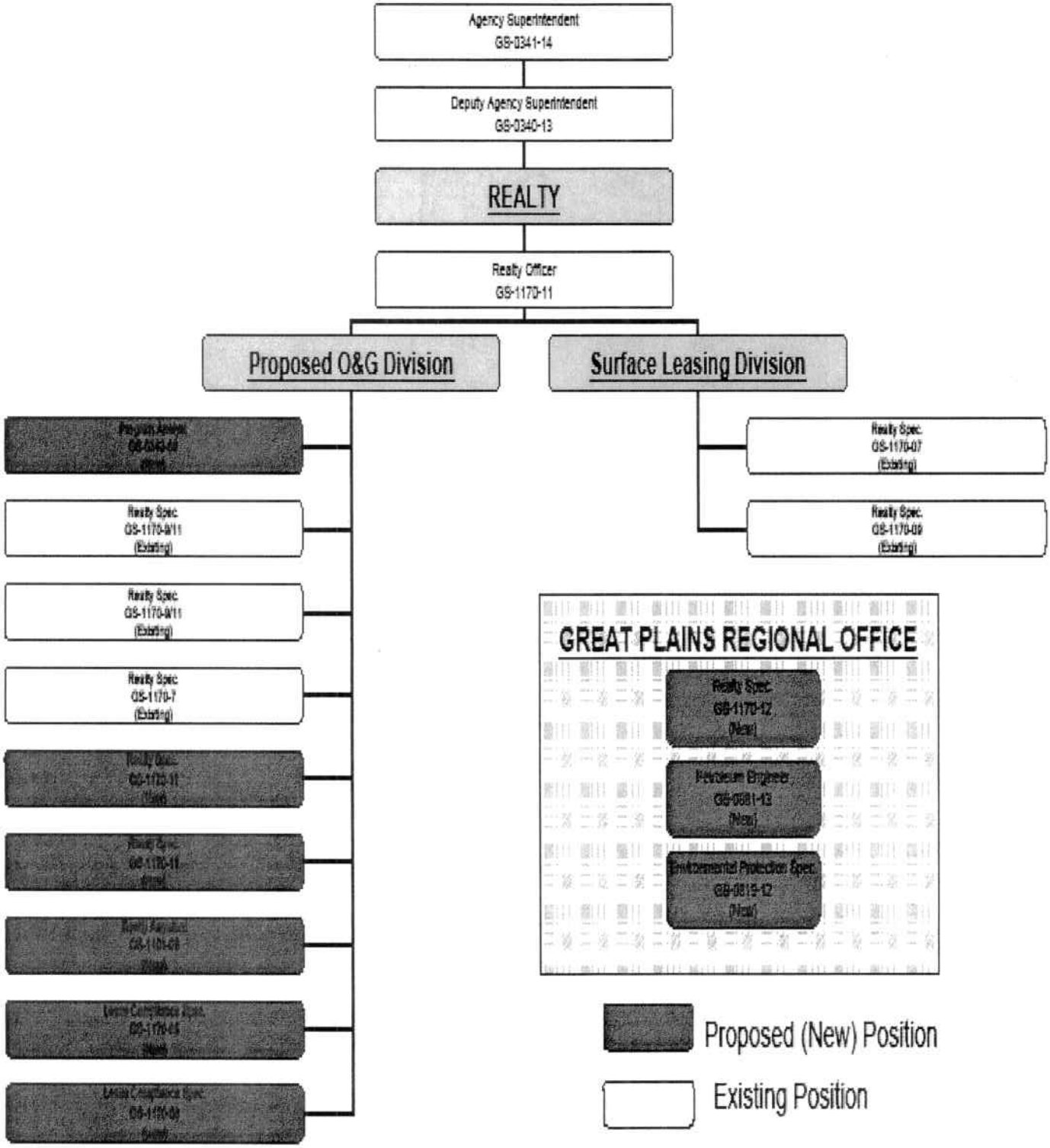
- **(1) Realty Specialist:** Duties will include providing policy guidance and technical assistance to Agency staff related to O&G activities, Invoice monitoring, royalty monitoring, and will be on-call to the agency during peak workload periods
- **(1) Environmental Specialist:** Duties will include NEPA activities, environmental compliance during exploration and production phases.

- **(1) Petroleum Engineer:** Duties will include technical assistance to the Agency regarding O&G activities, technical review of O&G proposals (i.e. APD's, Unitization Agreements, Communitization Agreements).

To meet the current demand of the initial surge of oil and gas leasing at the Agency the Great Plains Regional Office has detailed additional staff to the Agency based on this staffing template.

FORT BERTHOLD AGENCY

PROPOSED O&G DIVISION



N -Recurring Funding Proposal – Programmatic National Environmental Policy Act Review:

The BIA has decided to prepare a programmatic NEPA review for the Fort Berthold Reservation. The BIA will develop the programmatic NEPA review through the use of an Environmental Contractor with experience in developing NEPA documents. The Office of Trust Services is currently developing a statement of work to solicit requests for proposals. BIA has identified funding to conduct this review.

Programmatic EA Funding: $500,000

Non-Recurring Start-up Costs For New Employees:

FY 2008 – the BIA will require $31,151 for start up costs for the new employees, including equipment and office materials for the new staff. These items include computers, printers, desks, chairs, etc. The BIA has identified a source for the $31,151.

Total Startup Costs: $31,500

Recurring Funding For New Staff:

FY 2008 – the funding required to pay salaries and benefits for the proposed new staff for the last quarter of FY 2008 is $217,227. The BIA has identified a source for the $217,227 and has instructed the Region to work with the Human Resources Office to begin the hiring process.

FY 2009 – The funding required to pay salaries and benefits for the proposed new staff for FY 2009 is $793,686. The BIA has committed to finding funds from other programs to fund the staff for FY 2009.
FY 2010 and out year – The funding required to pay salaries for the proposed new staff for FY 2010 and beyond is $793,686 adjusted each year for salary increases. BIA will have to address this long-term recurring funding need through the budgetary process.

Summary of needs and BIA commitments

Action	Dollar amount	BIA commitment
Programmatic NEPA	$500,000	Yes
FY 2008, Q4 staffing	$217,227	Yes
FY 2009 staffing	$793,686	Yes
FY 2010 + staffing	$793,686 +	Budget process
FY 2008 startup costs	$31,151	Yes

Detail Assignments

The BIA is currently identifying other staff throughout the nation who can be assigned to the Fort Berthold Agency on a temporary basis while permanent staff is hired.