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Indian Energy and Economic Development

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- 1.1 Purpose.** This chapter provides information on the policy, authorities, and responsibilities for the Division of Energy and Mineral Development (DEMD) within the Office of Indian Energy and Economic Development.
- 1.2 Scope.** This policy applies to all programs and offices under the authority of the AS-IA, including the Bureau of Indian Affairs (BIA).
- 1.3 Policy.** It is the policy of Indian Affairs (IA) to comply with all applicable Federal laws and regulations and Departmental policies and procedures concerning the development of tribal conventional energy, renewable energy and mineral resources on trust lands. The DEMD provides:
- economic evaluations of energy and mineral resources to Indian mineral owners as requested;
 - expert technical advice on geology, mining engineering, petroleum engineering, geophysics, feasibility studies, market analyses, and mineral economics to Indian mineral owners;
 - expert technical advice to the Indian mineral owners in negotiating Indian Mineral Development Act (IMDA) agreements with respective developers;
 - facilitation for energy and mineral resource development opportunities on Indian lands while assuring consistency with the execution of Federal trust responsibilities over such resources for tribes and individual Indian allottees;
 - technical support to Regional and Agency BIA office staff on energy and mineral lease development;
 - energy and mineral feasibility study grant funding (when available);
 - energy capacity grant funding (when available); and
 - business knowledge to reduce poverty and joblessness by creating an environment and legal infrastructure conducive to development of robust, sustainable economies.
- 1.4 Authority.**
- A. Statutes.**
- 1) The Snyder Act of November 2, 1921, 25 U.S.C. 13, 42 Stat. 208, P.L. 67-85; 90 Stat. 2233, P.L. 94-482
 - 2) The Indian Reorganization Act of 1934, 25 U.S.C. 461 et seq., 48 Stat. 984, P.L. 73-383; P.L. 103-263
 - 3) The Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450, 88 Stat. 2203, P.L. 93-638, P.L. 100-472; 102 Stat. 2285, P.L. 103-413

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- 4) Indian Mineral Development Act of 1982, 25 U.S.C. 2106, 86 Stat 1940, P.L. 97-382
- 5) Umatilla Basin Project Act, 16 U.S.C. 1271 et seq., P.L. 100-557
- 6) Energy Policy Act of 2005, 25 U.S.C. 3501, (P.L. 102-486, Title XXVI – The Energy Policy Act of 1992, § 2601, as amended P.L. 109-58, Title V, § 503(a), Aug. 8, 2005, 119 Stat. 764.)

1.5 Responsibilities.

- A. **Deputy Assistant Secretary, Policy and Economic Development (DAS-PED)** is responsible for general oversight of the Office of Indian Energy and Economic Development.
- B. **Director, Office of Indian Energy and Economic Development** is responsible for the ensuring processes and procedures are in place within DEMD; ensuring policy and procedures are up-to-date.
- C. **Chief, Division of Energy and Mineral Development** provides technical expertise in engineering, development, and management in the exploration and development of energy and mineral resources on trust lands; provides guidance in the resolution of controversial economically important issues with respect to complex and highly specialized energy and minerals programs affecting Bureau-wide objectives of energy and minerals management; responsible for formulating and recommending plans and standards covering all phases of conservation and development of Indian energy and mineral resources; coordinates regulations, policies and procedures with other agencies within the Department and other governmental agencies, and industrial personnel; provides advice and guidance to management on energy and mineral related technical issues; oversees the Division's energy and mineral inventory program and reviews environmental impact statements, prepares comments related to energy and mineral resource development, and monitors contracts and production programs in renewable, oil and gas, economic analyses and other activities related to energy and mineral resources.
- D. **Branch Chiefs** provides technical review, consultation and coordination of DEMD programs for high value resources; responsible for formulating and recommending plans and standards covering all phases of conservation and development of Indian energy and mineral resources; continual study and analysis of specialty engineering applications of energy and mineral industries, and valuation methods and techniques; and provides guidance in the resolution of a wide variety of controversial, unique and economically important problems and issues involving complex and highly

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specialized energy and minerals program affecting Bureau-wide objectives of energy and minerals management.

1.6 Definitions.

- A. **Feasibility study grant funding** are grants to fund Tribes and Tribal Energy Resource Development Organizations to assess the technological, economic, financial, and practical viability of energy and mineral development opportunities.
- B. **Energy capacity building grant funding** are grants to assist tribes in developing the legal infrastructure necessary to regulate and operate energy projects.
- C. **Legal infrastructure** describes tribal codes and regulations, including secured transactions and corporate formation codes, whose enactment by a Tribe would encourage business formation and outside investment.
- D. **Indian land** for purposes of grants for mineral development under the Snyder Act means any tract or interest therein, in which the mineral estate is owned by one or more Indian tribes in trust or restricted status.
- E. **Indian mineral owner** is defined as Indians tribes and individual allottees that have mineral rights held in trust or restricted status.

1.7 Organization.

The DEMD is the primary office for fulfilling BIA's trust responsibility for the development of tribal conventional energy, renewable energy and mineral resources on trust lands for Indian tribes and allottees. Previously, DEMD has averaged over 120 projects per year that involved many reservations. The typical break out has been roughly 50% renewable energy, 17% solid minerals, 12.5% fluid minerals. 12.5% National Indian Oil & Gas Evaluation & Management System (NIOGEMS) and 17% Tribal Energy Development Capacity projects. The organization reflects this established workload.

- A. **Branch of Solid Minerals** provides assistance to Indian mineral owners in evaluating and developing their solid mineral resource potential. Assistance begins at the project's conception, continues through the resource assessment, and ends with agreement negotiation. The agreements lead to development and production. Assistance includes:
 - Assessing the energy and mineral potential, including geologic field studies, laboratory analyses, geophysical interpretation, and land status;
 - Assisting tribes and Indian mineral owners in marketing mineral resources. This includes, but is not limited to: sponsoring a tribal representative's attendance and serving as technical representatives for tribes at industrial trade shows, industry forums where tribes can interact directly with prospective industry partners, and

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providing tribally authorized technical presentations detailing the geology, geophysics, engineering and resource potential of tribal lands to potential partners;

- Assisting tribes and Indian mineral owners in project development steps and design for projects being developed by the tribes for direct mineral use by the tribe;
- Advising Indian mineral owners on business options and the economic benefits and risks associated with each option;
- Generating risk-adjusted economic analyses for Indian mineral owners to utilize as a framework for negotiating value-added agreements with potential business partners; and
- Assisting Indian mineral owners in negotiating agreements with potential business partners conditioned on aggressive work commitments, including acquiring seismic data, drilling wells, timelines, job training, and job placement.

B. Branch of Fluid Minerals provides assistance to Indian mineral owners in evaluating and developing their energy resource potential. Assistance begins at the project's conception, continues through the resource assessment, and ends with agreement negotiation. The agreements lead to development and production. Assistance includes:

- Assessing the energy potential, including geologic field studies, laboratory analyses, geophysical interpretation and land status;
- Assisting tribes and Indian mineral owners in marketing energy resources. This includes sponsoring a tribal representative's attendance and serving as technical representatives for tribes at industrial trade shows, industry forums where tribes can interact directly with prospective industry partners, and providing tribally authorized technical presentations detailing the geology, geophysics, engineering and resource potential of tribal lands to potential partners;
- Assisting tribes and Indian mineral owners in project development steps and design for projects being developed by the tribes for direct energy use by the tribe;
- Advising Indian mineral owners concerning business options and the economic benefits and risks associated with each option;
- Generating risk-adjusted economic analyses for Indian mineral owners to utilize as a framework for negotiating value-added agreements with potential business partners; and
- Assisting Indian mineral owners in negotiating agreements with potential business partners conditioned on aggressive work commitments, including acquiring drilling wells, timelines, job training, and job placement.

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- C. Branch of Geotechnical Data Services** manages and maintains Indian energy and mineral data. Many tribes receive copies of geotechnical data, without cost, as part of exploration or lease agreements from companies exploring on their lands. The types of geotechnical data include geologic, geophysical, engineering and economic data in both hardcopy and digital form. Tribes are also adding to their data libraries through financial assistance from DEMD's annual grant programs. The value of the data is considerable, estimated to have a replacement value of over \$350 million and continuing to grow. This Branch performs the following functions and services:
- 1) **Collect, Catalog and Store Geotechnical Data.** The Branch will ensure that all data obtained by private companies or partners is provided to the tribe on a timely manner, and that all data described in an exploration or lease agreement is included.
 - 2) **Secure Storage of Data.** The Branch serves as an agent for tribes in storing data, which can exist in both, hardcopy and electronic formats, at the DEMD office which conforms to Government security and confidentiality regulations. This is done through implementing proper physical, administrative, and technical safeguards to protect proprietary Indian data from unauthorized disclosure and/or improper use. The Branch has also developed several searchable database systems to catalog and locate the data easily.
 - 3) **Data Processing Services.** The Branch has access to powerful workstation computers and invests in data processing software to perform data processing and geological modeling. Computer processing improves resolution and quality of data sets, especially older data sets, and can often identify new locations of undiscovered energy or mineral resources.
 - 4) **Interpretation Services.** Interpretation of data produces an identification of potential prospective targets, usually presented and displayed in map form. This helps tribes in planning their lease sales and negotiating with industry to reach agreement terms which provide economic benefits to tribal people and communities. It also helps companies to quickly determine reservation lands to spend their exploration and development dollars. Interpretation products are confidential to the tribes, to be used as a tribe deems necessary to either promote lands to private industry for development, or to develop it resource themselves.
 - 5) **Provide a Central Data Room for Industry.** A key motivating factor for industry or investors to enter into exploration and development agreements with tribes is the opportunity to review exploration data prior to commitment. With permission from a tribe, the Branch will provide private companies or investors a convenient location to view and interpret tribal data in confidence.

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D. Branch of Energy and Mineral Capacity Development assists tribes in developing tribal managerial, organization and technical capacity needed to maximize the economic impact of energy and mineral resource development on Indian lands. The Tribal Energy Development Capacity (TEDC) grant gives tribes the tools to develop or enhance their business and regulatory environment for energy resource development consistent with Tribal Energy Resource Agreements (TERA) and the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act. The Energy Act of 2005 provide tribes an opportunity to participate in the TEDC grant program. The purpose of the TEDC grant program is to develop tribal managerial, organizational and technical capacity needed to maximize the economic impact of energy resource development on Indian land. The branch performs the following functions and services:

- 1) Build capacity through the establishment of organizational structure(s) and/or business entity structure(s) capable of engaging in commercial energy development or management activities, including but not limited to: leasing property, meeting lending requirements, entering into standard business contracts, and forming joint venture partnerships. These structures include: tribal business charters under federal law Section 17 Corporations, corporations formed under state or tribal incorporation codes, and Tribal Utility Authorities formed under tribal code;
- 2) Provide funding for the development or enhancement of key regulatory activities, including but not limited to the establishment of tribal policies, enactment of tribal regulations for leasing of surface land for energy development pursuant to the HEARTH Act, establishment of legal infrastructure for business formation, enactment of ordinances related to regulating and developing energy resource(s), and adoption of a secured transactions code or a memorandum of understanding, compact, or letter of intent with the state to register liens attached pursuant to this code.
- 3) Research and create handbooks and primers that provide guidance to Tribal Leaders, Indian Mineral Owners, and other interested stakeholders on complex issues regarding planning, regulation, and development of Tribal energy and mineral resources. These informational brochures will be driven by the need for information by affected parties. These handbooks will provide needed information in an easy to use and understand format.
- 4) Create planning documents that will assist tribal councils and leaders with strategic planning and land use planning for energy and mineral development. These documents will be driven by the need for information by affected parties. These planning documents will provide needed information in an easy to use and understand format.

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E. Branch of Renewables and Distributed Generation provides assistance to tribes and Indian land owners in evaluating and developing their renewable energy resource potential. Assistance begins at the project's conception, continues through the resource assessment, and ends with agreement negotiation. The agreements lead to development and production. Assistance includes:

- Assessing renewable energy potential, including field studies, laboratory analyses, interpretation and land status;
- Assisting tribes and Indian land owners in marketing renewable energy resources. This can include sponsoring a tribal representative's attendance and serving as technical representatives for tribes at industrial trade shows, industry forums where tribes can interact directly with prospective industry partners, and providing tribally authorized technical presentations detailing the engineering and resource potential of tribal lands to potential partners;
- Assisting tribes and Indian land owners in project development steps and design for projects being developed by the tribes for direct renewable energy use by the tribe;
- Advising Indian land owners concerning business options and the economic benefits and risks associated with each;
- Generating risk-adjusted economic analyses for Indian land owners to utilize as a framework for negotiating value-added agreements with potential business partners; and
- Assisting Indian land owners in negotiating complex, value-added agreements with potential business partners conditioned on aggressive work commitments, including acquiring timelines, job training, and job placement.

F. Branch of National Indian Oil and Gas Evaluation Management System. The National Indian Oil & Gas Evaluation Management System (NIOGEMS) is a computer-based application designed to assist oil and gas producing Indian tribes to achieve their goals towards self-governance and compacting. Tribal resource managers will need to readily access complex natural resource, realty, geo-technical information and financial data for management decisions on leasing, developing, and managing energy and mineral resources.

The purpose of NIOGEMS is to consolidate various components of the data from these operations into a single management software application tailored to the specific needs of Indian lands owners. In accomplishing this goal, NIOGEMS would have two major characteristics:

- a comprehensive database integrating the data elements required to manage tribal oil and gas, and other energy & mineral-related resources; and

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- a “point and click” graphical user interface which provides user-friendly methods to simplify the execution of these complex data management operations.

Approval



11/13/17

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Deputy Assistant Secretary – Policy and Economic Development

Date