



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

# **BUREAU OF INDIAN AFFAIRS' FEDERAL INDIAN MINERALS OFFICE**



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

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Memorandum

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Subject: Final Audit Report – Bureau of Indian Affairs’ Federal Indian Minerals Office  
Report No. 2015-EAU-079

This memorandum transmits the findings of our audit of the Federal Indian Minerals Office (FIMO).

We offer 14 recommendations to strengthen FIMO’s oversight of Navajo allottee oil and gas activities. In its response to the draft report, the Bureau of Indian Affairs, the Bureau of Land Management, and the Office of Natural Resources Revenue concurred with all of our recommendations and stated that they are working to implement them (see Appendix 2). Based on this response, we consider the recommendations resolved but not implemented (see Appendix 3), and we will forward them to the Office of Policy, Management and Budget to track their implementation.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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## Results in Brief

The Federal Indian Minerals Office (FIMO) within the U.S. Department of the Interior assists individual Navajo beneficiaries at the local level in the management of all aspects of their mineral and gas resources. Through its “one-stop-shopping” structure, FIMO distributed \$96 million in calendar year 2015 to approximately 20,835 individual Indian mineral interest owners on Navajo allotted land. In this audit, we assessed FIMO’s oversight of Navajo allottees’ oil and gas resources to determine whether FIMO is meeting the requirements of a 2005 memorandum of understanding (MOU).

We found that FIMO did not fully follow the requirements of the 2005 MOU. This happened in part because (1) the MOU is outdated and does not contain sufficient operational detail and (2) there was insufficient oversight by the Executive Management Group. We found internal disagreements regarding which MOU guides FIMO’s operations; ineffective coordinating and communication processes and outreach; unreconciled oil and gas lease inventories; and absence of audit and compliance review work plans for Navajo allotted leases. These inefficiencies hamper FIMO’s objective to provide Navajo allottees with one-stop-shopping customer service.

We found that FIMO and the Department’s Office of Natural Resources Revenue (ONRR), a partner bureau, inconsistently identify which MOU guides FIMO’s multi-bureau oversight of allottees’ oil and gas activities. Numerous MOUs have been created and are referred to by officials, even though some MOUs have been superseded for many years. Moreover, FIMO and its three partner bureaus—ONRR, the Bureau of Land Management (BLM), and the Bureau of Indian Affairs—do not coordinate outreach efforts with each other or conduct joint sessions to ensure allottees’ questions are answered, as required by the MOU.

We also found that—

- FIMO and BLM do not communicate on BLM inspection and enforcement activities;
- FIMO has not reconciled its oil and gas lease inventory with BLM’s inventories;
- FIMO employees do not agree on who is responsible for completing an audit and compliance review work plan; and
- Although an Executive Management Group was established to oversee FIMO office management, only minimal oversight exists.

We make 14 recommendations to strengthen FIMO’s oversight of Navajo allottees’ oil and gas activities.

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# Introduction

## Objective

We audited the Federal Indian Minerals Office's (FIMO) oversight of Navajo allottees' oil and gas resources to determine whether FIMO is meeting the requirements of its 2005 memorandum of understanding (MOU).

Appendix 1 contains the scope and methodology for this review.

## Background

FIMO is the first entity of its type within the U.S. Department of the Interior (DOI) —the only multi-bureau partnership created to assist allottees with oil and gas activities. Located in Farmington, NM, FIMO assists allottees from the Navajo reservation. The Navajo Reservation land base extends into the states of Utah, Arizona and New Mexico. The current FIMO director is a Bureau of Indian Affairs (BIA) employee who was appointed in August 2014.

FIMO came into existence due to a 1985 lawsuit brought against DOI by Navajos whose allotments had been leased for oil and gas development and production but who alleged that DOI had not fulfilled its duty to make timely royalty and lease rental payments. The lawsuit resulted in a March 1989 U.S. District Court consent decree. To comply with that decree, DOI established the Indian Minerals Office (since renamed the Federal Indian Minerals Office or FIMO) in August 1992.

In September 2001, FIMO received approval to become a permanent office, responsible for providing and improving Indian Trust services to individual Navajo beneficiaries and managing their oil and gas mineral resources on allotted lands.<sup>1</sup> FIMO strives to provide and improve oil and gas services for Navajo allottees, integrating the functions of multiple bureaus into a one stop shop from its offices in Farmington, NM.

FIMO's operating structure has been forged by a series of MOUs that outline responsibilities for DOI's Indian Trust functions. The first MOU, which dated to 1992, established FIMO's multi-bureau partnership, comprised of staff from the BIA, Bureau of Land Management (BLM), and Minerals Management Service (now known as the Office of Natural Resources Revenue (ONRR)). FIMO and ONRR officials continue to refer back to the 1992 MOU as an additional guiding document, even though more recent MOUs have superseded it.

A 1996 Memorandum of Agreement established the FIMO director position, as well as the partnership structure for the bureaus reporting to the FIMO director. Next, a 2001 MOU established the Executive Management Group (EMG) to

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<sup>1</sup> Allotted lands are held in trust for the use of individual Indians (or their heirs). The Federal Government holds the title, and the individual (or heirs) holds the beneficial interest.

monitor and oversee FIMO management. EMG consists of BIA's Navajo Region director, BLM's New Mexico State director, and ONRR's Indian Oil and Gas Compliance manager. The 2001 MOU also established staffing levels for each bureau partner.

The most recent MOU is a 2005 MOU, which establishes the framework for DOI to carry out its Trust responsibilities through FIMO. BIA, BLM, ONRR, and the Indian Energy and Minerals Steering Committee (Committee) coordinate and cooperate in partnership efforts to manage FIMO, while the Committee deals with Indian issues on a national level.

In the 2005 MOU, these bureaus agreed to operate FIMO under one line of authority, integrating the three bureaus' oil and gas management functions under the FIMO director's authority. The 2005 MOU charged the partner bureaus with providing coordinated, efficient, accountable service to Navajo allottees. It further charged FIMO with performing specific core functions—

- lease administration, which includes permitting; inspection and enforcement;
- production accountability; and
- royalty compliance.

The MOU also delegates responsibility for outreach and customer service, Navajo Individual Indian Money account updating, and records management.

FIMO is important to Navajo allottees due to the large amount of mineral resources Navajos have, and the magnitude of dollars involved. In calendar year 2015, FIMO distributed \$96 million to approximately 20,835 individual Indian mineral interest owners on Navajo allotted land. FIMO also recently helped them negotiate more than 200 new leases. At some point, when these leases move into the production stage, FIMO will need to manage an increased workload. It is taking steps to prepare for that potential increase.

This audit is the third in a series of Indian Country energy reviews performed by the Office of Inspector General. The first two reviews examined the Southern Ute Tribe and the Osage Nation. We initiated our FIMO audit because of the 1985 lawsuit against DOI that precipitated FIMO's creation and because FIMO has never been audited since its establishment as a permanent office in 2001.

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## Findings

We found that FIMO did not fully meet the requirements of the 2005 MOU. This occurred in part because the 2005 MOU is outdated and does not contain sufficient operational details. Also, poor communication among FIMO partners impacts inspection and enforcement activities. Unreconciled lease inventories, absence of outreach coordination on allottees' concerns, a poor audit and compliance review process, and very little monitoring or oversight of FIMO further inhibits FIMO from completing its mission to help Navajo allottees. In addition, EMG provided insufficient oversight.

### Outdated Partnership MOU

FIMO partnership bureaus do not know and disagree on which MOU is in effect. Since FIMO's creation, a series of MOUs have guided the partner bureaus working together to administer FIMO's responsibilities to Navajo allottees. We identified prior MOUs from 1992 to 1996 that had been rescinded or replaced. Our review indicated that the most recent MOU from 2005 is in effect. That 2005 MOU provides DOI with a framework to provide efficient and accountable service to Navajo oil and gas lease allottees. The 2005 MOU, however, is outdated, does not contain sufficient operational detail, and does not reflect the current partner bureaus operating within FIMO.

Even though these MOUs document FIMO's partnership operating agreement, partners do not know and also disagree on which MOU is in effect. The current FIMO director (a BIA employee), and staff from BLM and ONRR identify the 1992 MOU as their operating agreement. One official stated that he refers to the 1992 MOU for information not included in the 2005 MOU. Two EMG members, however, assert that the 2005 MOU is in effect, but that aspects of the 1992 MOU still apply. Such confusion leaves FIMO participants unclear as to which document is valid.

Although the 2005 MOU is the most current operating document, it still has not been updated to reflect organizational changes. For example, in fiscal year 2014, the BLM Farmington Field Office chose to no longer have inspectors dedicated to, and reporting to the FIMO director, even though the MOU states that all the bureaus, including BLM, agree to operate under one line of authority. Personnel in the two other cooperating bureaus, BIA and ONRR, continue to report to the FIMO director as required. An EMG member we spoke with did not know that BLM staff no longer report to the FIMO director. Another EMG member stated that the 2005 MOU should have been updated to reflect the change in reporting structure. EMG meeting minutes also do not document approval of this structural change.

We note that the 2005 MOU does not refer to the Office of the Special Trustee for American Indians (OST). In 1994, DOI created OST to manage Individual Indian

Money accounts. OST is responsible for the critical function of distributing royalty payments to allottees, but was not included as a partner in the 2005 MOU. Since OST is not included, the most current MOU does not include all entities responsible for meeting FIMO's objective of a one stop shop for allottees.

We issued a Notice of Potential Finding and Recommendation (NPFR) regarding the outdated partnership MOU, and BIA, BLM, and ONRR concurred with our finding and recommendations. EMG has tasked the FIMO director with drafting an updated MOU for review and approval at the biannual October 2016 meeting.

### **Recommendation**

We recommend that BIA, BLM, and ONRR:

1. Work together to develop and implement a new MOU that lists all participating agencies in FIMO which identifies each agency's roles and responsibilities, and provides specific operational details;
2. Determine whether OST should be a part of FIMO and, if so, identify the agency's role and responsibilities and provide specific operational details; and
3. Work together to periodically review and update the new MOU.

## **Inspection and Enforcement Activities Not Communicated**

BLM is not meeting the requirements of the 2005 MOU because its employees assigned to the FIMO office no longer report directly to the FIMO director. The 2005 MOU, signed by all participating bureaus, agreed to operate FIMO under one line of authority to integrate management of Indian allotted oil and gas functions. The MOU identifies BLM as a partner bureau of FIMO. In 2014, however, BLM management directed inspectors to no longer report to the FIMO director, placing them under the authority of the BLM Farmington Field Office instead. BLM made this change without seeking formal approval from EMG. As a result, BLM and FIMO do not communicate regarding BLM inspection and enforcement activities for Navajo allotted oil and gas leases. Also, neither has discussed the frequency of lease inspection and enforcement activities.

### **Inspection and Enforcement Activities**

Removing BLM inspectors from the FIMO director's oversight authority has created communication problems between BLM and FIMO and left FIMO both unaware of and unable to verify whether BLM inspectors are performing the required number of inspections. In its partnership capacity, BLM inspects Navajo allotted leases for operational, surface, and environmental activities. FIMO's



inability to verify BLM's data due to communication issues has kept FIMO from effectively performing one of its core functions outlined in the 2005 MOU— inspection and enforcement.

As the partnership bureau that performs these required oil and gas lease activities, BLM records its data in its Automated Fluid Minerals Support System (AFMSS). FIMO has no access to this database, however, and BLM does not provide FIMO with periodic inspection and enforcement reports from the database. FIMO's director has expressed concern over inadequate evidence that BLM is inspecting all allotted wells. Further, if BLM does not regularly communicate the status of its inspection and enforcement activities, FIMO cannot regularly update EMG, even though required to do so by the 2005 MOU. Since EMG was established to administer FIMO functions and oversee its management, efficient communications require that EMG members remain informed of FIMO activities.

BLM staff have indicated willingness to share inspection and enforcement information with FIMO, whether FIMO accesses it directly from AFMSS or BLM compiles the information and then provides it to FIMO. The FIMO director said she would benefit from having access to AFMSS.

Co-location of the BLM Farmington Field Office with FIMO gives the staff of both organizations numerous opportunities to communicate with each other. BLM noted that communication between both groups should be better than it is and has acknowledged its own responsibility for initiating increased communication. BLM staff noted, however, that FIMO could facilitate better communication by attending BLM's monthly inspection and enforcement meetings to which it has been invited in the past. The FIMO director has attended only one such meeting.

In response to our NPFR regarding communication, both BIA and BLM concurred with our finding and recommendations. BLM stated that it will provide FIMO with access to AFMSS, as well as send monthly inspection and enforcement status reports. It also will distribute inspection and enforcement information during scheduled meetings with EMG.

## Recommendations

We recommend that BLM:

4. Provide FIMO with access to AFMSS and training; and
5. Provide inspection and enforcement status reports to FIMO.

We recommend that the FIMO director:

6. Regularly update EMG on inspection and enforcement activities.

### Frequency of Inspections

The 2005 MOU identifies core functions that include inspection and enforcement. The MOU, however, does not address the frequency of required BLM inspections. FIMO and BLM have not formally discussed the required frequency for oil and gas lease inspection and enforcement activities. BLM employees have discussed this issue among themselves, however, and have expressed varying opinions on how often inspections should occur. A 1995 status report, issued by the United States District Court for the District of New Mexico, included adjustments to the Department's inspection and production verification systems. The status report provided a tiered inspection approach, requiring leases that produced only a certain threshold of oil or gas per month be inspected, at a minimum, every 3 years.

The BLM Farmington Field Office in New Mexico, however, interpreted the status report to require that all wells on Navajo allotted leases be inspected annually. That office has adhered to this plan since BLM inspectors were withdrawn from direct FIMO oversight. Unlike the Farmington office, however, BLM's Tres Rios Field Office in Colorado does not inspect all wells annually. Since the status report directs that only wells producing in excess of specified volumes have to be inspected annually, some BLM employees have interpreted this direction to apply to Navajo allotted well inspections.

In response to our NPFR regarding the frequency of inspections, both BIA and BLM concurred with our finding and recommendation. Both entities agreed with the interpretation of the consent decree, requiring that 100 percent of allotted properties be inspected annually.

## Recommendation

We recommend that BIA and BLM:

7. Formalize, in the new MOU, requirements for the frequency of Navajo allotted lease inspections.

## Lease Reconciliations Are Not Performed

FIMO has not reconciled its Navajo allotted lease inventory with BLM's Navajo allotted lease inventory and, therefore, is not fully complying with the 2005 MOU's lease administration requirements. The 2005 MOU requires FIMO to perform lease administration as one of its core functions. BLM maintains its inventory in AFMSS, as well as its Geographic Information System (GIS). FIMO's inventory is manually maintained. During our audit, a FIMO employee noted that FIMO's next step would involve comparing its inventory to the inventory BLM maintains in AFMSS.

Since this reconciliation has not yet occurred, FIMO cannot ensure that BLM has a complete record of Navajo allotted leases in its databases. As part of our review, we attempted to reconcile lease inventories from AFMSS and BLM's GIS with FIMO's lease inventory. We could not reconcile the inventories provided by BLM. We found that BLM's AFMSS inventory did not include 23 out of 539 Navajo allotted leases (4 percent) that were included in FIMO's lease inventory. In addition, we found that BLM had two wells listed in its current Navajo allotted well inspection inventory that had ceased in 2003 to be associated with a Navajo allotted lease.

BIA did not concur with our NPFR regarding lease reconciliation, stating that the inventories referred to in the recommendation cannot be reconciled. BIA further stated that the inventories for each entity work in concert with the overall goals and mission of FIMO, and function independently. According to BIA, "the listed inventories will never truly reconcile as they are not used as, nor have they been created to be used as, a measurement of the management of all Navajo allotted leases." BIA committed to the maintenance and updating of its system and lease inventories, however.

Without a complete reconciled inventory, FIMO cannot ensure that BIA is properly managing all Navajo allotted leases or that BLM is conducting all appropriate field inspections for these leases. According to the status report, BLM is responsible for Navajo allotted lease field inspections, while the 2005 MOU holds FIMO responsible for lease administration, as well as inspection and enforcement, core functions that cannot be achieved in the absence of a complete inventory.

## Recommendation

We recommend that BIA and BLM:

8. Develop and implement a process to reconcile lease inventories to ensure that BLM has an accurate inventory of Navajo allotted leases with which to perform its inspection and enforcement activities.

## Outreach to Allottees Is Not Coordinated

BLM and BIA are not meeting the requirements of the 2005 MOU because they do not conduct regularly scheduled outreach sessions with Navajo allottees. The 2005 MOU requires outreach as one of FIMO's core functions. The MOU states that FIMO will provide outreach and customer service to (1) individual Navajo oil and gas mineral owners; and (2) companies who operate the Indian leases. It instructs FIMO to provide information to allottees and to request input concerning the management of their land for oil and gas development. Outreach may include verifying lease and account information, and having regularly scheduled meetings to discuss issues directly affecting royalties. FIMO partnership bureaus do not coordinate outreach schedules or conduct joint outreach sessions, however, which has created situations where allottees' questions are not completely answered.

We learned that only ONRR conducts regular outreach sessions with Navajo allottees. ONRR also adds information about completed outreach events to its database and maintains a calendar of future scheduled events. At outreach events, however, ONRR has to field questions pertaining to BLM and BIA topics. Its outreach employee either provides a response or forwards questions to the other bureaus. This employee stated that having ONRR, BIA, and BLM personnel attend outreach sessions together would be beneficial, thus helping to fully answer questions raised by allottees. Some allottees also travel to FIMO and the BLM office to ask questions in person.

As a tool intended to help DOI achieve accurate energy and minerals accountability for onshore Federal and Indian lease management and accounting, the Onshore Energy and Mineral Lease Management Standard Operating Procedures (SOPs) went into effect September 2013. Important for outreach efforts, the SOPs established common standards and methods for creating efficient and effective working relationships among responsible bureaus. The SOP addresses outreach and instructs agencies to share outreach schedules every fiscal year. Furthermore, it expects agencies to coordinate and communicate with each other to prevent conflicting information from being disseminated, promote efficiency, and minimize impositions on allottees' resources and time. Although BLM has conducted outreach events, it has not done so on a regular basis. Rather, it conducts outreach only when called upon to do so by BLM management. BLM's outreach employee noted that Navajo allottees would benefit from multi-bureau outreach, adding that BLM has never been asked to

attend an outreach event conducted by ONRR. BIA staff assigned to FIMO do not conduct outreach events, but BIA has sent staff from its probate office to attend such events. OST has participated in some outreach events or has met with allottees to answer questions, although the agency is not named as a partner in the 2005 MOU.

In response to our NPFR regarding outreach, BIA, BLM, and ONRR concurred with our finding and recommendation. EMG has tasked the FIMO director to assess issues to be addressed by proposed outreach sessions and to include responsible personnel associated with each entity. This assessment will be reviewed at EMG's biannual meeting scheduled for October 2016.

### **Recommendation**

We recommend that BIA, BLM, and ONRR:

9. Conduct joint outreach sessions and share outreach schedules annually; and
10. Consider whether OST should be part of the joint outreach sessions.

## **Audit and Compliance Reviews Are Not Conducted**

FIMO is not meeting the requirements of the 2005 MOU because it has not created an audit work plan since FY 2013. In the 2005 MOU, FIMO is charged with performing core functions that include production accountability and royalty compliance. Production accountability involves accounting for oil and gas companies' production activities. Royalty compliance includes providing reasonable assurance that royalties are paid in accordance with applicable Federal laws, regulations, and lease terms. ONRR is the partnership bureau responsible for this core function and, therefore, should perform regularly scheduled audit and compliance reviews as part of its Indian mineral royalty management.

FIMO employees express disagreement as to the entity responsible for completing an audit and compliance review work plan for Navajo allotted leases. As a result, no audits or compliance reviews were initiated in FY 2014 or 2015, even though we reviewed a sample of one audit and seven compliance reviews that had been initiated from FY 2005 to FY 2013, each of which identified compliance issues.

Without an audit and compliance work plan, audits and compliance reviews are not completed. Such reviews identify anomalies requiring analysis and provide reasonable assurance that royalties are in accordance with applicable Federal laws, regulations and lease terms.

In its response to our NPFR, BIA did not concur with this finding and recommendation. It stated that FIMO understands that ONRR has responsibility for creating the audit and compliance work plan. BIA further stated that several Navajo allotted leases had been audited during the years we listed, but that these audits had been conducted by ONRR auditors in the Denver office and not at the FIMO location.

We believe our finding and recommendation are still valid. The 2005 MOU states FIMO will perform royalty compliance consistent with the authorities delegated to FIMO. FIMO employs three ONRR staff—one supervisory auditor and two auditors—that should be completing the audit and compliance work at FIMO in accordance with the 2005 MOU. The FIMO director and the supervisory auditor have the best knowledge and awareness of potential high-risk companies, making it beneficial to include them in audit and compliance reviews.

Conversely, ONRR concurred with our finding and recommendation. It stated that FIMO’s three auditors develop work plans in coordination with the overall ONRR audit and compliance work plan. It also stated that these auditors conduct their audits in accordance with the same Generally Accepted Government Auditing Standards and ONRR Audit Manual standards as all other ONRR auditors. To provide additional oversight, ONRR created a new supervisory auditor position located in Denver, CO. This individual helps facilitate the coordination and managerial review of FIMO audit and compliance work. In addition to work plan coordination and oversight, ONRR also provides technical audit and valuation support to the FIMO auditors.

### **Recommendation**

We recommend that ONRR and the FIMO director:

- I. Clarify who has responsibility for creating the audit and compliance review work plan, and ensure a work plan is created and implemented annually.

### **Monitoring and Oversight of FIMO Is Minimal**

EMG is not meeting the requirement of the 2005 MOU because EMG provides only minimal oversight of FIMO. The 2005 MOU states that EMG was established to “monitor and oversee the management of the FIMO-Farmington operation.”

We found several weaknesses with EMG’s oversight, however. EMG did not take action on decisions made about joint outreach; about OST having a permanent office at FIMO; and about BIA having access to AFMSS in its formal meetings. Also, the formal meeting minutes we received did not include discussions

regarding the removal of BLM staff from the FIMO director's direct line of supervision. In addition, we found that EMG is not—

- conducting the required monthly conference call with the FIMO director, required by a 2003 protocol memorandum;
- providing fiscal year priorities for FIMO; and
- requiring FIMO to provide updates on activities specified in the 2005 MOU—for example, information on inspection and enforcement activities by BLM.

As a result, EMG is not providing management and oversight of FIMO as required by the 2005 MOU that makes FIMO responsible for ensuring the best interests of the allottees.

In a conversation with one EMG representative, we learned that EMG once had planned to meet quarterly with the FIMO director, but that this has not occurred. He believes that meeting quarterly, as originally planned, would be sufficient.

### **Recommendations**

We recommend that BIA, BLM, and ONRR, as EMG members :

12. Create action items and due dates, assign a person responsible to take action, and include follow-up discussions on action items;
13. Determine how often meetings should be held with the FIMO director and establish a yearly calendar of formal EMG meetings; and
14. Develop, provide, and monitor annual fiscal year priorities for FIMO.

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# Conclusion and Recommendations

## Conclusion

We found that FIMO is not fully meeting the requirements of the 2005 MOU and that the 2005 MOU is outdated and does not include needed operational details. As a result, we identified a number of issues that hinder FIMO's management of oil and gas activities. These include poor communication about inspection and enforcement activities, unreconciled lease inventories, no coordination of outreach to allottees, a poor audit and compliance review process, and very little monitoring or oversight of FIMO.

## Recommendations Summary

We recommend that BIA, BLM, and ONRR:

1. Work together to develop and implement a new MOU that lists all participating agencies in FIMO, identifies each agency's roles and responsibilities, and provides specific operational details.

**BIA, BLM, and ONRR Response:** In response to our draft report, BIA, BLM, and ONRR concurred with this recommendation and explained that FIMO operates under the guidance and direction of EMG. EMG has tasked the FIMO director to draft an updated MOU for review/approval at the next EMG meeting tentatively scheduled for February 2017.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

2. Determine whether OST should be a part of FIMO and, if so, identify the agency's roles and responsibilities and provide specific operational details.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation. BIA, BLM, and ONRR, through EMG, committed to meeting with regional representatives from OST to determine the roles and responsibilities of OST regarding the operation of FIMO. EMG will work with OST to determine whether OST's role would warrant inclusion in the new MOU and or the commitment of resources for FIMO.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

3. Work together to periodically review and update the new MOU.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that FIMO, through EMG,



committed to a review of the MOU every 2 years and also agreed to update the MOU as necessary.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

We recommend that BLM:

4. Provide FIMO with access to AFMSS and training.

**BLM Response:** BLM concurred with this recommendation and commits to providing FIMO-Farmington with access to AFMSS. BLM will identify and work with FIMO-Farmington to determine the appropriate positions that will be given access to AFMSS and the appropriate level of access required for these positions.

**OIG Comment:** Based on BLM's response, we consider this recommendation resolved but not implemented.

5. Provide inspection and enforcement status reports to FIMO.

**BLM Response:** BLM concurred with this finding and stated that the BLM Farmington Field Office will provide inspection and enforcement reports to the FIMO director on a monthly basis. Individual well reports are currently available in AFMSS.

**OIG Comment:** Based on BLM's response, we consider this recommendation resolved but not implemented.

We recommend that the FIMO director:

6. Regularly update EMG on inspection and enforcement activities.

**BIA Response:** BIA concurred with this recommendation and stated that the FIMO director will be tasked with developing an inspection and enforcement report to be presented to each and every EMG meeting on a bi-annual basis.

**OIG Comment:** Based on BIA's response, we consider this recommendation resolved but not implemented.

We recommend that BIA and BLM:

7. Formalize, in the new MOU, requirements for the frequency of Navajo allotted lease inspections.

**BIA and BLM Response:** BIA and BLM concurred with this recommendation and stated that FIMO and BLM agreed that the requirements of the consent decree dictate that 100 percent of allotted properties be inspected on an annual basis. BIA and BLM agreed to include this requirement in the new MOU.

**OIG Comment:** Based on BIA and BLM's response, we consider this recommendation resolved but not implemented.

8. Develop and implement a process to reconcile lease inventories to ensure that BLM has an accurate inventory of Navajo allotted leases with which to perform its inspection and enforcement activities.

**BIA and BLM Response:** BIA and BLM concurred with this recommendation. They agreed to develop and implement a process to reconcile lease inventories and will ensure that both agencies have an accurate inventory of Navajo allotted leases. Both agencies agreed that an accurate inventory will benefit all agencies, including ONRR. The lease inventory will also be provided to ONRR.

**OIG Comment:** Based on BIA and BLM's response, we consider this recommendation resolved but not implemented.

We recommend that the BIA, BLM, and ONRR:

9. Conduct joint outreach sessions and share outreach schedules annually.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that the EMG has tasked the FIMO director with coordinating joint outreach sessions including representatives from BIA, BLM, ONRR, and OST. Outreach schedules will be shared among all agencies and coordinated at the regularly scheduled EMG meetings or as necessary.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

10. Consider whether OST should be part of the joint outreach sessions.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that FIMO outreach currently includes OST on a regular basis. The inclusion of OST in joint outreach sessions will be formalized and addressed in the new MOU.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

We recommend ONRR and the FIMO director:

11. Clarify who has responsibility for creating the audit and compliance review work plan, and ensure a work plan is created and implemented annually.

**ONRR and FIMO Response:** ONRR and FIMO concurred with this recommendation and stated that the ONRR first-line supervisor at FIMO works with the ONRR State and Indian Coordination (SIC) manager in Lakewood, CO, to develop the compliance work plan in coordination with the overall ONRR audit and compliance work plan. In addition to the work plan coordination and oversight, ONRR also provides technical audit and valuation support to the FIMO auditors. FIMO agreed with the ONRR process. This agreement will be clarified in the new MOU. The FIMO director will ensure that the work plan is created and implemented annually.

**OIG Comment:** Based on ONRR and FIMO's response, we consider this recommendation resolved but not implemented.

We recommend that BIA, BLM, and ONRR, as EMG members:

12. Create action items and due dates, assign a person responsible to take action, and include follow-up discussions on action items.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that EMG agrees that the group will create action items with due dates for the FIMO director to complete. The FIMO director will delegate this work as appropriate. These items will be followed up in subsequent EMG regularly scheduled meetings.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

13. Determine how often meetings should be held with the FIMO director and establish a yearly calendar of formal EMG meetings.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that EMG agreed to determine the most effective meeting schedule, as well as implement that schedule formally through the new MOU.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

14. Develop, provide and monitor annual fiscal year priorities for FIMO.

**BIA, BLM, and ONRR Response:** BIA, BLM, and ONRR concurred with this recommendation and stated that EMG will develop, provide and monitor annual fiscal year priorities for FIMO. EMG will account for the fact that FIMO receives funding from both BIA and ONRR.

**OIG Comment:** Based on BIA, BLM, and ONRR's response, we consider this recommendation resolved but not implemented.

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# Appendix I: Scope and Methodology

## Scope

We audited the Federal Indian Minerals Office's (FIMO) oversight of Navajo allottees' oil and gas resources. Our scope included FIMO program activity conducted from fiscal year 2012 to 2016.

## Methodology

We conducted this review from August 2015 through March 2016. During our review, we—

- reviewed relevant laws, regulations, policies and procedures concerning FIMO's energy management on behalf of Navajo Indian allottees;
- examined prior reviews;
- reviewed and analyzed program data and documents;
- reviewed documents and records related to communication between FIMO and the Bureau of Land Management (BLM);
- reviewed FIMO's memorandum of understanding;
- reviewed outreach to allottees;
- tested rental, bonus and royalty payments generated from the Trust Asset and Accounting Management System (TAAMS);
- tested inspection activities;
- attempted to reconcile BLM's Automated Fluid Minerals Support System (AFMSS) allotted lease inventory against FIMO's allotted lease inventory;
- tested audit and compliance reviews;
- identified the computer-based systems FIMO relies on;
- observed FIMO's processes and internal controls during site visits and transaction testing; and,
- reviewed the Executive Management Group's monitoring and oversight of FIMO.

We also interviewed—

- U.S. Department of the Interior officials;
- FIMO staff;
- Bureau of Indian Affairs (BIA) officials;
- BLM officials; and
- Office of Natural Resources Revenue (ONRR) officials.

We visited or contacted—

- FIMO, Farmington, NM;
- BIA Navajo Region Office, Gallup, NM;

- BIA Headquarters, Washington, DC;
- BIA Eastern Navajo Agency, Crownpoint, NM;
- ONRR, Lakewood, CO;
- BLM, Farmington, NM, Durango, CO and Santa Fe, NM; and
- Navajo Tribal officials, Window Rock, AZ.

We tested the operation and reliability of internal controls over FIMO activities as related to our audit objective. We found deficiencies in communication among FIMO partners; lease reconciliation processes; outreach to allottees; the audit and compliance review process; and oversight of FIMO.

FIMO provided computer-generated data from its TAAMS system. We tested the data by judgmentally selecting lease documents and verifying the bonus and rental payments against the system's reports for accuracy and timeliness. Our testing was limited to the data selected. Therefore, we did not assess the reliability of the accounting system as a whole.

BLM provided computer-generated data from its AFMSS system. We tested the data by judgmentally selecting allottee related well documents for inspection timeliness and reconciling BLM's allotted lease inventory against FIMO's allotted lease inventory. Our testing was limited to the data selected. Therefore, we did not assess the reliability of the AFMSS system as a whole.

We conducted this audit in accordance with the Generally Accepted Government Auditing Standards, as published in the Government Auditing Standards, revised in 2011. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

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## **Appendix 2: Bureau of Indian Affairs' Response to Draft Report**

The Bureau of Indian Affairs' response to our draft report follows on page 21.



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, DC 20240

IN REPLY REFER TO:

## Memorandum

To: Mary L. Kendell  
Deputy Inspector General  
Office of the Inspector General

DEC - 8 2016

From: Michael S. Black  
Director, Bureau of Indian Affairs

Linda Lance  
Deputy Director, Bureau of Land Management Programs and Policy

Greg Gould  
Director, Office of Natural Resources Revenue

Subject: Draft Audit Report - Bureau of Indian Affairs' Federal Indian Minerals Office (FIMO) Report No. 2015-EAU-079

Thank you for providing the Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), and the Office of Natural Resources Revenue (ONRR) with the opportunity to review and comment on the draft audit report titled, "Bureau of Indian's Federal Indian Minerals Office" (2015-EAU-079). We appreciate the diligent work of the team that prepared the report and believe that it provides a comprehensive assessment of the issues involved with improving Indian Trust services to individual Navajo beneficiaries and the management of oil and gas mineral resources on allotted lands.

Overall, we generally agree with the audit findings and concur with the 14 recommendations. The attachment provides a summary of the actions taken or planned to implement the recommendations, the names of the responsible officials, and the target dates of implementation.

### Outdated Partnership MOU

**Recommendation 1: BIA – BLM – ONRR** Work together to develop and implement a new MOU that lists all participating agencies in FIMO, identifies each agency's roles and responsibilities, and provides specific operation details.

#### **Response: BIA – BLM – ONRR – Concurrence**

The FIMO operates under the guidance and direction of the Executive Management Group (EMG) comprised of the BIA Regional Director, Navajo Region, the BLM New Mexico State Director, and the ONRR Indian and State Coordinator. The EMG has tasked the FIMO Director to draft an updated MOU for their review/approval at the next EMG meeting tentatively scheduled for February 2017. Developing the new MOU will be the first priority for the newly selected FIMO Director. The new MOU will incorporate the recommendations of this report and also take into consideration the



changing environment regarding the development of oil and gas for Navajo Allottees. The new MOU will identify each agency's roles and responsibilities and provide specific operation details.

**Responsible Officials:**

**BIA:** FIMO Director

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

**Recommendation 2:** Determine whether the Office of the Special Trustee should be a part of FIMO and, if so, identify the agency's roles and responsibilities and provide specific operational details.

**Response: BIA – BLM – ONRR – Concurrence**

Through the EMG, the BIA, the ONRR, and the BLM commit to meeting with regional representatives from the Office of the Special Trustee (OST) to determine the roles and responsibilities of OST regarding the operation of FIMO. The EMG will work with OST to determine whether OST's role would warrant inclusion in the new MOU and or the commitment of resources for FIMO.

**Responsible Officials:**

**BIA:** Sharon Pinto, Regional Director, BIA

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

**Recommendation 3:** Work together to periodically review and update the new MOU.

**Response: BIA – BLM – ONRR – Concurrence**

The FIMO, through the EMG, commits to a review of the MOU every two years and agree to update the MOU as necessary.

**Responsible Officials:**

**BIA:** FIMO Director

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

**Inspection and Enforcement Activities Not Communicated**

**We recommend that BLM:**

**Recommendation 4: Provide FIMO with access to AFMSS and training.**

**Response: Bureau of Land Management – Concurrence**  
BLM commits to providing FIMO-Farmington with access to AFMSS. In order to provide access, BLM will identify and work with FIMO-Farmington to determine the appropriate positions that will be given access to AFMSS and the appropriate level of access required (editing, viewing only, etc.) for those positions.

**Responsible Official: Amy Lueders, New Mexico State Director**

**Target Date: December 31, 2016**

**Recommendation 5: Provide inspection and enforcement status reports to FIMO.**

**Response: Bureau of Land Management – Concurrence**

The BLM Farmington Field Office (FFO) will provide inspection and enforcement reports to the FIMO director on a monthly basis. Individual well reports are currently available in AFMSS.

**Responsible Official: Amy Lueders, New Mexico State Director**

**Target Date: December 31, 2016**

**We recommend that the FIMO Director:**

**Recommendation 6: Regularly update EMG on inspection and enforcement activities**

**Response: Bureau of Indian Affairs – Concurrence**  
The FIMO Director shall be tasked with an inspection and enforcement report to be presented to each and every EMG meeting on a bi-annual basis.

**Responsible Official: FIMO Director**

**Target Date: March 31, 2017**

**We recommend that BIA and BLM:**

**Recommendation 7: Formulize, in the new MOU, requirements for the frequency of Navajo allotted lease inspections.**

**Response: BIA and BLM – Concurrence**

FIMO and BLM agree that the requirements of the consent decree dictate that 100% of allotted properties are inspected on an annual basis and agree to include this requirement in the new MOU.

**Responsible Officials:**

**BIA:** FIMO Director

**BLM:** Amy Lueders, New Mexico State Director

**Target Date:** March 31, 2017

**Lease Reconciliations Are Not Performed**

**We recommend that BIA and BLM:**

**Recommendation 8:** Develop and implement a process to reconcile lease inventories to ensure that BLM has an accurate inventory of Navajo allotted leases with which to perform its inspection and enforcement activities.

**Response: BIA and BLM – Concurrence**

The BIA and the BLM agree to develop and implement a process to reconcile lease inventories and will ensure that both agencies have an accurate inventory of Navajo allotted leases. The FIMO Director and the field manager of the FFO will coordinate the development of this process and will present a draft report to the next regularly scheduled EMG meeting (tentatively scheduled for February 2017). Both agencies agree that an accurate inventory will benefit all agencies, including ONRR. ONRR will also be provided with the lease inventory.

**Responsible Officials:**

**BIA:** FIMO Director

**BLM:** Amy Lueders, New Mexico State Director

**Target Date:** June 30, 2017

**Outreach to Allottees is Not Coordinated**

**We recommend that BIA, BLM and ONRR:**

**Recommendation 9:** Conduct joint outreach sessions and share outreach schedules annually.

**Response: BIA, BLM and ONRR – Concurrence**

The EMG has tasked the FIMO Director to coordinate joint outreach sessions including representatives from BIA, BLM, ONRR and OST. The FIMO Director will assess the issues that need to be addressed, conduct outreach sessions, and include participation from each relevant entity. Outreach schedules will be shared among all agencies and coordinated at the regularly scheduled EMG meetings or as otherwise necessary.

**Responsible Officials:**

**BIA: FIMO Director**

**BLM: Amy Lueders, New Mexico State Director**

**ONRR: Heidi Badaracco, State and Indian Coordination Manager**

**Target Date: March 31, 2017**

**Recommendation 10: Consider whether OST should be part of the joint outreach sessions.**

**Response: BIA, BLM and ONRR – Concurrence**

FIMO outreach currently includes OST on a regular basis. The inclusion of OST in joint outreach sessions will be formalized and addressed in the new MOU.

**Responsible Officials:**

**BIA: FIMO Director**

**BLM: Amy Lueders, New Mexico State Director**

**ONRR: Heidi Badaracco, State and Indian Coordination Manager**

**Target Date: March 31, 2017**

**Audit and Compliance Reviews are Not Conducted**

**We recommend that ONRR and the FIMO Director:**

**Recommendation 11: Clarify who has responsibility for creating the audit and compliance review work plan, and ensure a work plan is created and implemented annually.**

**Response: ONRR and FIMO – Concurrence**

The ONRR first-line supervisor at FIMO works with the ONRR State and Indian Coordination (SIC) manager in Lakewood, CO to develop the compliance work plan in coordination with the overall ONRR audit and compliance work plan. Audits are conducted in accordance with the same Generally Accepted Government Auditing Standards and ONRR Audit Manual standards. To provide additional oversight, ONRR recently created the new SIC manager position in Lakewood, CO to help facilitate the coordination and management review of FIMO audit and compliance work. In addition to the work plan coordination and oversight, ONRR also provides technical audit and valuation support to the FIMO auditors. As part of this process, FIMO agrees with the ONRR process. This agreement will be clarified in the new MOU. The FIMO Director will ensure that the work plan is created and implemented annually.

**Responsible Officials:**

**ONRR: Heidi Badaracco, State and Indian Coordination Manager**

**BIA: FIMO Director**

**Target Date: March 31, 2017**

**Monitoring and Oversight of FIMO is Minimal**

**We recommend that BIA, BLM, and ONRR, as EMG members:**

**Recommendation 12:** Create action items and due dates, assign a person responsible to take action, and include follow-up discussions on action items.

**Response: BIA, BLM, and ONRR - Concurrence**

The EMG agrees that the group will create action items with due dates for the FIMO Director to complete. The FIMO Director will delegate this work through the office as is appropriate. These items will be followed up in subsequent EMG regularly scheduled meetings.

**Responsible Officials:**

**BIA:** Sharon Pinto, Regional Director, BIA

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

**Recommendation 13:** Determine how often meetings should be held with the FIMO Director and establish a yearly calendar of formal EMG meetings.

**Response: BLM, BLM, and ONRR - Concurrence**

The EMG agrees to determine the most effective meeting schedule and implement that schedule formally through the new MOU.

**Responsible Officials:**

**BIA:** Sharon Pinto, Regional Director, BIA

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

**Recommendation 14:** Develop, provide and monitor annual fiscal year priorities for FIMO

**Response: BIA, BLM, and ONRR - Concurrence**

The EMG will develop, provide and monitor annual fiscal year priorities for FIMO. The EMG will account for the fact that FIMO receives funding from both BIA and ONRR.

**Responsible Officials:**

**BIA:** Sharon Pinto, Regional Director, BIA

**BLM:** Amy Lueders, New Mexico State Director

**ONRR:** Heidi Badaracco, State and Indian Coordination Manager

**Target Date:** March 31, 2017

If you should have any questions regarding this response, please contact Michael Oliva, Indian Affairs-Audit Liaison Officer at 702-██████████; LaVanna Stevenson, BLM-Audit Liaison Officer at 202-██████████; or Gwenna Zacchini, ONRR-Audit Liaison Officer at 303-██████████.

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## Appendix 3: Status of Recommendations

In its response to our draft report, the Bureau of Indian Affairs, Bureau of Land Management and Office of Natural Resources Revenue concurred with our 14 recommendations and stated that they were working to implement or close them. The response included target dates and an action official for each recommendation (see Appendix 2). We consider these recommendations resolved but not implemented.

Recommendations	Status	Action Required
Recommendations 1 through 14	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget to track their implementation.

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