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Reorganizing the Department of Interior—Tribal Leader Briefing and Talking Points

Summary

On May 17th, the Department of the Interior (DOI) issued a long-awaited “Dear Tribal Leader” letter initiating consultation with Tribal Nations on its proposed reorganization. The result of a March 2017 Executive Order from the President directing the Executive Branch to reorganize, DOI’s reorganization proposal has been developed with little clarity or transparency and without Tribal consultation.

The current proposal (there have been several) would split the USET SPF region (currently the Bureau of Indian Affairs’ (BIA) Eastern Region) into up to 5 separate regions based on watersheds and state boundaries. New regions would be unified across the entire DOI system, with each headed up by a regional director whose priorities will consist of: conservation, recreation, and permitting. Thus far, DOI has not provided any sense of how the trust responsibility will be upheld through the reorganization, nor its benefits to Indian Country or even a clear sense of cost.

Nonetheless, DOI requested a total of \$14 million in federal appropriations to begin work on the reorganization, including \$900,000 in “pre-planning” dollars from BIA. While USET SPF joined Tribal organizations and the Navajo Nation in urging Congressional appropriators to withhold funding for the reorganization until DOI provided additional information and conducted meaningful consultation with Tribal Nations. While the House Interior appropriations bill does not contain this type of strong language, the Senate Interior appropriations bill does make funding contingent upon the satisfactory provision of information to Congress and Tribal consultation.

At the same time, DOI is already engaging in significant restructuring activity for BIA, including key personnel reassignments, also in the absence of Tribal consultation. This includes the removal of regional directors (there are currently only permanent four regional directors) and a transfer of nearly the entire central office of the Office of Justice Services to Albuquerque, NM. None of these decisions were subject to Tribal consultation.

With more questions than answers, USET SPF is not yet able to take a position on the reorganization itself. However, we do oppose the manner in which the DOI has conducted itself thus far. The near-complete lack of information provided to Tribal Nations is unacceptable.

Execution of Trust Obligations and Inherent Federal Functions Must be Protected

As DOI moves forward with its reorganization, the execution of the federal government’s trust responsibility and obligations must be paramount. These positions and agencies, and all inherent federal functions must be preserved. This includes ensuring that all DOI operating divisions and agencies are focused on upholding these duties. In addition, it is important to note that the Tribal Nations of the Eastern Region have consistently advocated for and protected our dedicated regional office of the Bureau of Indian Affairs (BIA).

Tribal Leader Talking Points

- **Preservation and prioritization of the trust obligation.** During the reorganization, all aspects of the federal trust obligation must be prioritized and preserved, including those functions inherent to the federal government. This includes ensuring agencies, departments, and divisions are adequately staffed and resourced to carry out these functions. It is of deep concern that the current reorganization plan appears to be developed with the Department’s natural resources-related functions, and not its trust obligations, in mind.

- **Considering the list of priorities for the new regional directors, how will the reorganization affect the execution of the trust responsibility and obligations? How will each operating division and regional director prioritize the government-to-government relationship?**
- **Importance of the Eastern Region Office.** Historically, as part of past reorganization/restructuring efforts, USET SPF member Tribal Nations have consistently had to fight to protect the BIA Eastern Region Office. We are adamantly opposed to any consideration and/or effort to eliminate this office. **Note:** *Previous efforts to fulfill Eastern Region trust obligations through other BIA regional offices have failed and proven that ERO Tribal Nation interests are secondary to the interests of the Tribal Nations within those regions tasked with providing contracted services.*
 - **The presentation indicates that the Eastern Region Office is likely to be preserved. How will regional BIA offices interact with headquarters vs. the new unified regional offices?**
- **The impact on BIA remains unclear.** While we are being told that it is up to Indian Country whether BIA participates in the reorganization, the implications for BIA participation are not clear.
 - **How will the reorganization benefit the BIA and Indian Country? How will BIA operate under the unified regional model? How will service delivery change? How would BIA be impacted if it does not participate in the reorganization?**
- **BIA personnel changes and restructuring.** We are aware that a number of personnel and programmatic changes have been made without Tribal consultation and, in some cases, over the objections of Tribal Nations. While we understand that the Department is afforded the latitude to make employment decisions, Tribal Nations should be consulted as senior staff are reassigned—particularly at the regional level.
- **Tribal Nations are still seeking cost-benefit information.** DOI has yet to provide Indian Country or Congress with a cost-benefit analysis concerning the reorganization. Yet, DOI requested millions of dollars for the reorganization, including \$900,000 to come from BIA for “pre-planning.” As the reorganization moves forward, this number is likely to increase exponentially. It is not possible for Indian Country to understand the full ramifications of the reorganization without a full cost estimate, anticipated savings, and better articulated goals.
 - **Has the Department conducted a cost-benefit analysis? If not, when does it intend to do so? How will it know whether the reorganization makes economic sense? As the cost for implementation increases and recognizing the chronic underfunding of the BIA, where will these dollars come from?**
- **Consultation must extend further than BIA.** While this consultation seems to exclusively concern whether BIA will participate in the reorganization, each agency and operating division within DOI shares in the trust responsibility and obligation to Tribal Nations. Indeed, Tribal Nations regularly interact with many of DOI’s other divisions, including the Bureau of Land Management, U.S. Fish and Wildlife, and the National Park Service. With this in mind, Tribal Nations must be consulted on the DOI reorganization as a whole, not merely BIA’s participation.
- **Any changes must improve the execution of trust obligation and promote Tribal self-determination.** USET SPF member Tribal Nations acknowledge that there may unnecessary levels of bureaucracy and redundancies at DOI and this belief is consistent with our organizational effort to modernize the trust relationship. However, any eliminations or changes must be accomplished with the intent to (1) achieve more timely and seamless execution of federal trust obligations, and (2) promote greater Tribal Nation self-determination.
- **Any cost-savings must be directed to improved execution of trust obligations.** Any potential cost savings derived from the reorganization should be redirected to augment the severely underfunded Tribal programs and trustee services provided by Indian Affairs, as well as other as other Tribal programs and services provided by agencies within DOI.
- *USET SPF will continue to monitor this issue and provide updates as they become available. For more information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs at Lmalerba@usetinc.org or 202-624-3550.*