TESTIMONY
OF
ARCH WELLS
ACTING DIRECTOR, OFFICE OF TRUST SERVICES
BUREAU OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
FOR THE HEARING
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
AND
COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES
ON
IMPROVING LAND TITLE GRANT PROCEDURES FOR NATIVE AMERICANS

July 19, 2005

Good morning, Chairman Oxley, Chairman Pombo, and Members of the Committees. My name is Arch Wells, the Acting Director for Trust Services for the Bureau of Indian Affairs (BIA). I am here today to provide the Department's testimony on the BIA's role in assisting individual Indians in the pursuit of homeownership. I'll begin by providing some background information on the current process and procedures for obtaining a Title Status Report (TSR) within the BIA and then comment on this process.

The BIA has Land Titles and Records Offices (LTRO) located within eight of its regions: Anchorage, Alaska; Muskogee, Oklahoma; Aberdeen, South Dakota; Portland, Oregon; Sacramento, California; Billings, Montana; Anadarko, Oklahoma; and Albuquerque, New Mexico. Each LTRO is responsible for recording all title and encumbrance documents for Indian lands within their respective region(s) and they issue certified TSR's to provide a record of ownership. A TSR is a compilation of the current ownership, legal description and recorded liens and encumbrances on a designated parcel of land. The production of TSR's for mortgages is our LTRO offices' top priority. We strongly support programs that improve or develop housing on Indian lands for Indian people.

The current procedure requires that all requests for a TSR for mortgage purposes first go through the Agency Superintendents at the relevant BIA office or through the Regional Director on behalf of the tribal member. The certified title is required by the lending institution to verify that the loan applicant has acquired a leasehold interest on Tribal land or that the loan applicant has total ownership on trust land, and that the title is clean and clear of any liens against the property so the loan application process can move forward.

Once the mortgage has been approved using the BIA-generated TSR, the document is sent to the LTRO for recording purposes with a request for a second certified TSR. HUD requires the subsequent TSR showing the mortgage as an encumbrance to the Title before

the loan is guaranteed. Some lending institutions also require this additional TSR before releasing the funds.

There are very few differences in the production of TSR's from location to location. When there are, often those differences are dictated by the particular lending institution or federal agency providing the loan. Requirements and standard operating procedures vary from federal agency to federal agency. The BIA LTRO's strive to accommodate these differences, as we support the mission to provide home loans to Indian people. Private lending institutions also have varying requirements and procedures, consequently our process for providing TSR's may vary to accommodate the lender.
Due to increased workloads within the LTRO program over the years, we found that some offices have provided an uncertified title status report showing the mortgage as an encumbrance to the property in lieu of the certified report. On April 13, 2005, BIA issued a directive requiring that all LTROs provide certified title status reports when requested by the Agency Superintendents or Regional Directors.

BIA has qualified and dedicated personnel within the LTRO program to examine and certify land title and produce TSR's; however, we are the sole-source for Indian trust land records. Because Indian Trust land records are to a degree, confidential, lending institutions and other federal lenders are completely dependent upon the BIA for all certified TSR's, thus creating a significant workload.

Since the inception of the Federal loan programs, the mortgage requests for certified titles have been a high priority for the LTROs. We have made significant changes to our title program over the past three years aimed at improving our ability to deliver in an accurate and timely manner in all aspects of our Indian land title operations, including the processing of TSR's. We have additional changes planned in the near future which will improve the quality of the data in our title system, thus improving our overall product.

One of the improvements to the BIA Title system is the recently completed conversion to the Trust Asset and Accounting Management System (TAAMS) for processing Titles at all LTRO program offices. The system has greatly improved our ability to provide title information to tribes and Indian people. The quality of the data has been significantly improving. We have been conducting a comprehensive data cleanup, which we expect to be completed in six to eight months.

The BIA currently has an efficient process of providing TSR's upon request within a reasonable time frame. In the recent Memorandum of Understanding (MOU) between the Departments of Housing and Urban Development, Agriculture, and the Interior (BIA), the BIA's Realty and LTRO programs agreed to provide the necessary products and services within 30 days to keep the process moving forward to assist Indians in becoming homeowners. Lenders can utilize the information in those TSR's to insure that the lands are free of liens and are available for mortgaging. The BIA's process has remained fairly constant through the years. However, lenders often do not take the time to learn the process or provide sufficient notice that a loan is being processed. The BIA needs a reasonable lead time to provide a certified TSR. Thus, a key part of an efficient

process includes early notice from the borrower or the lender. When this takes place, our LTRO's are able to produce TSR's in a time period comparable to the private sector. Some of the BIA Regional Offices have started providing training to lenders in order to facilitate a timelier processing of TSR's.

CONCLUSION

Anytime a mortgage is approved it has the potential to improve the quality of life for Indians. As stated earlier, requests for title status reports for mortgage purposes are and will remain a high priority for the Bureau. Over the past decade our legacy title system has served us well in spite of its shortcomings now with our recent conversion to a new, real time title system has already shown increased efficiency and cost savings. As we continue to enhance our title system, streamline our business processes and develop adequate budgets through performance measures to address our workloads, we hope to eliminate any situation where we have failed to provide timely title service to meet the needs of our Indian clients.