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February 20, 2020

Osage County Oil and Gas EIS
BIA Osage Agency
Attn: Superintendent
P.O. Box 1539
Pawhuska, OK 74056

Re: Public Comment on Osage County Oil & Gas Draft Environmental Impact Statement

On behalf of Osage Land & Cattle Co. (OL&C), this letter is to provide our comment on the Osage County Oil & Gas Draft Environmental Impact Statement (Draft EIS). We are in favor of a Record of Decision on the NEPA EIS that supports more stringent environmental protection of the Osage County natural resources that incorporates specific conditions of approval that are enforceable rather than relying upon loosely-worded best management practices. OL&C has experienced first-hand the impact of questionable oil & gas operations to ranch property, livestock, and more recently, the tributary of Bird Creek.

OL&C strongly supports Alternative 4 of the Draft EIS. With much of the current oil & gas production in Osage County managed by smaller operators on limited budgets and negligible environmental and regulatory staffing, poor operations decisions and practices become the norm without clear and comprehensive regulatory procedures that govern, guide, and regulate oil & gas activities. An acceptance of Alternative 4 helps to set the framework for a commitment to conditions of approval during the planning stages and making key areas, worthy of protection, off-limits to new permits. Contrary to the opinions of operators and tribal royalty interests, it is believed that this alternative will have minimal impact on drilling schedules, permit timeliness, or overall production. What it will accomplish is an increased emphasis on advanced planning and coordination.

Specific to the Draft EIS, OL&C wanted to include the following comments:

- The Purpose and Need Statement is framed in a manner that puts undo emphasis on the "maximization of oil & gas production" and downplays the importance of environmental conservation to Osage County, specifically in terms of socio-economic factors that are dependent on resource conservation (i.e., agriculture/ranching and tourism). The purpose statement should be to promote the leasing and development opportunities of the Osage Nation pursuant to the 1906 Act that emphasizes comprehensive and efficient administration of leases and to ensure the protection and conservation of natural resources critical to Osage County;

- With respect to the Environmental Consequences analyses using Alternative 4, there is an argument in the assumption that restrictions to access to the surface in the recognized sensitive ecological areas, well-head protection zones, or sensitive water supplies is directly related to new

well development potential. This is a surface restriction, not a minerals restriction. For example, a 35% reduction in surface land area does not automatically result to a 30-40% reduction in well potential. While the restrictions of Alternative 4 may reduce the total surface land accessible available for leasing, it does not necessarily restrict access to the minerals. In addition, geology and market conditions remain the primary driver for a successful well and not all restricted surface area is a viably productive area;

- Alternative 4 specifically calls out the Tallgrass Prairie Preserve as a protected resource. The tallgrass prairie is not just a Preserve but is an endangered ecosystem that extends beyond the Preserve. Osage County is fortunate to be one of the few remaining intact locations for tallgrass prairie. Over the years in Osage County, the sliver of remaining tall grass prairie has been tarnished from a history of oil & gas neglect ranging from improperly abandoned wells, pad sites and infrastructure that has impacted not only the grasses, but the wildlife that is unique to the tall grass prairie system. A good example of this is abandoned and dilapidated electrical infrastructure to old well locations. This has had an impact of the Greater Prairie Chicken, which exhibits a strong propensity to avoid tall structures such as overhead wires, pump jacks and tank batteries that actually influence the mobility of the chicken, thereby fragmenting and decreasing its available habitat. Alternative 4 should include the viable tall grass prairie as an exclusion zone, eliminate any high-density sections within this prairie corridor or add conditions of approval that minimize the fragmentation of tall grass prairie ecosystem and associated wildlife habitat.

Lastly, the adoption of Alternative 4 should serve as a cornerstone to develop and implement sweeping Agency policy changes that govern, guide, and regulate the oil and gas industry. It has been documented that the agencies regulating oil & gas development in Osage County have not historically been accountable for the disposition of abandoned wells and associated facilities. In an October 2014 report by the U.S. Department of Interior (USDI) Inspector General's Office, the regulatory agency's policies and procedures were noted as being incomplete, not dated, ambiguous, and not enforceable. The wording in regulations 25 CFR Part 226 encourages inconsistent practices by operators, including not properly plugging and leaving wells unsecure, susceptible to corrosion and providing preferential pathways for migration to surface water or groundwater. It should be noted that responsible operators have typically addressed these risks, but it is not enforceable for any abuse. A policy of "historically not plugging wells so that the wells can potentially be operated later as technology advances the ability to recover additional oil and gas" is prohibiting any restoration of the surface to pre-existing conditions and directly impacting the environment.

As a ranching business with strong emphasis on resource conservation and wildlife management, we are continually challenged by brine scars that extend deep beneath surface soils, surface water pollution, fish kills, livestock injuries/death, undetected oil spills, and aging and abandoned equipment - all directly related to oil & gas operations. It is time to realize that the damage is already happening and, if nothing else, the Bureau of Indian Affairs needs to not let the policies continue and commit to adopting a program of:

- establishing a clear commitment to preserving and conserving Osage County natural resources;

- developing specific regulatory guidelines that are comprehensive to all elements of oil & gas operations; and
- developing an action plan that includes increased staffing to make the regulatory process efficient, trackable and enforceable.

We cannot continue the path we have been on for the last several decades. As the USDI Inspector General pointed out in their 2014 report (Report No. CR-EV-BIA-0002-2013), the same needs were noted in 1990 and again in 2014 that a strong position from the Agency is needed to bring program consistency and operational guidance over the Osage oil & Gas operations, at the same time, providing protection provisions for the County's natural resources.

Sincerely,

James W. Biehl

James W, Biehl
Osage Land & Cattle Co.