

August 16, 2012

Mr. Robert Impson Robert.impson@bia.gov
Designated Federal Officer
Bureau of Indian Affairs

Re: Establishment of Osage Negotiated Rulemaking Committee

Mr. Impson:

I submit this letter as a request that the following comments read during the public comments portion of the upcoming meetings and be placed in the public record regarding the establishment and commencement of the Osage Negotiated Rulemaking Committee.

On July 26, 2012, Ken Salazar, Secretary, Department of the Interior issued a Certified Statement establishing the Osage Negotiated Rulemaking Committee, which was published in the Federal Register on July 31, 2012. In this publication, Mr. Salazar states the Osage Minerals Council is the governing body of the Osage Mineral Estate.

I state for the record that in accordance with the 1906 Act as Amended, the legal governing body of the Osage Minerals Estate is not the current Osage Minerals Council as recognized by the BIA, but rather, the Osage Tribal Council, including a Chief and Assistant Chief as required by the Osage 1906 Act.

It is a serious violation of my personal property rights that the BIA is beginning a process to negotiate the rules and regulations related to the management and administration of the Osage Minerals Estate with members of a Committee comprised of persons who do not legally represent the members of the Osage Tribe as defined in the Osage 1906 Act. It is my understanding that prior to the establishment of this Committee, the BIA itself questioned the composition of the members of the "Minerals Council" insomuch as a Principal Chief was not included in the anticipated Negotiated Rule Making Committee.

It is a matter of public record that at present, there is an official Appeal pending before the Interior Board of Indian Appeals, Docket No. 12-101 (Charles O. Tillman, et al vs. Acting Eastern Oklahoma Regional Director, Bureau of Indian Affairs), which specifically requests that the BIA conduct an election for the legal independent governing body of the Osage Minerals Estate as established by the 1906 Act as Amended. Please note for the record, Ken Salazar, Secretary, Department of the Interior, and Michael Black, Director of Indian Affairs are fully aware of this pending Appeal before the IBIA.

In addition, your office, and the BIA has been notified by me and many other shareholders with vested personal property interests in the Osage Minerals Estate that they do not believe that their interests are adequately or fairly represented by the limited number of selected members of the Negotiated Rule Making Committee as recently formed.

Your office has also been made aware of the fact that shareholders believe the BIA has violated its fiduciary responsibility to the Osage Shareholders in its interpretation of mooted federal regulations as a result of the enactment of the Osage Nation Constitution.

In his published Establishment of the Osage Negotiated Rulemaking Committee, Mr. Salazar referred to shareholders concerns voiced during the Notice of Intent period as "not relevant to the nomination and appointment of members to the Committee." This same publication further states "In any event, the Osage Nation operates pursuant to a duly enacted Constitution dated March 11, 1996."

For the record, please note, the Osage Nation Constitution was enacted in March of 2006, not 1996, and the BIA's failure to uphold its fiduciary responsibilities to the Osage Shareholders in preparing ballots and reviewing eligible voters lists in the subsequent elections had a direct impact on the election of a full Tribal Council under the 1906 Act and Federal Regulations versus the Minerals Council as recognized by the BIA, whom you state (in error) is the present governing body of the Mineral Estate.

The issue presently on Appeal before the Interior Board of Indian Appeals (Docket No. 12-101) has a direct impact on this Negotiated Rule Making Committee, the members of the Committee, and thus, the potential outcome of any rules to be negotiated between the BIA and the legal members of the Osage Tribe, who are the only persons entitled to funds derived from the minerals interests.

As has been the case in the past with regard to the issues presented in Docket No. 12-101, the BIA continues to violate the law, and simply moves forward without a thorough review of the precise laws and regulations which make the Osage Tribe unique.

According to the settlement agreement entered into between the United States of American and the Osage Tribe, Section 9 of the Agreement specifically stated that this negotiated rule making would be conducted between the BIA and the Osage Tribe, not the legislative government of the Osage Nation. For the record, I voted against the acceptance of this settlement due primarily to the fact that I did not give permission to the Minerals Council to accept the terms of the settlement and I did not agree with the terms of the settlement. That issue aside, the Settlement Agreement stated that the BIA would work with the Osage Tribe in these negotiations.

I state for the record that I believe that the current members of the Osage Minerals Council are government officials of the Osage Nation, and are not the legal governing body of the Osage Minerals Estate as proscribed by the 1906 Act.

In its publication on the Federal Register, July 26, 2012, Ken Salazar states that at the upcoming meetings scheduled for August 21 and 22, the Negotiated Rule Making Committee will be reviewing the existing regulations and topics to be included in the negotiated rulemaking related to 25 C.F.R. part 226.

I specifically request that all of the members of this negotiated rule making committee review the existing regulations at 25 CFR Part 226.

1. **25 CFR Part 226.1 at Definitions, paragraph (b) states:**

(b) **Osage Tribal Council** means the duly elected governing body of the Osage Nation or Tribe of Indians of Oklahoma vested with authority to lease or take other actions on oil and gas mining pertaining to the Osage Mineral Estate.

2. **25 CFR Part 226.2 at Leasing Procedure, Rental and Royalty**

(b) The Superintendent, with the consent of the **Osage Tribal Council**, shall publish notices for the sale of oil leases, gas leases, and oil and gas leases to the highest responsible bidder on specific tracts of the unleased Osage Mineral Estate. The Superintendent may require any bidder to submit satisfactory evidence of his good faith and ability to comply with all provisions of the notice of sale. Successful bidders must deposit with the Superintendent on day of sale a check or cash in an amount not less than 25 percent of the cash bonus offered as a guaranty of good faith. Any and all bids shall be subject to the acceptance of the **Osage Tribal Council** and approval of the Superintendent.

Even a cursory review shows that the current regulations speak to the Osage Tribal Council as the legally recognized governing body of the Osage Minerals Estate.

I respectfully request that the members of this Committee fully review the Code of Federal Regulations at 25 CFR Part 90,

25 CFR PART 90—ELECTION OF OFFICERS OF THE OSAGE TRIBE

as well as all pleadings presented in IBIA Docket Case No. 12-101, relating to the legal elections process for members of the Osage Tribe and the governing body of the Osage Minerals Estate.

As a legal member of the Osage Tribe of Indians, with vested property rights in the Osage Minerals Estate, I formally request that the members of this Negotiated Rule Making Committee review these issues for the purposes of determining the validity of

this Committee and the legal consequences that will flow from its actions in moving forward in negotiations prior to a decision from the IBIA in Docket Case No 12-101.

I request that this letter and your response in full become a part of the public record on this issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joanna Barbara".

Joanna Barbara, Osage Annuitant

August 17, 2012