



Wilson, Letha &lt;letha.wilson@bia.gov&gt;

---

## Fwd: Osage Negotiated Rulemaking

1 message

---

**Robert Impson** <robert.impson@bia.gov>  
To: Eddie Streater <Eddie.Streater@bia.gov>  
Cc: Letha Wilson <Letha.Wilson@bia.gov>

Wed, Mar 13, 2013 at 11:34 AM

To be posted.

Sent from my iPad

Begin forwarded message:

**Resent-From:** <Robert.Impson@bia.gov>  
**From:** Roy St.John <rstjohn1@totalcsi.net>  
**Date:** March 11, 2013, 11:37:51 AM CDT  
**To:** <Robert.Impson@bia.gov>  
**Cc:** <roy\_st.john@hotmail.com>  
**Subject:** Osage Negotiated Rulemaking

Mr Impson;

# Appeal in Osage Nation v. Irby Finds Tribe's Reservation Disestablished

Osage Nation v. Irby, No. 09-5050, concerned an action by the Osage Nation seeking a declaratory judgment that the Nation's reservation, which comprised all of Osage County, Oklahoma, had not been disestablished and remained Indian country within the meaning of 18 U.S.C. section 1151.

As the court of appeals wrote: "The pivotal issue in this case is whether the Nation's reservation has been disestablished, not Oklahoma's tax policies. The district court held that the Osage reservation had been disestablished; that tribal members who work and live on non-trust/non-restricted land in Osage County are not exempt from state income tax; and that "[t]he Osage have not sought to reestablish their claimed reservation or to challenge [Oklahoma's] taxation until recently," and Oklahoma's longstanding reliance counsels against now establishing Osage County as a reservation."

The court of appeals affirmed summary judgment for defendants(State of Oklahome) , holding that 1) the legislative history and the negotiation proMscsess made clear that all the parties at the table understood that the Osage reservation would be disestablished by the Osage Allotment Act, and uncontested facts in the record provided further evidence of a contemporaneous understanding that the reservation had been dissolved; and 2) after enactment, federal officials responsible for the Osage lands repeatedly referred to the area as a "former reservation" under state jurisdiction.

1) I was under the impression that when the U. S Supreme Court refused to hear the appeal from the District Court that this ruling should be the accepted law. Oklahoma Statutes Chapter 3 Title 52 defines surface owner rights.

The BIA seems to be making rulings ignoring this fact.

2) If the BIA fails to establish limitation on "Concessions" to producers - failure to protect the Trust interest of the Shareholder is likely.

3) Mineral Council members need to be forbidden from being engaged in mineral business in their personal activities.

4) The Appeal styled Charles Tillman, et. al. v. Acting Eastern Oklahoma Regional Director, BIA, IBIA No. 12-101 and it remains pending before the Interior Board of Indian Appeals. The parties have finished briefing and are simply waiting on a decision. The outcome may change the outcome of this Rule Making committee.

Roy C. St. John

Shareholder

•