

**Osage Negotiated Rulemaking Committee
Meeting 5 – January 24 & 25, 2013
Wah Zha Zhi Cultural Center
1449 W. Main
Pawhuska, Oklahoma 74056
Meeting Summary**

Consensus Agreements

The Osage Negotiated Rulemaking Committee reached consensus on the following items during the meeting:

1. The Committee agreed to approve the meeting summary from the November Osage Reg-Neg meeting.
2. The Committee decided against creating a separate subcommittee for the producers but affirmed a commitment to keep them informed and provide them with draft regulatory language as soon as it is complete.

Welcome and Opening of the Meeting Day 1 – January 24th, 2013

The two-day meeting opened with a prayer and introduction of all Committee members and staff who were present. Patrick Field, facilitator, reviewed the agenda for the meeting and invited members of the public interested in making a public comment to sign up to do so. He then described the goal of the meeting: to discuss concepts and ideas for regulatory language and draft as much new regulatory language as possible.

Members of the Committee, including alternates, and staff to the meeting introduced themselves and provided their organizational affiliations. A full list of Committee members, staff, and members of the public who were in attendance can be found in Appendix A.

Committee members reviewed a draft version of the Meeting Summary from the Committee's October meeting and approved the Meeting Summary. The final, approved version of this document can be found on the BIA's website for this Negotiated Rulemaking at <http://www.bia.gov/osageregneg/>.

Staff to the meeting stated that the Public Repository of documents produced by the Negotiated Rulemaking process would be in place by the end of the week.

Introduction of Draft 2013 Work Plan (for further discussion during day 2)

After explaining that the draft regulatory language was not as near to completion as anticipated, a Committee staff member representing federal interests proposed that instead of waiting until March, the subcommittees push hard to draft language for each topic area in the regulations and present the proposed language to the full committee at the end of February. The public would be invited to provide comment on the draft language during the February meeting. Then, at the March meeting the committee would report which proposed revisions were or were not accepted based on committee deliberation and public comment.

The facilitator suggested the committee consider this idea and establish a plan of action after seeing how much work is completed during this two-day meeting.

Oil Gauging and Gas Metering (§§ 226.38 and 226.39)

Several Osage Committee members visited the Bureau of Land Management (BLM) and the Office of Natural Resources Revenue (ONRR) in Colorado to discuss how BLM and ONRR work with other tribes to manage oil and gas development and how the Osage could improve their operations. Specifically, the Osage Committee members sought information about how to value oil and gas and how to measure oil and gas production. Osage Committee member Galen Crum said one way to think about how the BLM and ONRR operate is that the BLM system tracks natural resource data until it turns into cash, at which point ONRR begins tracking the data.

Mr. Crum summarized the information they learned while visiting the BLM and ONRR. He said that Osage regulations (found at 25 C.F.R. § 226) currently only state that a pressure differential meter should measure gas; however, some committee members felt this vague regulation was unfair to both the producers and the Osage because more detailed regulations could help guide how the measurements are taken and improve measurement accuracy. To improve the Osage regulations, committee members had discussed and considered adopting parts of either the American Gas Association (AGA) or American Petroleum Industry (API) standards, or the BLM onshore orders (43 C.F.R. § 3150 and 3160), which mirror the AGA and API standards. Mr. Crum reported that the AGA, API and BLM standards provide detailed guidance on other topics such as site security and site maintenance that are not clearly described in the Osage regulations and added that the Committee is considering suggesting the DOI adopt only the portions of the regulations they think are most suitable for the Osage.

Mr. Crum commented that the BLM provides services to evaluate and establish the value of oil and gas leases using a scientific approach. He said this might be a more accurate method than is currently employed through the Osage system.

He also described BLM's on-site inspection program. It is similar to the Osage inspection program in terms of how frequently sites are visited, but the BLM program monitors more things when visiting a site. Their personnel must also complete a yearlong certification process to learn to recognize whether or not a site plan is set up according to the regulations. After acknowledging the complaints some surface owners have raised about site maintenance and the vagueness of the Osage regulation, which states work must be done in a 'workman like manner', he said that portions of BLM onshore orders 43 C.F.R. § 3150 and 3160 could provide clear guidance to deal with those types of maintenance concerns. He commented that the Committee would like to see Osage people trained better and that they are trying to determine in what situations regulations would help improve conditions for both the producers and the Osage versus situations in which the Superintendent would need to promulgate policies to improve conditions.

Mr. Crum reported that ONRR utilizes a computer program to aggregate and analyze production data. It has a feature that can identify when inaccurate data entries are made and automatically request the correct data before proceeding. This speeds up the process and reduces the potential for inaccurate permits to be processed. Once the data is entered into the system, ONRR can analyze it in ways that are not possible in the current Osage system. For example, the ONRR system can search for whether or not a lease production report was filed in a particular month. This type of feature would help track production and ensure the Osage are paid for produced oil and gas. The ONRR system can also perform auditing functions once the data is entered. The system does not audit every transaction. Instead, it audits a certain percentage of the leases on a regular basis. Mr. Crum said the Osage would like the ability to easily employ a similar auditing function to spot check transactions and identify how much money is recovered over time. In addition, the auditing function can provide data output to help improve resource management. Mr. Crum also mentioned that ONRR system trainers are based in Oklahoma City and are available to provide technical support.

Merrill Godfrey, staff member for Osage representatives to the Committee, said that examining oil gauging and gas metering issues, as described by Mr. Crum, resulted in a broader examination of field operations. The primary change regarding the oil gauging and metering issues would be to incorporate, by reference, the BLM onshore orders into the Osage regulations. This would most simply be done by drafting the Osage regulations to say: "The BLM onshore orders are herein included and are enforceable by the Superintendent." Alternately,

the regulations could clearly state that the Superintendent can implement the BLM onshore orders by order. By incorporating this language, the Osage would apply the same rules for oil gauging and gas metering that apply to other Indian leases throughout the United States. Mr. Godfrey noted that the subcommittees are looking at copying specific parts of 43 C.F.R. § 3150 and 3160, and potentially 25 C.F.R. § 211, the Department of the Interior's regulations, and are not considering drafting entirely new language.

Committee members made the following comments in response to Mr. Crum and Mr. Godfrey's comments about oil gauging and gas metering:

- One Committee member said it makes sense to adopt regulations that others have already put in place and not to reinvent the wheel.
- Another Committee member said the Committee is just looking for the BIA to provide the same accountability as the rest of Indian country receives and to ensure the regulations are enforced. He added that a producer would have to follow these regulations if they were working elsewhere in Indian country, so it makes sense for the Osage to adopt the regulations too.

Mr. Godfrey then discussed the field operations issues and regulations that the subcommittee members are discussing. He said that site security regulations seem to be understood in Osage country but that § 226 of the current regulations contain no specific language to address it. A subcommittee is determining which parts of 43 C.F.R. §§ 3150 and 3160 to cut and paste into § 226 to clarify site security requirements and procedures, but the topical organization of § 226 will remain.

A subcommittee is also considering additional regulatory language to address drainage. The goal of this language would be to protect the Osage from losing oil to a producer drilling just outside of Osage County. The regulation would give an operator in Osage the right to produce at a reasonable level sufficient to prevent oil from crossing the county line.

A subcommittee is also drafting language for bonding requirements. Typically, an operator plugs a well when it is abandoned, but some irresponsible operators do not plug wells or they do not plug them properly, which can lead to environmental contamination and a loss of recoverable resources. In these cases, a bond requirement serves as an insurance policy to guarantee funds for the proper plugging of a well. The current Osage bonding requirements are based on a per-lease or per-quarter section basis (an acreage basis), but actual well plugging costs are on a per-well basis. Mr. Godfrey noted the inadequacy of the regulation because if an operator abandons five wells on a lease, the current bonding regulation only provides funding to plug one of the wells. Under the regulations being considered by the subcommittee,

operators would be required to post a bond with a surety company approved by the Department of the Treasury for each well on the lease. However, they are also considering setting a maximum limit on the number of required bonds, beyond which additional wells would not require bonding. This might also include a requirement that the bonds cover the wells with the highest estimated plugging costs. The regulation would set a minimum bond amount slightly above the estimated plugging costs and require the Superintendent to maintain an up-to-date estimate of the actual estimated well plugging costs. Additionally, a lower bond requirement would be required for vertical wells and a higher bond requirement for horizontal wells because plugging a horizontal well is more expensive than plugging a vertical well. Mr. Godfrey also discussed the BLM regulations that define leases to include exploration agreements. He informed the audience that the Committee is considering including a statement to clarify that leasing procedures will apply to exploration agreements in the draft regulatory language. In addition to this, the Committee may propose language giving the Superintendent the duty to provide information about the fair market value of the lease upon request from the Osage Minerals Council. The goal of this regulation would be to provide the Osage Minerals Council with fair market value information in order to help them evaluate the purchase prices they might receive during a lease sale.

Reiterating Mr. Crum's statements, Mr. Godfrey said the subcommittee is considering incorporating by reference environmental regulations from BLM onshore orders §§ 3150 and 3160 to more clearly define the meaning of 'a workman like manner.' Some of this language would describe the specific duties of how to address environmental issues, including hydrogen sulfide gas emissions.

Committee member comments on field operations regulations, bonding requirements and environmental regulations included:

- One Osage representative to the Committee clarified that the Osage Mineral Council advertises the leases when they become available. Once it is in the general record, it is also available statewide.
- One Osage representative to the Committee restated that the regulations that the Committee is considering would not transfer authority from the Osage Minerals Council or the Superintendent to ONRR or the BLM. The authority will remain with the Osage Minerals Council and the Superintendent. The goal is to improve Osage governance of the resources by adding more structure and clearly defining the requirements, while not adding bureaucratic red tape or unnecessary time to the process.

Electronic Reporting (§ 226.13)

Ms. Ray Hodge updated the Committee on efforts to address electronic reporting issues. The Committee and subcommittee members have been reviewing the NIOGEMS system and ONRR's reporting and compliance system. The conclusion of the review is that the electronic reporting issues will not require a comprehensive overhaul of the Osage' regulations, but some language changes would help to align the reporting timelines between the Department of the Interior (DOI) and the ONRR or NIOGEMS system. The DOI will work with ONRR to draft and present the specific regulatory language changes at the next meeting.

Osage Committee member comments regarding electronic reporting included:

- A staff member to the Osage member of the Committee commented that language would also be proposed that would allow the Superintendent to specify the method used by producers to complete the reporting requirements and which federal agencies within the DOI would receive the reports.

Lessee Drilling Obligations (§ 226.9)

A staff member to the Osage Committee members said that the newly drafted language for § 226.9 would require new leases to produce paying quantities within 60 days or face termination. The expectation is that leases will be producing paying quantities every month, but it allows some flexibility for unexpected contingencies.

The second proposed change is to give the Superintendent the authority to allow for a temporary suspension of operations that would the 60-day period on hold for a specific amount of time. For example, if on day 50 a lessee submits a request to the Superintendent to suspend the clock and provides sound reason for not producing in paying quantities, then the Superintendent can grant this request provided that the request is received before the 60-day limit. The Superintendent would have to put the decision in writing and provide it to the Osage Minerals Council.

Oil & Gas – Indexing / Royalties (§§ 226.1 and 226.11)

Osage Committee member Andrew Yates said he believed most of the draft oil evaluation and royalty language was in place except for issues relating to dual accounting and Keep-Whole contracts.

A staff member to the Osage Committee members said that during the subcommittee review of the Keep-Whole issue and whether it is the appropriate basis for calculating royalty, the subcommittee discussed the concept of dual accounting. This concept, which is implemented by ONRR on other Indian lands, requires producers to track BTU content and sales proceeds at the tail end of the process. The BTU and sales proceeds are used to help calculate paid royalties. Although this would help to ensure appropriate royalty payments, there is some concern this accounting might be too onerous for producers. The current concept for draft regulatory language is to give the Superintendent the authority to require lessees who have natural gas to employ a method of dual accounting in appropriate instances. The Osage Minerals Council would have the ability to request that the Superintendent implement dual accounting in specific instances. It is expected it would be relatively uncommon for dual accounting to be applied, but if it were applied, it would be done simply by multiplying normal gross proceeds and the BTU at the well head by zone pricing for ONRR. The second part of dual accounting would be represented by the following formula: 100% of the actual proceeds of sales from the residue gas and 100% of the proceeds of sales from natural gas liquids, including drip condensate, minus the actual reasonable cost of processing (not to exceed half of the value of the natural gas liquids (NGLs)). In other words, the royalties would be based on actual sales volumes with a reduction for processing costs. The subcommittee does not anticipate applying double accounting to all lessees, but the regulation would allow for the contingency that if a lease is particularly rich in NGLs, then double accounting could be applied. Or, if in the future NGLs become more valuable, then the Minerals Council could request that the Superintendent implement dual accounting and require that the value be passed onto Osage shareholders.

A staff member to the Osage Committee members addressed a previously stated public comment about the Committee's proposed minimum royalty fee being set too high. The Osage Minerals Council determined that the proposed minimum royalty fee language was confusing and did set the fee too high. The Committee will have revised language in the next iteration of the draft regulations.

Osage Committee member comments on the indexing and royalties included:

- A staff member to the Osage Committee members stated that the Osage also want to make sure that the flaring of gas is not allowed without payment of royalty.

Public Comment

Patrick Field, facilitator, introduced the procedure and ground rules for making public comments. Mr. Field noted that individuals who preregistered to make comments would comment first, followed by those who registered to make comments on the day of the meeting,

in the order that registrations were recorded. Each commenter has up to five minutes to speak. Comments should be directed at the Committee as a whole, not at specific members of the Committee. Finally, Mr. Field requested that commenters keep their comments germane to the specific purview and work of the Committee.

The following public comments were received during the meeting:

- Linda Heskett said she hopes the committee thinks through the rules and regulations very thoughtfully because one turn of a word can change the meaning of a regulation, so the regulations must be very clear. The BIA needs to know that they need to sink their teeth if something goes wrong. I hope that everything comes back to shareholder again, for these long years we've been an afterthought and I think these CFRs concern us. Thank you.
- Stephanie Erwin asked when the Osage Agency is in a MOU with ONRR, will minerals council be provided copy of MOU before it is signed? I think they should be notified.
- Rob Lyon provided a handout detailing operating expenses on a lease he has in Osage county to give an idea of what producers see on a daily basis. We currently get Posted price. It's about 200 dollar per year per barrel if you went to NYMEX versus a posted price situation. That is what changed it from 400 to 200 because this is a two-barrel per day lease. We're making money on this little lease with two barrels a day, 25 barrels of water. We have to haul water. But breakeven is 74 barrels per day. Factors in overhead—salary, insurance, rent, truck expense—we operate 84 wells in Osage County and I've divided all the overhead in there, but this gives you income and expense summary to show difference of going from NYMEX to a Posted. Appears to still be some confusion about NYMEX and West Texas Intermediate (WTI), these two are basically the same—The WTI posted is what the producer, what I get paid for. WTI and WTI Posted are two different numbers. We need to be on same page vocabulary wise WTI and NYMEX are one and the same. Other thing to mention, we had a family member pass away a year ago, they were out in New York, and I get phone call from attorney about redoing the reserve report. This is expensive and time consuming, but we did it. Normally, if you bought a property in today's environment, if I went out and bought somebody's lease I'd pay about an 8% present value number. Well the fair market value of most of our reserves and the value of our company in Osage County is about 20%. There was a big haircut on what the company was worth. And I was asking this reputable firm in Tulsa, and they said there is a perception that it is hard to do business in Osage County and that's the reason. I just want to impress on you today that the regulations we are talking about today, there is a perception this is a tough place to do business, and I caution you to not make that a reality.

- Cynthia Boone – I just want to point out that, I'm sure it wasn't intentional, that I am the only member of the Osage Minerals Council who didn't get a copy of the information that was shared and I would like a copy of that info. I'd also like to have copy of the MOU being referenced. I'd also like the process refreshed because, if I understand it correctly, there will be changes out for public comment next month and we've not been in this process for even a year. And, I thought we'd have 2 years for this process, so I'd like clarification on this. Thank you for allowing me to speak.
- Nona Roach – I was asked by a shareholder at a one of the Neg Reg meetings if I ever had anything nice to say. I told her that if anything ever happened that was good I'd be the first to applaud it. Well, today is the day. I commend all of you for any part you play in improving conditions between the Osage and the BIA. I want to think Rhonda Loftin who has implemented so many positive changes in the short time she has been there. We now have positive file stamp proof with a log entry when we file our permit and consolidation request, with the dates they were stamped by the BIA. We are about to be current on drilling permits that we have submitted and are trying to get drilled before they expire. The entire atmosphere at BIA is more friendly and conducive to getting the business of the Osage done in a timely manner. People answer phones at the BIA and they call you back when they say they will. Bill Jessee is exceptional at answering questions. And he calls back when he says he will. I know the task seems overwhelming when you look at what needs to be addressed. CFRs not being properly enforced, leases and drilling permits not being approved in a timely manner and all the personal problems—we are all hopeful these issues will be addressed. It is readily apparent that a new wind of change is on the hill and it will benefit all of us. For too long we felt that that the BIA was the three legged stool with the legs of operator, landowner, and the Osage all sawed off and none taken care of. We are hopeful that what you're doing now to make the BIA a better agency by integrating digital monitoring, gauging, metering and reporting will positively impact royalties and accurately reflect production. You could also reconcile operators' reports with purchasers statements by dumping all data into database and without having to manually input the data on a written report that we are not allowed to electronically submit. I normally drive my reports to the agency, and I have my files stamped in so that I have copy showing I filed it. Error rates will be decrease and it will be easier to manipulate the data and project your numbers with immediate access to your accounting. Welcome to information age. The message has been heard and acted upon. Please remember, with all the positive changes brought upon the BIA and the Osage, to not kill the messengers that brought it to you.
- Bob Jackman – Good morning ladies and gentleman and thank you. I encourage everyone to read the BigHeart Times article. As the judge said in the article, the sloppy

administration by BIA is causing problems. Please read that entire article. I have extra copies. I think we've reached a point that we all agree. The BIA cannot keep up with demands placed upon it. They are chronically understaffed and have unqualified staff. Everything I heard this morning was prefaced with "Superintendent will have responsibility." Well, the superintendent office doesn't have a backstop of professionals to guide in the decisions to address the issues. There is a chronic lack of technical geo-professionals and geologists is crippling. This article elaborated a number of other issues, problems of ingress and egress. I'll provide an example of the problem of not having geo professionals as a backstop—in Oklahoma there are 11700 attorneys and one hydro geologist. Guess what the state water policy legislation is based on? Osage nation doesn't have any great restrictions, if you think you're going to go after other counties for draining you, you'll find out that Osage nation is draining other states and counties. You should temper some of these suggestions with a backstop of competent professionals to guide you. One of my grievances is that you're making lots of references about going into areas that need to be gone into, but you must get producers and land owners input. Otherwise, the regulations won't fly. We need win-win regulations for all. In closing, I made recommendation in September to not exclude the private sector from considerations on computer reporting and accounting. There isn't a company in the whole world that uses ONRR as the program. You're not using comparative analysis with how you are selecting this. I suggest you do. I also suggest you go down road to Oklahoma City and talk to the State of Oklahoma, which manages a lot of oil, and ask how they manage it. Then compare. Thank you.

- Susan Foreman – I have been on exploration and production side of natural gas marketing business for 33 years. I am shareholder with Osage ancestry. I've worked with the Minerals Council to understand value of natural gas liquids. I'm glad to hear you all have considered value of natural gas liquids. I missed gauging conversation unfortunately. But to reiterate what I said in an email to Mr. Streater: I think that by working with producers we can help them improve their negotiations with purchasers to require just industry standard measurement and meter installation practices and we need to make it reasonable for small producing wells. You don't need to be inspecting those nearly as often. I hope we always work in partnership with producers and make it win-win situation for all of us. She asked the Committee to re-explain the royalty calculations.
- Jamie Sicking – If the BIA can't keep up with what we are asking them to carry, are we really going to add more to their load? Or are we going to do this because they promised to add staff? I'm concerned we're setting them up for failure. Fair market value of the lease—they're going to establish fair market value of the lease? We're going to ask BLM to set the fair market value? Currently, we have public auction. What

better way to determine the fair market value? Why not just hold it up and say “what’ll you give me for it?” If we say it is \$12,000, and public doesn’t accept it, then it won’t get leased and it won’t get drilled. The Paying Quantities—60 days. That is fantasy. Who is going to be able to give us a written letter. We can’t get a permit to drill in 70 days and that’s trying to make money. We expect Superintendent to write a letter in 60 days, and if she doesn’t write us back then we get terminated. Can you image the backlog of leases to be terminated? Maybe better policy is at 60 days they send you a letter, and if you don’t respond in the next 30 days, then you get automatic termination. Otherwise, you’ll be inundated with people who don’t pay lease back going 70 days. Then 130 days down the road they hear it’s terminated. Reality of situation is 60 days is asking for trouble.

In response to the questions and comments posed during the public comment period, the Committee and staff provided the following information:

- A representative of the Osage interests on the Committee commented on the electronic reporting: One of the past members of the Minerals Council who did not get reelected told me he wanted to improve on this from the beginning. I told him I would work on it. I worked at Whirlpool and I didn’t know anything about computers when I began there. At the end of every day, they reported how much steel was produced, lost, and scrapped and how much steel we needed to save everyday. That was when I began to explore the fact that we needed to improve on electronic reporting. I asked the members about it, about what the best system was. People went north and reported this needs to be done. It is important that we do this, especially for the shareholders. The accuracy of the reported numbers will be helpful. The more we explore this and the more the BIA can help, the better off we’ll be.
- A federal representative to the committee said: We get a lot of comments in the sessions that raise valid issues and concerns people have about the agency and about the regulations. But, just to reiterate the limitations of the committee, the committee is only authorized to deliberate and review specific language changes to the regulations. So any issues mentioned about personal or administration of BIA functions, problems with enforcement under currently regulations, etc., are unfortunately issues this committee cannot discuss or address. I just want to reiterate that so people do not think we are not being responsive, its just not in the power of this committee to deliberate on these issues.
- An representative of the Osage interests on the Committee thanked Ms. Roach for her comments and asked if other people heard her and listened to her. The Committee member said that: Changes are being made. Yes, we are putting more on the BIA, but I think they can handle it. And, it will be better for our shareholders. Things are getting

better, but they take time. Ms. Roach said she sees change, and it is for the better. Please all, give it time and it will change and be better.

- An representative of the Osage interests on the Committee addressed the comment about the MOU that may or may not happen between the BIA and ONRR. He said that: he believed we can be involved in what the agreement might entail and asked a federal representative to the committee if that was reasonable. The federal representative said there is no MOU yet, not even draft language; but generally speaking agency-to-agency documents are internal documents. The agencies would discuss the substantive provisions of the document with the Minerals Council so they would know the requirements of ONRR and the BIA. But it might also contain language related only to department functions, so I can promise it would be open for the public.
- An representative of the Osage interests on the Committee addressed the comment about the 60-day requirement: Currently, you have to file a monthly production report. After you file one monthly report stating zero production for some reason, then prior to filing the second zero production report you would contact the Superintendent and explain the problem. The Superintendent would evaluate the issue of why there is zero production and could stop the clock to give you more time to address the issue.
- The facilitator addressed the concern raised about the timing of the process: The charter for the committee was signed in August 2012, which suggests the committee can go for a full two years from that date, but it doesn't have to take two years unless needed.
- A federal representative to the Committee also responded to the question about clarifying the process timeline for the recommendations produced by the Committee: the committee holds official public meetings approximately once per month to address the current regulations. Between the meetings, they work in subcommittees to draft language. The subcommittees, which cannot make any formal decisions, are required to bring proposed language to the full Committee during a public meeting. The full Committee deliberates on the proposals and the public provides comments. After deliberation and public comment, the Committee can change the draft language. At the end of the process, once the Committee is agreeable to draft language, they will make an official committee action to offer language to the Department of the Interior. We hope that by April or June we'll have completed this process and have a complete draft of proposed changes to the regulations. Those will be submitted to the DOI through the BIA director, who will work within the DOI to take those proposals under consideration. After the DOI decides what regulations to present, they will submit a proposed rule making process in the Federal Registrar. The proposed rule making will include all of the changes the DOI wants to propose. This usually goes through a 30-day public comment period. After the public comment, the DOI reviews all the public comments and decides

internally whether or not to change the proposed rule. They will then issue a final rule with a responses to the major themes presented in the public comments. From the time the DOI receives the proposed regulations to the time it makes a final rule takes approximately six months, but could take more time.

- A staff member to the Osage representatives on the Committee clarified the idea about fair market value provided by the Superintendent: Nobody is suggesting the Superintendent take over the process for deciding the price of a lease. It is merely a requirement that if the Minerals Council requests it, the Superintendent would provide information to the Minerals Council for their use however they may see fit. It is anticipated this information would help the Minerals Council make better decisions.
- A staff member to the Osage representatives on the Committee clarified the royalty calculations: He said the royalty would be based on 100% the value of the gas plus 100% the value of the liquids. There would then be a deduction allowed for the actual processing costs. This would be capped at 50% of the actual sales value of the natural gas liquids. The net result would be that the royalty paid would be 100% of the value of the resident gas and 50% the value of the liquids.
- A representative of the Osage interests on the Committee commented on the ONRR system and the draft regulations. He said the Arapaho are on it, but he is not sold on it yet. There are parts of ONRR he likes and parts he does not like. He said he doesn't like the BLM operation because it does not fit the needs of the Osage. He said: I was surprised to hear we are the only tribe not belonging to ONRR. People always tell you the good things of the ONRR program, but I want to hear what the people who are dissatisfied with ONRR have to say. He commented that the enforcer of ONRR offered to come help take care of the issues we are facing here. But I ask why does our Superintendent not have the authority to be the enforcer? Why must we always go to Muscogee to make a decision? How are those people in Muscogee going to make decisions that have ramifications up here? We are standing in the middle of the producers. I can see the producer's side and the landowner's side. I tell Osage people to remember where your check comes from. I had one producer ask me why we are going to promulgate new regulations if we do not already enforce the ones we have. I cannot in my own heart embrace everything I've heard today. I hope we can continue the working relationship with the producers, but if any changes are to be made, we should have many mini hearings to discuss it.

Work Planning for Day 2

Since the meeting concluded early, the facilitator suggested that subcommittees meet at 1:30 pm to work together this afternoon, and then reconvene on January 25th at 11:00 am for public comment.

The Designated Federal Officer adjourned the meeting at approximately 11:45 am.

Welcome and Opening of the Meeting Day 2 – January 25th, 2013

After covering more agenda items than expected on January 24th, the Osage Negotiated Rulemaking Committee convened at 11:00 am on January 25th to hear public comments as originally scheduled.

The meeting opened with a prayer. Mr. Field, facilitator, then reviewed the ground rules, the meeting agenda, and invited members of the public interested in making a public comment to sign up to do so.

Members of the Committee, including alternates, and staff to the meeting introduced themselves and provided their organizational affiliations. A full list of Committee members, staff, and members of the public who were in attendance can be found in Appendix B.

Public Comment

Mr. Field introduced the procedure and ground rules for making public comments. Mr. Field noted that individuals who preregistered to make comments would comment first, followed by those who registered to make comments on the day of the meeting, in the order that registrations were recorded. Each commenter has up to five minutes to speak. Comments should be directed at the Committee as a whole, not at specific members of the Committee. Finally, Mr. Field requested that commenters keep their comments germane to the specific purview and work of the Committee.

Members of the public made the following comments:

- John Friend asked if the 1906 Law is still in effect.
- Berry Keeler handed out a page of computations (please see Attachment E). He said: we have several 1000 acres up there and the oil companies haven't been fair about giving us fair value for damages. Every county around us gets two to three times more money than us. I asked my comptroller to run the numbers to calculate what we would lose on a piece of land if we were to lose this based on a 50 year period. A operation like we run uses about 7 acres per cow, if we lose an acre and a half of that, that is 20 percent that we lose over the course of about 50 years. To make it fair for you, we went to 1980 and looked at the price of cattle and ran a projection over 30 years and projected it over the next 50 years. You'll notice that a 650 pound calf sold for little over 1000 dollars. If you look through the computations on the second page, you see that over a 50 year time span, if you lose 20 percent of the cattle and it costs you 5.5 percent interest on that money, and you base it on 5.5 percent interest for five years and it jumps up 1

percent every five years after that, and for the last 15 years it is a constant 12%, I think everyone will agree that with artificial interest rates being held down low and debt we have it won't be difficult to get to double digit interest rates in a couple years. Last page shows 20% costs us about \$65,000, that is what we lose. I have letter here from Sullivan Oil. The offered to give me \$6,500 dollars for a well site and \$3,000k for second well site. They say they won't give more than that because you guys wont let them. I don't know who "you guys" refers to, whether it is the Osage or the BIA. It's a fight every time. Every county gets more than we get. There is mass fraud going on we are not getting fair value for damages. You are only paying your own Indians 5,500 dollars, while most others are receiving 10,000 dollars. Your own Indians are getting screwed on the deal. Taxpayers and Indians are both getting screwed on this deal. We need updated regulations that are fair to everybody. That's what I have to say.

- Joe Surber – I appreciate opportunity today to make comments. I'm reminded by something a former senator said: "Nothing is as powerful as an ideas whose time has come." And I think now the time has come to make some improvements that have needed changing for some time. I'm originally from the education field and have been to many conferences like this. Only two times did I feel like the committee really got a chance to write the regulations. We have different people with different interests: people who live here and people who don't, people with land and people who lease land. Lots of opinions and perspectives. There are some things we need to consider: 1) find a common platform for agreement, for example I don't know anyone against protecting environmental and maintaining grassland. Once you have agreement on this, the groups can work together. Need some people you can contact regularly and ask 'what do you think about this?' After, we'll live with the decision you'll make, but why are we not involved with you? Everyone wants this to be successful. There is a lot of fear and anger out there behind me. We need to work out these emotions. It needs to be done in such a manner that people feel like they are part of the process and not being ignored. There are many good people who want to get together to discuss these things in a rational manner. Einstein said what is important is the question you ask—you must ask the right question to get the right answers. And if there aren't answers, seek them out. In conclusion, US ambassador said when given the choice between changing one's mind or proving there is no need to do so, everybody gets busy on the proof. We must get together and work as a group to get moving on. Thank you.
- Frederick Drummond – I appreciate opportunity to visit with you. I know many of you. This is important, doubly important issue because the tribe might have overlooked some things. These locations and the money involved is only a small part of the issue. This is like having someone cut a square foot out of your wife's living room carpet, and somebody saying it didn't do any damage it only took out a chunk worth \$3.50 dollars. It

is not true. Its more than this, is the traffic that comes in, it's the lack of security, etc. It is all of this that should be included in the damages and penalties. I don't think most oil companies realize that it is a practically a franchise for them to come on and do what they want. This isn't good for the landowners. In Osage County, we have wonderful environment and county. Some companies will go in, production will drop down, they'll declare bankruptcy and disappear, and leave you with a discouraging and disturbed area. Thanks to ERB, they have applied some remedies to the terrible damages. The primary point is that it is the ancillary damages that come along with primary damages just for location fee and roads and all that. The pre-phase is another thing that is really bad. Spraying pastures for weeds was beneficial in past. Need to throw a lot of things into the mix besides the location. You need to be working with ranchers to get best road in, deciding if you need a gate or a cattle guard. The oil company might have a bulldozer standing by for 8 hours earning more money per hour than the rancher will get for the damages in the end. Working with the ranchers and landowners is the most important money producers can spend.

- Ron Reed – (See Attachment E) Good morning. The environment is the most important to protect. The water we drink. The air we breathe, the food we eat. Last year we have first ever Greater Prairie Chicken Viewing in Oklahoma. We had people from 23 states sponsored by the Audubon Society, Oklahoma State University, Sutton Avian Research Center, the Nature Conservancy and Toyota's Ever Green Project. They requested to do the same this year. But due to H2S gas and no regard to anything or anyone on the surface, this mine has been the last rodeo. At the end of our lives we'll be judged by whether we were good and faithful stewards of environment. We have experienced a multitude of problems with vague and out of date rules and regulations of CFR 226 between surface owners and Mineral Lessees and unexplainable surface damages. H2S, hydrogen sulfide, is dangerous and exposure at low concentrations 10 ppm can result in several physical ailments, including loss of motor coordination. In 2009, a well was drilled on our property drilled that produces oil and H2S gas. Controlling the H2S has been a calamity. BIA has not mandated control of this harmful toxic gas from venting into the atmosphere. Birds are more sensitive to smell than humans. Folks, you're killing human lives, and wildlife without oversight. I have heard councils say we're here to produce oil and send headright owners a check. They only mention MONEY, never the environment. When I think of the Osage I think of good people. They want all good things for their families that you can't buy in life with dollars. H2S is bad, but doing nothing is worse. I deal with CFR 226 everyday. I have yet to find anyone who doesn't think these regulations need to be rethought and revived. I'm certain that surface owners would be able to provide good comments on this and would welcome the opportunity to provide comments on these regulations.

- Bob Jackman – I’m oil and gas operator, a petro geologist. I’m not operating here, but have an interest. Ten years ago I put together a large play in Osage County. In that plan I tried to build a coalition of surface owners to set up standards on surface sediments. Understand that different areas should be paid differently. If you go from pasture to bottomlands in cultivation to bottomlands not in cultivation to Osage hills, all that should be taken into consideration. There should be standardized program, which is done elsewhere, no reason to wait until things boil up—like yesterday a surface owner fired pistol at ground over contractor coming in. Should be ongoing program meeting monthly between surface owners, operators and so forth to standardize programs. Monetary amount should not be standardized because each situation is different. Burden to do this rests with BIA. We got in turmoil of changing Superintendent, chronic underemployment. The time is now to form a permanent program so these problems don’t happen again. Again, this is the BIA’s responsibility. Office of Superintendent should have adequate staff to implement program such as this. It is common sense and the continuous friction isn’t necessary. Horizontal area drilling will create different problems than normal—these should be addressed. In closing, we’ve tried this before. I see no reason why you can’t bring programs and encouragement to let the Superintendent form a committee for addressing standards for surface damages. Surface owners not going away, BIA not going away, we need to address this together.
- John Hendrix – Please see the comments from Mr. Hendrix included in Attachment E.
- Sam Buford - I appreciate opportunity to come up here. Evident CFR regulations are outdated. We need to totally revamp CFR 226 so it is more applicable to today. I think everyone’s intentions were good when the regulations went into effect. But new problems arise that change the dynamics and call for new solutions and ideas, and perspectives. I would reemphasize that we need to complete review most sections in CFR 226. One other thing, I think most of us in the room agree water is the most precious resource. It almost makes me feel good when a spill reaches a stream because at that point the EPA gets involved, and I feel I finally have representation to support me. If I have problems with company not doing what they should, I have to go to BIA. Only time anything happens is if water is involved, and if the EPA gets involved. There is more communication and accountability with them. Every time someone from BIA comes out to talk about issues that I could not resolve first with the oil company about operators on our land, I’m not allowed to be carbon copied on any of the correspondence. I can show a list of 9 things they aren’t in compliance with on my property. I always receive a standard answer—we’ll write a report, contact operator, and get it taken care of. I’d like to see the report, but I’ve yet to get one of those. Some of the brightest ranch managers are Osage. I have no problem with Indian preference for working with BIA. But they all need to be as qualified as the next person, as diligent as

the next person, just as willing to follow through and do a job commensurate with their pay, to be proud of what they are doing. Its not only CFR, we need help from BIA in how we're treated and handled. Thank you for your time.

- Stephanie Erwin – I'm an Osage shareholder and restricted landowner. You're talking about standards for land issues. If a restricted landowner has an oil company coming on land, they flip a 300-dollar check to the agency and that's it. I know because I've experienced it. I went to talk to Bill Barker about it. He told me I was lucky to get 300 dollars and that I was a headright and I'd be getting more money. When you standardize it for the land issues, you must also include the Osage restricted landowners. We are just as protective and proud of our land and we don't want anyone coming on the land and doing what they are doing. We don't get anything for it but we are penalized because we have a headright.
- Scott Wiehle – I'm a property owner out in Big Bend area of Osage County, 4th generation Osage. Got a lot of oil activity on my place. I understand Osage mineral estates. We bought land without minerals, so I know this issue. The main gripe with people behind me is that the oil companies are putting it on. They come in and put up 300 dollars and we cant get any accountability from the BIA or minerals council to come protect our property. I've requested liners, steel pits, etc. and the companies tell me they don't have to put in this technology since they are in Osage county. Other counties require it. (Interruption*) I don't have any problems with shareholders getting their minerals. I just want environment protected. I farm and ranch in western Osage county and I make living in the dirt. When oil company comes in with BIA approval and dumps thousands of pounds of rock on your property, how you supposed to make that work? They tell you they are going to fix so much land, put up 300 dollars, they are going to tell you'll they'll take this much land, for this much time, for this much money. Well, they can tell you they'll take the land and for how much time. But I have an issue with the compensation rates. The compensation rates of all 77 counties in state of Oklahoma are listed on the website, and if any operator drills on state owned land, they must pay compensation rights. Why is it different on our lands? They get away with murder on our lands. CFR is outdated. We have regional people with BIA who come out to address issues and they write a lease inspection. We wait 30 days, they give it to the operator, takes another 30 days, and you ask guy what happens next. They'll say they think its taken care of and say if they don't do it they'll place red tag on tanks and then they can't sell the oil. I've had super override it and take red tabs off. Superintendent is a human being. They aren't being courted 3-5 times per week by the landowners like the operators are doing. All we ask for is a fair playing field. Our only recourse is to go to court if nothing happens through BIA. Before court, we have to go back through arbitration. Usually the only option is litigation after that. Each operator is different. We

have a massive problem and the only way to remedy it is like Joe Surber said, get a group of surface owners, mineral owners and BIA employees together to craft a solution.

- *Interruption: While Scott Wheeley was providing public comment, a Federal representative to the Committee announced to the camera man who had begun filming that he would need permission from all of members of the committee, including the facilitator, before he could film. The facilitator asked for verbal confirmation from the Committee members if they were okay with being filmed. The committee requested filming to stop.
- Julie Wilson asked if the BIA knew our council was having off-site meetings that we were not invited to. They've had offsite meetings at places of residences, and I wondered if everybody knew that and if that supposed to be going on?

In response to the questions and comments posed during the public comment period, the Committee and staff provided the following information:

- A federal representative to the Committee addressed the 1906 Act comment. He said the 1906 act is still in place and has authority for 25 CFR § 226.
- An Committee member representing Osage interests stated that the limited scope of the Committee is to address the CFRs, which was prompted by the trust settlement lawsuit. He said: in the settlement, we also asked for meetings and consultations to discuss general improvement and how the BIA can provide better services. These meetings occur twice a year and Mike Black, the Director of the BIA, has attended the meetings thus far. Many of the issues raised in the public comment—the policies, procedures, how the BIA works, staffing issues—are being addressed in those meetings. This Committee only works on CFRs and so it can't directly address your concerns. The BIA has to do it. But, we can be a force in middle to put pressure on both sides. This Committee is looking at adapting BLM regulations to suit Osage needs, and some of the regulations we are reviewing might address some of your concerns. For example, one section reviews the responsibilities of government and operators in how to fix things like leaks, how notifications are handled, etc. It lays out a specific process. We are looking for spots like this in CFR §§ 225 and 226 where we can adapt BLM regulations to clarify the regulations we already have to help improve conditions.

Welcome and Opening of the Day 2 Afternoon Session – January 25th 2013

Upon reconvening, the committee members and support staff introduced themselves and reviewed the November meeting summary notes. Three changes were suggested. The

Committee approved the meeting summary with the suggested revisions. The final, approved version of the November meeting summary is posted to the Osage Reg-Neg website.

Presentation by the Osage Producers Association

Rob Lion, the President of the Osage Producers Association (OPA), briefly presented on the issues and concerns of the members of the OPA. He stated that producers, purchasers and other interested parties want to proactively provide guidance and input into this process to help shape the regulations, but they feel the five-minute public comment periods are not adequate, especially since they will have to live with the regulations if they are passed. The OPA requested the formation of a subcommittee or an advisory body through which they could act as a sounding board for the Committee and provide guidance on the regulations under consideration. He stated the meetings they had with the Osage Minerals Council and with Andrew Yates and purchasers were helpful to clarify misconceptions on pricing, but the OPA remains concerned with the draft regulations since they could be detrimental to producers. He added that the regulations do not need to be changed. Instead, manpower and resources are needed to implement the current regulations. The bottom line, he stated, is to increase the value for the shareholders of Osage County.

Presentation by the Surface Owners

Editor's note: Due to scheduling limitations of surface owners, the meeting agenda was modified to accommodate their travel in order to allow them an opportunity to be heard.

Jeff Henry, President of the Osage County Cattlemen's Association (OCCA), briefly presented on the issues and concerns of the OCCA. After providing some background on the OCCA, Mr. Henry stated that surface landowners and cattlemen are frustrated because of outdated regulations, inadequate regulations, general oversight in how production occurs, and the resulting loss of time and income. He said the landowners and cattlemen do not want to be policing their lands nor do they want to be environmental enforcers. They want to concentrate on their work as ranchers and they want to provide their knowledge to help improve conditions.

Mr. Henry presented several photographs and commented on them. He showed an image of a maintained well and asked why they could not have wells like this in Osage County. He then showed several images of incidences the members of the OCCA are encountering. He commented on the lack of regulations for hydrogen sulfide and questioned whether or not the rural fire departments are trained to deal with hydrogen sulfide. He reported that some leaking wells have been reported for years, but inadequate measures, or sometimes no measures, are

taken to address the contamination, which in some instances has caused the death of cattle. In addition to contamination, Mr. Henry reported the lack of enforcement of site maintenance regulations, the lack of berms around tank battery sites, the lack of lining for tank battery sites, accumulation of junk at well sites, and unfenced pump jacks. He presented photographs of salt water spewing from a tank battery and running into a pond where cattle were drinking and of exposed Reada cables.

Mr. Henry said the primary goals of the OCCA for being involved with this process are:

- To create a professional workplace that allows them to focus on ranching and not on environmental policing
- To help create better regulations
- To ensure environmental regulations are enforced, and
- To improve relationships between the landowners, producers, the BIA, and the Osage.

Mr. Henry provided several recommendations to improve current conditions:

- Completely overhaul CFR part 226
- Establish a minimum baseline comparable to that of the State of Oklahoma Corporation Commission
- Use templates from the Oklahoma Corporation Commission, Commissioners of the Land Office, Environmental Defense Fund, Environmentally Friendly Drilling, and the State Review of Oil and Natural Gas Environmental Regulations

To conclude, Mr. Henry presented a picture of the horizon of Osage County and said that poor regulations should not be permitted to ruin the environment

Dr. Kerry Sublette, University of Tulsa Professor of Environmental Engineering, briefly presented on the environmental issues in Osage County. He cited gas venting and hydrogen sulfide emissions as some of the most critical environmental and health issues in Osage County. He commented that release of salt water in Osage County is also a serious environmental issue because the salt kills vegetation and ruins soil structure, which leads to erosion. Furthermore, the brine spills eventually heal over, but since salt stays in the soil for some time, they continue to leach into freshwater sources and can take decades to fully recover. He stated the lack of regulatory oversight could allow for inadequate precautions to minimize spills and inadequate attention to spills when they occur. He reiterated that the Osage County environmental regulations are outdated and inadequate, and that enforcement appears to be non-existent. This means that landowners in Osage County cannot depend on the local regulatory authority to protect their land like they could do if they lived in another county. He suggested a regulatory framework that would hold the industry accountable, but work with them to solve

problems. In closing, he suggested that some of these issues may be the result of conflicts of interest in the BIA in Pawhuska.

A staff member to the federal representatives to the Committee reviewed the purpose and scope of the committee. She said that after the legal settlement in 2010 over the mismanagement of the Osage Mineral Estate, the Committee was formed to review and revise 25 CFR § 226 and 225. The scope is governed by the charter, which is open for two years and concludes in December of this year. The Secretary of the Interior could renew the charter or extend it if necessary. Committee members deliberate and make decisions about 25 CFR § 226 at open public meetings, however subcommittee meetings are not open to the public and final decision-making is not permitted in them. The subcommittees propose ideas to the whole Committee, which then reviews and deliberates the proposals and determines whether to accept or reject them. To date, there is one full set of proposed regulations located at www.bia.gov/osageregnet. The committee has been discussing the revisions and concepts, considerations of public comments, and at the February meeting they hope each subcommittee will present and propose new draft language.

Public Comment

Mr. Field introduced the procedure and ground rules for making public comments. Mr. Field noted that individuals who preregistered to make comments would comment first, followed by those who registered to make comments on the day of the meeting, in the order that registrations were recorded. Due to time constraints, each commenter has up to three minutes to speak. Comments should be directed at the Committee as a whole, not at specific members of the Committee. Finally, Mr. Field requested that commenters keep their comments germane to the issues raised during the two presentations.

Members of the public made the following comments:

- Melvin Reed – Thank you I'm Melvin Reed, third generation rancher. We've been here over 110 years. I want to disagree with one thing. This regulation needs changed. We've had oil production around where we live for the past few years. It's been rough on our health. They vent things that no one wants to live with. I've had to take son to Emergency Room just because we were processing cattle down wind of venting gas. I requested organizations to test what is coming out of the vents but nobody has yet to do it. I've talked to EPA, emergency management, and on and on. I also worry about our environment. We have unique environment. I've had martins at my house for 30 years. This year, just about when the young ones began to fly, every one of them was dead. That's never happened before. We get fumes where I live and I know this was the cause.

We've had two prairie chicken nests disappear that were close to an oil well. There is some reason for that because they usually stay there for years and years. We need to take care of our environment and these regulations need to be adjusted because the surface owner cannot take care of the regulations by themselves.

- Will Cabbage – I'm a relatively new landowner here unlike many you've heard from today. I moved here by choice because I choose to be a government worker in this County. I'm here with an obligation to serve the clientele of this county. No matter who you work for, we all have obligation to serve. To do that, it takes boots on the ground. You can't just legislate from afar. I deal with this on regular basis. I've seen a lot of well site problems. They are disappointing. Coming from outside, these problems are unfortunately widely known. It's well understood throughout state that this contamination is happening. It's unfortunate to everyone here in the room and it is our obligation to commit to fix it. Thank you.
- Robert Hamilton – Please see the comments from Mr. Hamilton included in Attachment E.
- Arlow Dekraai – All of us representing Osage county cattlemen's association has a story. I represent the Cryland Company and Kay Bar C Cattle Company (sp), and we have ranch operations in both Kay and Osage counties. We took possession of the Osage ranch two years ago fully aware of the existing production in the county. As soon as we took possession of the property, I called the field rep to meet with me to discuss operator issues. He came and made a field report. I requested but could not receive a copy of the field report. Two weeks later, we had barbed wire placed around the tank battery. I asked again for the copy of the field report. I asked about how to get accountability for the regulations and if I could call operator. He said no. After three months, I visited the operator and called him three times. Operator never had time to meet me. He said 'You don't understand, operating in Osage County is different.' I sent letter saying I would sue him in state court. He showed up at my house and said he'd start the clean up operations this Monday. The other operator hasn't responded. If he doesn't, I'll file a lawsuit. I shouldn't have to provide my resources to make him comply, but I assure you that we will. Thanks.
- Kent Trentman – I ranch up in northern Osage county and have been there for approximately 20 years. I get frustrated dealing with six independent oil guys. Most do a good job, but two don't do very well. If I sue, I don't get any monetary compensation. One guy declares bankruptcy every seven years or he switches his corporation name. One of my recommendations is to make smaller independents post larger bonds for the wells, so that somebody like myself has some money available to fix what the operator isn't fixing. I hope you consider this.

- Celia Lanham – I own 350 acres in the historic cross-timbers. I too spend my own resources to protect myself from producers who are not fulfilling the soil, water, erosion and pollution regulations. Surface owners aren't being protected well enough for the amount of money and time they've invested in their properties. I also think that creeks should be included in the section with the ponds and watering sources because our creek runs into Skiatook Lake. Lots of erosion from a well site goes into the creek, which flows into Skiatook Lake. Tons of dirt or more. Regulations are inadequate to protect the landowner. There should be more focus on protecting the surface owners.
- Scott Wiehle – I farm on west side of county, north side of the bend. A couple of specific regulation corrections to be made: 226.18 – except for staging and surveying a location site, no commencement of any other type of operations should take place. If I've got a deer hunting lease out there and some guy comes in and messes up my deer hunting lease or get shot, then we've got a real problem because they are staking wells without permission—this needs to be corrected. Another regulation to be installed: Liners ought to be mandatory in all battery sites, earthen pits should be lined to protect water sources. I agree with Jeff Henry's presentation. Our regulations need to be upgraded—they are skewed towards operators to increase production. Penalties need to be updated: set the fines at prices that deter people from breaking the regulation. I'm not pointing at anyone in particular, but the Superintendent has too much power. The Superintendent always has the final say. The Superintendent is a human being, and they are subject to bias.
- Stephanie Erwin – I'm an Osage headright owner, restricted landowner, and resident to of Osage County. We've had farm since the allotment out in the bend area. Oil companies have torn up the roads. They move in and do what ever they want. They tear up the roads and have to pay taxes to fix those roads. My taxes increase every year. The roads are terrible out there. That's all I've got to say right now. Thank you.
- Joe Bush – I'm a landowner in Osage County. I had a horizontal well drilled 130 yards from home. I have employee home 100 yards from well site. It was drilled last January and fracked last summer. It's horizontal well as I understand it. My purple martins all died or left. Barn swallows all disappeared. Found some of the dead. Mostly just disappeared. All five people were exposed to Hydrogen Sulfide gas and all got sick. Hydrogen sulfide gas is a poison gas used in World War I, its probably banned by the Geneva commission. It isn't right to let it out in the air. We complained, they put a flare up. The flare burns the gas. We can still smell it and it burns our eyes. We have to plan work around the blowing wind. Sulfur dioxide is the byproduct of burning—that gets in your pond, and it makes sulfuric acid. Gets in your eyes, sulfuric acid. Mix with water, sulfuric acid. If you don't protect air, you're not protecting land and water. The flares are up, just a temporary measure. They are working to get pipeline put in so they won't

emit anything. That's fine. But they also have plans to put one well per section. That will make it hard to live there. Animals are already falling dead with bleeding noses. It's frustrating and an impact on all our lives.

- Cherlyn Reeves – I'm a landscape architect and resource paid for by Ms. Lanham to get her land reclaimed from the destruction caused by an oil producer who didn't fulfill the obligations of the contract. One thing to add to CFR 226 is from the BLM and states "before any construction is done, there should be soil samples, surveys of natural vegetation, surveys of ecological habitat surveys, erosion control and sediment measures planned and put in place before any construction is done or any vegetation is removed." Reclamation plans are used to put the land back the way it was before. This does include planting trees. I spoke to one company and they say they don't plant trees. If trees come out, then they need to plant more. Some of trees in cross timbers are 200 to 500 years old. These are very old trees, and hard to replace. Other states have a no tolerance issue, and this should be implemented here. Additionally, NEPA, EPA, Federal Water Pollution Control acts, Clean water Act, and Water Quality Act of 1987. These regulations need to be updated.
- Chuck Drummond – The regulations you have today are outdated and unenforced. You have a new challenge with horizontal drilling. When it costs 300 dollars to come in and drill a well, I think you're encouraging oil companies to not negotiate a fair damage settlement with the landowner. It is unfair to smaller landowners without resources to fight large oil companies. You need to either do away with 300 dollars or have them post larger bond. We own land outside of Osage County without minerals. All oil damages are settled upfront, and I don't understand why it can't be that way in Osage County. The way it is set up here is unfair.
- Nona Roach – I've lived in Osage County for 45 years. I married someone whose family bought a ranch in 1939. We inherited the land in 1976 and the battles with BIA began. I tried to get them to enforce the CFR as written. I'm not sure why you are laboring so intensely to write new CFRs when BIA never enforced old ones. At one point my husbands family had 10 farm ponds filled with salt water. Oil companies were using them to catch their underground well injection leaks. The companies said the CFRs were suggestions only. If the BIA didn't want to do anything about the CFR violations the would always tell me it was against their policy. When I requested to see the written policy, they would say its not written. I guess the BIA has a long history of not putting anything in writing which has finally been brought to light according to recent newspaper articles and this forum. I realize you have limited scope, but I have to wonder how you can force BIA to enforce regulations when they've failed miserably to do it thus far. You can't. Unless the US government funds these new CFRs by providing

the BIA with quality, educated people to staff the agency. I expect the CFRs to be followed and the BIA to enforce the regulations. Thank you.

- Cynthia Boon—Good afternoon, I'd like to address the public and the committee. I have lived here most of my life and I live on allotted property south of Pawhusksa. I share the same problems as others here. I've had three wells drilled, dealt with salt water spills, pumpers putting in own road. I go to church functions with you, I see you in post office, I went to school with some of you. I understand where you're coming from. I am interested in what you have to say. I encourage committee to accept that we need to work together, and that the subcommittee includes oil and landowner representation. Thank you.
- Linda Heskett – I am a restricted Osage Indian and I do have land. The bureau has been very fair to white landowners. Since 1906 restricted Indians lost a lot of land. As Indians we don't have a voice anymore. At one time, the BIA functioned well and it did look after oil spills and all of that. But the BIA doesn't enforce anything anymore because they don't have sufficient staff. You should consider that this is our trust property, the only thing we have left to us. So when giving consideration to landowners and producers, consider us too. I hope the regulations you put out there are fair-minded for everyone, including the Osage Indian.
- Dale Vermillion – I'm a landowner north of Barnsdall. I have a case with the BIA, probably the fourth time. I have letter on file with BIA (See Attachment E), it reads: "To Richard Winlock, from Bert Wiens, State Electrical Inspector. As per our conversation, can Reada cable be used outside its intended use, down hole. According to National Electric Code 2000 edition article 110.3b – listed equipment shall be installed and used in accordance with any instruction listed or labeled....Therefore if this cable is used for any other purpose, the installer is in violation." This is on file at BIA, but never enforced. I called the state electrical inspector and he said this stuff is dangerous. He said to stay away from it. I assure you that all the money made from oil in Osage County is not worth the life of one of my loved ones.
- Bob Bright – I've been a land owner in Osage County for 17 years. I Worked for Conoco Oil. I've developed oil in arctic regions, and in Gulf of Mexico. In the arctic, with all environmental concerns—people we couldn't even pee on the tarmac—you would not believe all the regulations we followed, and followed them to the letter. In the Gulf of Mexico, it was controlled by Coast Guard. We followed their regulations. For example, in a deep water project, we had a hurricane and dropped over a mile of pipe in 3500 feet of water. Pipe was unusable due to pressure. The Coast Guard wouldn't let us continue to produce until we retrieved the pipe. My question is this--is the land here in Osage County less important than the bottom of the ocean in 3500 feet of water? The regulations are there, people, you just need to enforce them.

- Bobby Thompson – If federal regulations are already in existence, for instance OSHA, EPA, why don't we implement all of them, not cherry pick, here in Osage County? That would be costless to the Osage or to the BIA budget. It is already there, but we are not letting them come into this County to do the work that they do in all other Oklahoma counties. Regarding the EPA, the only thing they do in Osage County is drinking water. Whatever the federal Regulations, make them apply equally here in Osage County. Regarding pipelines, make right of ways, bury pipelines, big pipelines, 20 to 30 years ago past, if they don't keep right way up, don't know where pipelines are, particular mostly to this County. Another safety hazard. Oil producers, if they are going to have right of way, they must keep up, or abandon, clean up, and close out.
- Thomas Williams – Please see the comments from Mr. Williams included in Attachment E.

Committee Reflections on the Producers' Request to form a Subcommittee

Committee members made the following comments regarding the Producers' request to form a subcommittee to provide input into the regulation drafting process:

- A Committee member said that adding a subcommittee would be difficult at this point because the schedule is limited. He assured the producers that the Committee would continue to make efforts to take comments from producers.
- Another Committee member said that the Committee will produce draft language and provide the producers with an opportunity to review it and make suggestions for improving it.
- The Facilitator stated that when meetings are scheduled to review exact language, committee might consider shorter, but more frequent public comments on sections of the language instead of waiting to have public comment twice a day.
- A Committee member proposed that a separate subcommittee for producers not be created, but rather that the Committee plan to keep producers informed and provide them with draft language as soon as the Committee has it.
- A staff member to the federal representatives to the Committee said he thought it is valuable to have conversation with surface owners and producers. But, the feeling is that we need to finish this as quickly as possible and we maybe too far into the process to form a separate committee. But we should make all efforts as possible to include the surface owners and producers in the meetings.
- Another staff member to the federal representatives to the Committee said he appreciates hearing the comments of the surface owners, producers, and environmental concerns. He stressed that the Committee wants to hear that information. However,

there are also some statutory limitations about forming an additional committee. He encouraged the public to continue participating in the current structure.

- A Committee member commented on Mr. Lion's comment and asked what the Committee is doing if the producers think the current regulations work so well. He said Mr. Lion talked about forming a subcommittee to include the producers, purchasers, and the shareholders, but he didn't mention surface owners. If we get a subcommittee, it should include the surface owners too so that all people are represented.
- A Committee member acknowledged the concerns posed by the producers and the surface owners and said it is time to do something about them. He said hopefully it can be done collaboratively between the land owners, the producers and the BIA. He concluded saying he felt some of the CFRs need revisions, but not all of them.

At the end of the discussion, the Committee decided it will not form a specific subcommittee to represent the producers but going forward they will continue to find ways to engage the public in the conversations.

Committee Reflections on the Surface Owners' Presentation

The following comments were made regarding the surface owners' presentation:

- A Committee member said he believes many of the surface owner issues will be addressed in the language they are considering. He added that they are looking at 43 CFR 3150 and 3160 and all BLM onshore orders and all notices to lessees. However, the Committee will likely not adopt all of these regulations, but rather only those that work for the Osage. He concluded saying he believed many of the surface owner issues will be addressed in the language the Subcommittee will propose.
- A staff member to the federal representatives to the Committee proposed that the subcommittee working on BLM issues take up some of the concerns raised by the surface owners before the next meeting and attempt to incorporate their concerns while drafting the regulatory language.
- Another staff member to the federal representatives to the committee reiterated that the Committee will do its best to post the draft proposed regulations online (www.bia.gov/osageregneg) for review before the next meeting.
- The Director of the BIA, Mike Black, commented that some of the issues raised today can be addressed not only through the negotiated rulemaking but also operationally through the BIA. He said he is reviewing how the BIA applies and enforces the regulations, and is reviewing staffing and resources and the areas where the BIA can be improved. He thanked the public commenters and said he looks forward to receiving written comments because they help him while evaluating BIA staff and operations.

Next Steps

The facilitator reviewed the following next steps:

- Subcommittees will complete draft language for all subject matters for the next meeting on February 25-27, 2013 at the Wah Zha Zhi Cultural Center. The Committee will post draft language as early as possible before the next Committee meeting so that people can come prepared to make specific comments. After hearing the proposed language, the full Committee will work step by step through each proposal to finalize the language.
- The Committee will also meet on March 13 and 14, 2013 in Pawhuska, exact location to be determined.
- The Department of Interior will post meeting announcements 15 days prior to the meeting date.

The Designated Federal Official adjourned the meeting at approximately 3:30 pm.

Attachments

- A. Attendance – January 24th
- B. Attendance – January 25th
- C. Action Items
- D. Materials Distributed to the Committee
- E. Written Public Comments Received

Attachment A: Attendance January 24
Osage Negotiated Rulemaking Committee
Meeting 5 – January 24 - 25, 2013

COMMITTEE MEMBERS

Last Name	First Name	Organization	Principle or Alternate
Abbott	Sonny	Osage Minerals Council	P
Crum	Galen	Osage Minerals Council	P
Yates	Andrew	Osage Minerals Council	P
Waller	Everett	Osage Minerals Council	P
Core	Melvin	Osage Minerals Council	P
Red Eagle	Myron	Osage Minerals Council	A
Whitehorn	Dudley	Osage Minerals Council	A
LaCounte	Darryl	Department of Interior, Bureau of Indian Affairs, Deputy Regional Director-Trust Services, Rocky Mountain Regional Office	P
Manydeeds	Stephen	Department of Interior, Assistant Secretary-Indian Affairs, Chief, Division of Energy and Mineral Development	P
Stockbridge	James	Bureau of Land Management, Trust Liaison and ONRR Liaison	P
Tyler	Paul	Office of Natural Resources Revenue, Program Manager, State and Indian Coordination	P

AGENCY AND OTHER STAFF

Last Name	First Name	Title	Organization
Godfrey	Merrill	Legal Representative	Akin Gump, <i>for</i> Osage Minerals Council
Reineke	Dan	Consultant	Consultant <i>for</i> Osage Minerals Council
Mouton	Mitch	Minerals Revenue Specialist	Office of Natural Resource Revenue
Dalton	Kenneth	Legal Representative	Department of Interior, Office of the Solicitor
Ray-Hodge	Vanessa	Attorney for DOI	Department of Interior, Office of the Solicitor
Black	Mike	Director	Bureau of Indian Affairs
Impson	Robert	Deputy Regional Director, Trust Services	Bureau of Indian Affairs
Streater	Eddie	Designated Federal Officer	Bureau of Indian Affairs
Loftin	Rhonda	Acting Deputy	Osage Agency

		Superintendent	
Canady	Cammi	Realty Assistant	Osage Agency
Field	Patrick	Facilitator	Consensus Building Institute
Roberts	Eric	Facilitator	Consensus Building Institute

MEMBERS OF THE PUBLIC

Last Name	First Name	Public Comment
Beavers	Matt	No
Bodenchuk	Dennis	No
Boone	Cynthia	Yes
Lackey	Tom	No
Cubbage	Will	Yes
Dionisio	Monica	No
Erwin	Stephanie	Yes
Foreman	Susan	Yes
Hauck	Ken	No
Heskett	Linda	Yes
Hendrix	John	Yes
Henry	Jeff	No
Jackman	Bob	Yes
Johnson	Mary L.	No
Kay	Mark	No
Lacy	Heather	No
Lindsey	Amy	No
Lyon	Rob	Yes
McClain	Ray	No
O'Toole	Dan	No
Penn	Stephanie	No
Reed	Melvin	Yes
Roach	Nona	Yes
Ross	Brian	No
Sicking	Jamie	Yes
Spurgeon	Chuck	No
Swan	Jim	Yes
Whitehorn	W.	No
Wilson	Julie	Yes

Attachment B: Attendance January 25
Osage Negotiated Rulemaking Committee
Meeting 5 – January 24 - 25, 2013

COMMITTEE MEMBERS

Last Name	First Name	Organization	Principle or Alternate
Abbott	Sonny	Osage Minerals Council	P
Crum	Galen	Osage Minerals Council	P
Yates	Andrew	Osage Minerals Council	P
Red Eagle	Myron	Osage Minerals Council	A
Whitehorn	Dudley	Osage Minerals Council	A
LaCounte	Darryl	Department of Interior, Bureau of Indian Affairs, Deputy Regional Director-Trust Services, Rocky Mountain Regional Office	P
Manydeeds	Stephen	Department of Interior, Assistant Secretary-Indian Affairs, Chief, Division of Energy and Mineral Development	P
Stockbridge	James	Bureau of Land Management, Trust Liaison and ONRR Liaison	P
Tyler	Paul	Office of Natural Resources Revenue, Program Manager, State and Indian Coordination	P

AGENCY AND OTHER STAFF

Last Name	First Name	Title	Organization
Reineke	Dan	Consultant	Consultant for Osage Minerals Council
Mouton	Mitch	Minerals Revenue Specialist	Office of Natural Resource Revenue
Dalton	Kenneth	Legal Representative	Department of Interior, Office of the Solicitor
Black	Mike	Director	Bureau of Indian Affairs
Impson	Robert	Deputy Regional Director, Trust Services	Bureau of Indian Affairs
Ray-Hodge	Vanessa	Attorney for DOI	Department of Interior, Office of the Solicitor
Streater	Eddie	Designated Federal Officer	Bureau of Indian Affairs
Loftin	Rhonda	Acting Deputy Superintendent	Osage Agency
Canady	Cammi	Realty Assistant	Osage Agency
Field	Patrick	Facilitator	Consensus Building Institute
Roberts	Eric	Facilitator	Consensus Building Institute

MEMBERS OF THE PUBLIC - MORNING

Last Name	First Name	Public Comment
Beavers	Matt	Yes
Bodenchuk	Dennis	No
Bowline	Gaylen	No
Bowline	Gene	No
Box	Aaron	No
Bright	Bob	No
Buford	Sam	Yes
Bush	Claire	No
Clement	Steve	No
Cubbage	Will	Yes
DeKraai	Arlo	Yes
Drummond	Sandra	No
Drummond	Fredrick	Yes
Erwin	Stephanie	Yes
Foreman	Susan	No
Friend	John	Yes
Hamilton	Bob	No
Hendrix	John	Yes
Henningsen	Brett	No
Henry	Jeff	No
Hlan	Dean	No
Jackman	Bob	Yes
Johnson	Mary	No
Keeler	Berry	Yes
Lindsey	Amy	Yes
O'Toole	Dan	No
Prather	Melvina	No
Reed	Melvin	Yes
Reed	Ron P.	Yes
Reulier	James	No
Ross	Brian	No
Surben	Joe (Bob)	No
Swan	Jim	No
Themm	Cyrstal	No
Trentman	Kent	Yes
Webster	Les	No
Whealey	Scott	Yes

MEMBERS OF THE PUBLIC - AFTERNOON

Last Name	First Name	Public Comment
Beavers	Matt	Yes
Briggs	Kathleen	No
Briggs	Lee	No
Bright	Bob	No
Boone	Cynthia	Yes
Bush	Joe	Yes
Clapp	David	No
Clemishire	Chris	No
Crow	Janet	No
Cubbage	Will	Yes
Darts (sp)	Phil	No
DeKraai	Arlo	Yes
Dionisio	Monica	No
Drummond	Charles	Yes
Drummond	Sandra	No
Erwin	Stephanie	Yes
Hamilton	Bob	Yes
Heskett	Linda	Yes
Herding	John	No
Lanham	Celia	Yes
Parrier	Daniel (sp)	No
Penn	Stephanie	No
Prather	John	No
Prather	Melvina	No
Reed	Melvin	Yes
Reeves	Cherlyn	Yes
Roach	Nona	Yes
Roberts	Sean	No
Robinson	H.	No
Simon	Ralph	No
Spurger	Chuck	No
Spurger	Tami	No
Sublette	Kerry	No
Thompson	Bobby	No
Thompson	Lynette	No
Trentman	Kent	Yes

Vermillion	Dale	No
Walker	Everett	No
Wiehle	Scott	Yes

Attachment C: *Draft Summary of Action Items*
Osage Negotiated Rulemaking Committee
Meeting 5 – January 24-25, 2013

Task	From	Deadline
Arrange March 13 and 14 meeting location	OMC	February Meeting
Prepare meeting summary	CBI	Mid February
Produce draft regulatory language.	All subcommittees	February Meeting
Post draft regulatory language for early review.	DOI/OMC	As early as possible before the February Meeting
Publicize meetings in advance via Federal Register and Osage Minerals website and other means	DOI	Mid February
Organize next detailed meeting agenda	Co-Chairs	Early February
Send materials for public repository to OMC	BIA	January 25

Attachment D: *Materials Distributed to the Committee*
Osage Negotiated Rulemaking Committee
Meeting 5 – January 24-25, 2013

1. Final Agenda for Meeting #5 (January 2013 meeting).
2. Draft Meeting Summary from Meeting #4 (November 2012 meeting).
3. Packet from the BIA

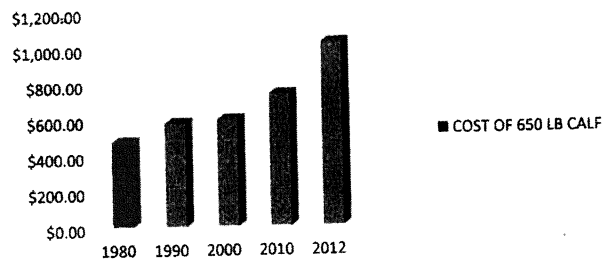
Attachment E: Written Public Comments Received
Osage Negotiated Rulemaking Committee
January 24-25, 2013

Document from Barry Keeler

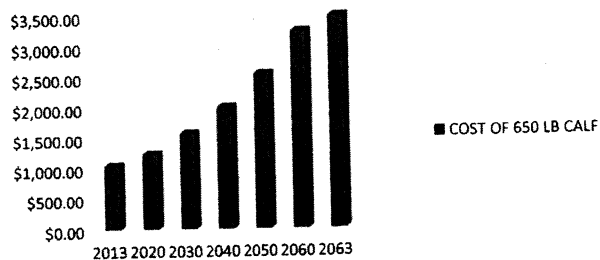
YEAR	COST OF 650 LB CALF
1980	\$475.22
1990	\$578.63
2000	\$597.42
2010	\$738.73
2012	\$1,024.00

	PROJECTED COST OF 650 LB CALF
2013	\$1,049.03
2020	\$1,241.01
2030	\$1,577.79
2040	\$2,005.95
2050	\$2,550.30
2060	\$3,242.38
2063	\$3,484.54

ACTUAL COST OF 650 LB CALF



PROJECTED COST OF 650 LB CALF



Berry Keeler

Year	Cost per Hundred	650 lb calf	5% Int. 1 yr	5% Int. 2 yr	5% Int. 3 yr	5% Int. 4 yr	5% Int. 5 yr	6% Int. 6 yr	6% Int. 7 yr	6% Int. 8 yr	6% Int. 9 yr	6% Int. 10 yr	7% Int. 11 yr	7% Int. 12 yr
2013	161.39	1,049.03	52.45	52.45	52.45	52.45	52.45	62.94	62.94	62.94	62.94	62.94	73.43	73.43
2014	165.31	1,074.52		53.73	53.73	53.73	53.73	64.47	64.47	64.47	64.47	64.47	75.22	75.22
2015	169.33	1,100.63			55.03	55.03	55.03	64.47	64.47	64.47	64.47	64.47	75.22	75.22
2016	173.44	1,127.37				56.37	56.37	67.64	67.64	67.64	67.64	67.64	78.92	78.92
2017	177.66	1,154.77					57.74	69.29	69.29	69.29	69.29	69.29	80.83	80.83
2018	181.97	1,182.83						70.97	70.97	70.97	70.97	70.97	82.80	82.80
2019	186.40	1,211.57							72.69	72.69	72.69	72.69	84.81	84.81
2020	190.93	1,241.01								74.46	74.46	74.46	86.87	86.87
2021	195.56	1,271.17									76.27	76.27	88.98	88.98
2022	200.32	1,302.06										78.12	91.14	91.14
2023	205.18	1,333.70											93.36	93.36
2024	210.17	1,366.11												95.63
2025	215.28	1,399.31												
2026	220.51	1,433.31												
2027	225.87	1,468.14												
2028	231.36	1,503.81												
2029	236.98	1,540.36												
2030	242.74	1,577.79												
2031	248.63	1,616.13												
2032	254.68	1,655.40												
2033	260.87	1,695.63												
2034	267.20	1,736.83												
2035	273.70	1,779.03												
2036	280.35	1,822.26												
2037	287.16	1,866.55												
2038	294.14	1,911.90												
2039	301.29	1,958.36												
2040	308.61	2,005.95												
2041	316.11	2,054.69												
2042	323.79	2,104.62												
2043	331.66	2,155.77												
2044	339.72	2,208.15												
2045	347.97	2,261.81												
2046	356.43	2,316.77												
2047	365.09	2,373.07												
2048	373.96	2,430.73												
2049	383.05	2,489.80												
2050	392.35	2,550.30												
2051	401.89	2,612.28												
2052	411.65	2,675.75												
2053	421.66	2,740.78												
2054	431.90	2,807.38												
2055	442.40	2,875.60												
2056	453.15	2,945.47												
2057	464.16	3,017.05												
2058	475.44	3,090.36												
2059	486.99	3,165.46												
2060	498.83	3,242.38												
2061	510.95	3,321.17												
2062	523.36	3,401.87												
2063	536.08	3,484.54												

BASED ON 7 ACRES PER COW/CALF
 $1\frac{1}{2}$ ACRES OF 7 ACRES = 20% LOS.

1/25/13

January 25, 2013 Code of Federal Regulation, Title 25, Part 226

*Good Morning! I am Ron Reed, A Surface owner.

The environment is of the utmost importance to protect "the water we drink, the air we breathe, and the food we eat."

Last year we had the first ever Greater Prairie Chicken Viewing with people from 23 states sponsored by the Audubon Society, Okla. State University, Sutton Avian Research Center, Nature Conservancy and Toyota's Forever Green Project and again they have requested such this year but due to the H₂S Gas and no mineral regard for anything or anyone on the surface, this might have been the last rodeo.

" At the end of our lives, we will be judged if we have been good and faithful servants of the land and environment."

We have experienced multitude problems with the vague and out of date rules and regulations, of CFR 226 between surface owners and Mineral Lessees and unexplainable surface damages.

* H₂S Gas. known as Hydrogen sulfide is extremely hazardous, toxic compound. It is colorless, flammable gas that can be identified in relatively low concentrations.

.Exposure of H₂S lower concentrations of ONLY 10ppm can result in olfactory fatigue, bronchitis, pneumonia, migraine headaches, pulmonary edema, and loss of motor coordination.

*** In 2009 a well was drilled upon our surface that produces oil, and H₂S gas. Since the drilling date up to present date the method of trying to control the H₂S gas has been a calamity of trails and errors.

THE BIA, NOR MINERAL COUNCIL HAVE NOT MANDATED CONTROL OF THIS HARMFUL TOXIC GAS FROM VENTING INTO THE ATMOSPHERE.

Birds are at least 50 times more sensitive to smell than humans. **Folks, you** are killing and affecting human lives, all types of wildlife without the oversight, control or don't give a dang attitude.

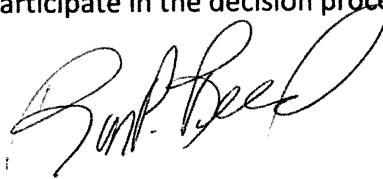
I have heard Council members say "We are here to see oil is produced and Head right owners get a check" They never mention environment, wildlife or human health. Only M O N E Y !

When I think of Osages, I think of good people that want all the best qualities of life for their people that would includes ALL the things you can't buy in Life with dollars. Like good health, clean environment, abundance of wildlife and a supreme faith.

H2S Gas is Bad, But doing nothing has been WORST!

I deal with CFR 226 almost every day and I have yet to find one person, mineral lessee or surface owner that thinks the CFR 226 sections are okay and do not need to be re-thought and completely revived. I know that surface owners whether restricted or non-restricted would have valuable input and recommendations to CFR 226, and welcome the opportunity to provided written suggestions.

LADIES & GENTLEMEN "Your life rises or falls, based upon the willingness of thoughtful people with moral courage, strong convictions, and a conscience to participate in the decision process." Thank you.



1/25/13

**Oil and Gas Regulation Hearings for CCR 226
January 25th, 2013**

*Submitted by:
John and Theresa Hendrix
Kenzie Cole Ranch
Bartlesville, Oklahoma*

I am here today to share our experience and concerns regarding the CFR 226. I was born and raised in Osage County, Oklahoma. While in College at Oklahoma State University, I worked during the summer months in the oil field on a roustabout crew completing a variety of jobs for production. I completed my BS Degree in Wildlife Ecology and Management at Oklahoma State University and began work on my Masters in Rangeland Ecology and Management. I am sharing this information with you to help you understand my concerns, my knowledge with oil and gas activities and my passion regarding environmental issues on our property.

Today, I am here representing my ranch that our family owns in Osage County, Oklahoma. My wife and I own 576 acres in Osage County that we purchased for recreational activities along with some livestock production. Our property currently has 9 active well sites with pump jacks, 2 active saltwater disposal wells, 2 tank batteries, 2 inactive well sites which are not plugged and have pump jacks setting on both locations. Those sites have not worked for over 15 years along with numerous plastic poly pipe and steel pipe lines exposed across our property. This amount of oilfield activity is very disruptive and creates a very displeasing view to say the least. We purchased the property knowing the Osage Tribe held the mineral estate although the current oilfield activity/sites was about half of what it is today. Since we have purchased our property, we have had 3 new wells drilled, extra tanks in tank battery sites and 1 new saltwater well location installed on our property.

In April 2007, CEJA Corporation had a work over rig on a well site close to a riparian area on our property. It was a week before turkey season, and they assured me it would be there for only one week. It was onsite for three weeks disrupting the entire turkey season on our property. During this time period, I brought my concerns to the BIA. CEJA dug a large pit and circulated fluids into the pit for several days. This pit was unlined and I felt like it was an environmental issue that should be addressed. I notified the BIA and again was left with no satisfaction or changes in the way CEJA was operating the site. The site during this time was littered with trash along with unwanted deep ruts cut into our pastures as the result of their activity.

In October 2007, CEJA Corporation notified me they were going to drill a new well on our property and the site was already marked. I immediately contacted CEJA to begin negotiations on the well site since the proposed mark was in a long term wildlife conservation easement program and more importantly it was adjacent to a riparian area and an active turkey roost site. We had a meeting with the BIA Superintendent and CEJA to negotiate directional drilling possibilities but the BIA decided horizontal drilling was cost prohibitive. I pleaded our concerns at this meeting which resulted in no changes in the planned activity. This well was drilled and completed, before any damage

settlements were decided. I believe this process was mishandled by the BIA. I spent the next several months talking with an attorney and finally settling on damages and an agreement from CEJA for future oil field operation guidelines for our property. This experience was very disruptive for our property and our everyday lives.

The following year, CEJA once again contacted me and said they have marked another drill site location. I met with them at the proposed sites to look at the locations prior to development. Again, I wanted a surface agreement completed before any work was to be done, but I was again notified that would not be the case. A week later I was notified that CEJA dozer operator misjudged their marking and developed a site that was in the wrong location. This left this site twice as big as needed and CEJA just paid the small amount of land damages as approved by BIA. Again, this process was not completed in a professional manner and without any regard to landowner's issues. Today the topsoil is silting down in the riparian area and the site location is very barren with resulting erosion.

In 2010, CEJA again notified us they staked another site for a proposed well site. This site is in the heart of our property and would be extremely disruptive for wildlife species on our property. We were extremely worried about this well site and once again began the fight to have CEJA complete this well by horizontal drilling. However, the BIA did not address any of our concerns and didn't make changes to CEJA's well site location.

I was then notified by CEJA they would be developing a saltwater well location on our property. The site they developed was about 50 yards from a proposed pond site which was approved for construction by the Natural Resources Conservation Service two years before in a wildlife habitat improvement plan. Again, CEJA did not change their operations after we showed them our approved plans. They finished the disposal well site which caused me to change my pond site location which is by far a less desirable location on our property.

During the past 9 years, we have requested and completed 3 different arbitration processes as the result of oil field activity on our property. The arbitration process is a big joke regarding CFR 226. I hired at my own expense an arbitrator (an Oklahoma State University Professor) to keep our issues/concerns addressed at a professional level. On our 3rd arbitration process, our arbitrator said the BIA arbitrator agreed with our concerns at the property site but for reasons unknown, the BIA arbitrator changed his mind two days later saying CEJA performed "close enough" to CFR C226. In each of the cases, we lost our arbitrations and CEJA was found to have acted in the correct manner. The current arbitration process is a joke and I have yet to learn of a landowner who actually won their requests as the result of this process. The arbitration process must be changed since the current method is obviously going to be in the oil company's favor.

In each of the drilling sites on our property, the surface damage rates were below the average surface damage rates in Oklahoma. Currently, the CFR 226 rules set the cheapest standards for oil and gas activity in the region. I don't understand this since the BIA's job is to manage trust lands and to make sound environmental decisions in Osage county. The current rules are degrading the environment, creating lower land values and avoiding the rights of the surface landowners within the county.

Today, I am asking the BIA to make significant changes to CFR 226 to improve landowner relations, protect our environment and to promote fair surface damage

agreement settlement rates that reflect at a minimum the regional average. I believe the following are just a few examples of changes that should be made regarding oil and gas production in relation to Osage County landowners: significant changes to the arbitration process and/or change the method altogether; all pipelines should be buried; CFR 226 should set the standard and practice sound environmental issues; CFR 226 should allow landowners to settle their settlement damages that are fair and at least to the level of regional prices; allow surface owners to set up rental options for tank batteries and other oil field equipment sites; allow surface owners to negotiate water rights for oil field activities; allow landowners to negotiate tax implication issues on lands no longer suitable for use by the landowner and most importantly a surface agreement must be approved between the landowner and oil company before the drilling begins.

Respectfully submitted by: John and Theresa Hendrix, owners of Kenzie Cole Ranch Bartlesville, Oklahoma.

January 25, 2013

To: Osage Negotiated Rulemaking Committee
Mr. Eddie Streater, Designated Federal Officer for the Commission
Acting Deputy Regional Director – Trust Services, Eastern Oklahoma Region
Bureau of Indian Affairs
3100 W. Peak Blvd
Muskogee, OK 74401

From: Robert G. Hamilton, Director
Tallgrass Prairie Preserve
The Nature Conservancy of Oklahoma
PO Box 458, Pawhuska, OK 74056
918-440-9901

BACKGROUND

The Nature Conservancy of Oklahoma (TNC) is a major stakeholder in Osage County. TNC purchased the historic Barnard Ranch north of Pawhuska, OK in late 1989 to serve as the critical core of the Tallgrass Prairie Preserve. The Conservancy raised \$15M in private funds for the project. Additional land purchases and leases have now built the preserve managed area to just under 40,000 acres, with an adjacent 6,153 acres protected by conservation deed restrictions and easements. TNC's conservation program extends beyond the borders of the preserve, with active efforts to work with our rancher neighbors on prescribed burning and wildfire control, rangeland research, wildlife restoration, and land protection such as conservation easements.

Originally spanning portions of 14 states from Texas to Minnesota, tallgrass prairie was one of North America's magnificent pre-settlement ecosystems. However, conversion to cropland, urban sprawl and other habitat losses have left less than 10% of this characteristic American landscape. The 3.8 million acre Flint Hills of Oklahoma and Kansas comprise the only expansive, intact tallgrass prairie landscape remaining in North America. The Nature Conservancy's Tallgrass Prairie Preserve is located in the southern end of the Flint Hills, locally referred to as the "Osage Hills" in Oklahoma.

The primary ecological goal of the Tallgrass Prairie Preserve is to protect and maintain the native biological diversity by restoring a functional grassland landscape. Managing for a patchy landscape (heterogeneity) is the core idea, thus providing a diversity of habitat opportunities for the complete array of native plants and animals. Grazing and fire were two of the primary ecological forces on the pre-settlement Great Plains, and their interaction was what created and constantly shifted the landscape patch mosaic.

Both bison and cattle are managed with a focus on landscape heterogeneity to promote landscape, and thus, biological diversity. The Tallgrass Prairie Preserve bison herd consists of 2,700 head on 23,500 acres. The fire-bison interaction regime allows the herd free-ranging access year-round to an ever-shifting array of burn patches. The lush re-growth following a burn is very attractive to the bison, resulting in a fire-induced rotational effect, which maintains a dynamic

mosaic of landscape patches. Research and monitoring has shown this wild landscape is successfully supporting the full array of native plants and wildlife.

Seasonal cattle grazing with a local rancher is conducted under a lease arrangement on 13,000 acres. Most of this acreage is devoted to a promising cattle patch-burn research project with Oklahoma State University that was initiated in 2001. This "conservation grazing" study is testing the wildlife and plant community responses, and cattle gains, in patch-burn versus completely burned pastures (the typical area range management). The objective is to develop and export cattle management techniques that will improve wildlife habitat diversity.

In May 2004, construction of the Tallgrass Prairie Ecological Research Station was completed at the preserve headquarters in a partnership with the University of Tulsa. This 6,500 sq ft laboratory and classroom facility greatly enhances the preserve's applied and basic ecological research program. Several dozen research projects are typically active on the Preserve at any given time, and over 170 publications in scientific journals have been produced.

Approximately 20,000 visitors tour the Tallgrass Prairie Preserve each year. In most years, we will have visitors from all 50 US states, and three to four dozen foreign countries. The preserve headquarters gift shop/education center is staffed by a dedicated group of 100 volunteer docents. A total of thirteen TNC staff and their family members live on the preserve.

CONCERNS REGARDING MINERALS PRODUCTION

The Tallgrass Prairie Preserve contains 220 operating oil and gas wells. The Nature Conservancy regards this "working landscape" as an opportunity to demonstrate that energy production and conservation can co-exist. Since the establishment of our Oklahoma Chapter in 1986, we have worked with numerous energy companies on all of our preserves where there is active energy development. Our efforts are aimed at implementing effective conservation within the context of local economies. We aim to minimize the environmental impact of oil and gas production on and around our preserves by minimizing the amount of soil disturbed, preventing the spread and use of invasive plants, preserving high quality wildlife habitat by reducing noise levels and carefully considering infrastructure location, and protecting surface and groundwater from leaks or spills. In other words, we try to ensure that impacts are minimized during both the short and long term. For over 25 years in Oklahoma, our approach has been and continues to be collaborative conservation within the context of local economies.

Human health and safety is TNC's utmost concern. The recent drilling of three horizontal wells on the preserve have created a serious threat – toxic hydrogen sulfide gas (H₂S). These wells have produced abundant natural gas, but unfortunately, the gas contains very high concentrations (900ppm) of H₂S. Producers are flaring the gas, which has raised concerns regarding air quality, including whether all H₂S is being eliminated and what other harmful compounds may be in the stack emissions.

These H₂S and air quality concerns were heightened in July 2012, when two researchers experienced respiratory distress and nausea while working in the vicinity of a flare stack on the preserve. In both instances, medical attention was sought and there are concerns that the illnesses were due to exposure to the flaring emissions. We would like to see CFR226 updated such that the best available flaring technology in the industry (such as clean-burn variable tip flares) must be utilized in order to reduce risks to human health. We must all work together to insure the safety of everyone that lives on, works on, and visits the preserve and Osage County.

Flaring of natural gas also has several additional environmental concerns. Osage County provides habitat for the American burying beetle (*Nicrophorus americanus*), listed as an Endangered Species by the US Fish and Wildlife Service. The preserve is home to one of the largest known populations of this species. The American burying beetle is a strong nocturnal flyer that is drawn to light sources, so open flares are a direct threat. TNC has worked with oil and gas producers on the preserve to re-engineer their gas flare stacks so that the combustion flames are contained within

the stack and no light is emitted. However, additional concerns associated with flaring gas containing H₂S are published reports of impacts to livestock and acidification of soils. We would like to see CFR226 updated to address these issues.

Water quality and quantity is another concern, especially regarding the vast quantity of water required for drilling and hydraulic fracturing of horizontal wells, and the risk they pose to groundwater integrity. First, we question the validity of the freshwater aquifer data that the Bureau of Indian Affairs (BIA) is using to determine the depth of surface casing requirements on new oil and gas wells. In one instance with a planned horizontal well, BIA determined that the depth of fresh water to be 155 feet, thus calling for surface casing to be set to a depth of 205 feet. However, the preserve has two active residential water wells in the next quarter section that are 250 and 290 feet deep. We would like to see the BIA update its freshwater aquifer data/maps, ground-truth by gathering data from existing freshwater wells, and demand logging and reporting of aquifer data from all wells drilled in the future. In addition, CFR226 should mandate that mineral lessees determine the baseline water quality of all adjacent freshwater wells prior to drilling, and then continue to monitor them at a regular interval thereafter.

Wildlife conservation should also be incorporated into CFR226, especially for high-priority species such as the Greater Prairie Chicken (*Tympanuchus cupido*). Osage County contains the last significant population of this species in Oklahoma. The closely-related Lesser Prairie Chicken (*Tympanuchus pallidicinctus*) in western Oklahoma is currently being considered for listing under the Endangered Species Act by the US Fish and Wildlife Service. It is both economically and environmentally prudent to conserve a species before it reaches that point. Oil and gas development poses a threat to the Greater Prairie Chicken by fragmenting the expansive native tallgrass prairie tracts that the species requires. Of particular impact are overhead powerlines, the location of wells, facilities, and roads, since Prairie Chickens have shown avoidance of human structures and disturbance. We suggest a Best Management Practices approach, where oil and gas practices are modified in core habitat areas to lessen impacts to Prairie Chickens (ie, bury powerlines, avoid leking/breeding sites, consolidate facilities and roads and locate them at the edge of open prairie and off of prairie ridgelines and hilltops).

In addition to the above CFR226 regulatory concerns, we suggest that BIA greatly increase its field capacity. Currently, there is a lack of day-to-day field oversight by the BIA of oil and gas drilling and production activities. Most ranches have old scars and/or current pollution issues associated with oil and gas production. The BIA has very little to no presence in the field, and surface owners bear the burden of monitoring, reporting, and remediating problems. We would like to see the BIA actively and regularly monitor all drilling and production field activities, and take corrective actions directly with producers. We would also like to see increased openness and transparency with the BIA. As much information as possible should be available to the public - ideally on-line: freshwater aquifer maps, well location maps, mineral lease-holder maps and contact information, etc.

Thank you for this opportunity to provide comments to the Osage Negotiated Rulemaking Committee. The Nature Conservancy of Oklahoma looks forward to working cooperatively with all stakeholders to insure that Osage County protects its incredible economic and ecological values.

Please contact me should you have any questions.

Sincerely,

Robert G. Hamilton
Director, Tallgrass Prairie Preserve
The Nature Conservancy of Oklahoma
PO Box 458, Pawhuska, OK 74056
918-440-9901

Document from Dale Vermillion

11/05/2003 16:24 5807962333

Electrical Investigator

PAGE 03

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Oklahoma City, OK 73107
Bertw@health.state.ok.us

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October 28, 2003

To: Richard Winlock
From: Bert Wiens State Electrical Inspector
Re: Reada Cable

Richard,

As per our conversation, "Can Reada Cable be used outside the scope of its intended use: down hole?" According to the NFPA National Electrical Code 2002 Edition (N.E.C. 2002) **Article 110.3(B)**:
Installation and Use. Listed or labeled equipment shall be installed and used in accordance with any instruction included in the listing or labeling.

The Reada Cable company does not want this particular cable to be listed. After researching the U. L. White Book it was found that this is not a listed wiring method outside the perimeters of it's intended use.

Therefore, if this cable is used for any purpose other than "down hole use" the installer is in violation of the N.E.C. I hope I have been of some help in this matter. Please feel free to call on me again.

Thank you,

Bertie Jones

Bert Wiens

Gary Williamson
405 659 2916

$$\begin{array}{r} 1200 \\ 1000 \\ \hline 2000 \\ 2500 \\ \hline 4500 \end{array}$$

Documents from Thomas Williams

January 25, 2013

Testimony to: Osage Negotiated Rulemaking Committee, Designated Federal Officer for the Commission is Eddie Streater, Acting Deputy Regional Director - Trust Services, Eastern Oklahoma Region, Bureau of Indian Affairs, 3100 W. Peak Blvd., Muskogee, OK 74401

From: Thomas E. Williams, Sr. Advisor to the Environmentally Friendly Drilling Project, 510 Asbury Street, Houston, TX 77007. 713 201 3866.

Thank you for this opportunity to provide recommendations to the rulemaking committee. I made a presentation to the Director and representatives from the BIA and the Osage Mineral Council on January 17, 2013 at the Osage Casino in Tulsa, OK. The presentation was based on my findings from a study conducted at the request of The Nature Conservancy (TNC). The study was initiated in July 2012.

I am on the management team of a non-for-profit consortium called the Environmentally Friendly Drilling Program (EFD). Background information on this program and the experience of the management team is shown in *Attachment 1* of this document.

I recommend to TNC and some of the larger landowners in Osage County they cooperate in addressing some of the poor operator practices and the lack of regulatory oversight concerning oil and gas operations, water protection, gas venting and in particular H₂S. My report states that I am very concerned there is a good chance a catastrophic event will happen on Osage County soon and someone will be injured or killed from a well control blowout, fire or a H₂S incident. This is avoidable and I as have told landowners and BIA, there are some near term things the regulators can and should do to prevent this. In the longer term the cause of this situation and other serious issues of safety and environmental protection should be addressed in this CFR revision process.

The purpose of this written testimony is to specifically address a process for changes in the 25 CFR 226.

The current regulations are outdated, they have not kept up with current best practices, today's industry standards, commonly used technology and are therefore inadequate. The regulatory *process* in Osage is also in shambles and because of inadequate resources and poor regulations, it needs to be changed and these process changes should be addressed in the CRF revisions. In my opinion it would be very difficult if not impractical to just "red-line" the inadequate CFR 226 sections as the entire section should be re-written. The good news for the Rulemaking Committee is there are plenty of models already developed. There have been recent major revisions to several state oil and gas regulations and practices. The BLM has gone through a regulatory review process. There are objective experts like the EFD team and others who can help in the process to make these revisions. If properly revised, the Osage will see improved safety, better environmental protection and an increase in oil and gas production by applying the latest practices and encouraging more competent and prudent operators to properly develop the Mississippi Lime and other promising new and mature plays.

providing the Osage committee with documents for modernizing wellbore integrity rules as shown in *Attachment 2*.

In conducting my study I visited several oil and new well sites in Osage County. I met with landowners, the BIA, operators, service providers, Oklahoma State officials, the EPA, water and sour gas experts, experts who have been involved in mitigating damages caused from oil and gas operations in Osage County and other areas.

My report could not find a clear line of responsibility in dealing with permits, surface use, assurances that proper well construction practices are followed, safety practices were followed, overall environmental protection, air emissions, surface and ground water use and protection, wildlife habitat, and well data.

I pointed out to BIA at our January 17th meeting the need to address changes to the CFR which has "created" a Conflict of Interest issue:

An example: As a result of the BP Gulf of Mexico incident changes were made by the DOI to the Minerals Management Service. They formed BSEE and BOEM so that the regulatory body and the minerals collection functions are 2 separate agencies (like in most states). States and now the Department of Interior have two separate and distinct organizations leasing and collecting royalties and another regulating and enforcing regulations. The conflicting incentives for one agency responsible for royalty generation and enforcing regulations was by itself a conflict of interest. The DOI developed stronger testing, regulations and requirements, better trained operators and regulators who have no personal conflicts of interest. This has improved safety and environmental protection. *Does BIA want to wait for a blowout and/or death to make these needed changes?*

I recommend a new section for defining regulatory authority and responsibilities: the revised CRF should clearly state who is responsible and accountable for proposed and issued permits, notifications, oversight of well construction, site planning and construction, emissions, sourcing water for use in well operations including re-use and disposal, surface water protection, protecting ground water, wildlife, safety, produced water UIC, pipelines and water and oil spills. There should also be a process to list violators, and what action was taken for the violation. This process all needs to be transparent; posted and updated on the web site, with phone numbers, emergency numbers made available to everyone.

The permit and plugging bonds are inadequate and the sections addressing bonds for well permits need to be revised up to current standards. This section is well below all other State and Federal standards. If unchanged these very low bond requirements will continue to cause more orphaned and abandoned wells and more problems down the road.

You have no doubt seen photos from landowners of poor practices and the lack of enforcement. My report lists these documents problems caused from outdated and inadequate rules, lax regulatory oversight which is compounded by "turf" issues. There is poor communication and cooperation between BIA, Osage Minerals Council and landowners which needs to be changed. The January 17th meeting we had with the BIA and the Mineral Council was a good first start.

Your goal for this CFR process should be to get regulatory standards up to the standards of most states and the BLM. Osage County has the most lax regulations and as a result, the poorest practices in the US if not in the all the Americas. During my career I have never witnessed anything any worse.

A reform process needs to incorporate experts:

- Work with and get assistance from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife, Occupational Safety and Health Administration, the US Geological Survey (particularly in defining proper casing depths), Bureau of Land Management and *especially* the State of OK regulatory authorities the OK Corporation Commission, OK Department of Environmental Quality and more involvement with the OERB.
- Work with operators to address the near term issues before a serious incident happens. The legitimate operators will embrace this process.
- Get input from the experts who have done this before.
- Include stakeholders, the community and first responders in your process.
- Create a properly staffed, well-trained transparent organization structure which will objectively improve environmental stewardship and safety while attracting prudent operators to Osage County.

ATTACHMENT 1

The Environmentally Friendly Drilling (EFD) program, managed by the Houston Advanced Research Center (HARC), ***provides unbiased science and develops solutions to address environmental and societal issues associated with oil and gas development.*** Featuring an international research team, the program has had many accomplishments. The accomplishments are rather remarkable in that the program has successfully brought together government agencies and regulators, industry, academia, environmental organizations, a variety of associations and the public. As RigZone reported:

"No other organization in the oil and gas area has ever been able to successfully link this broad spectrum of stakeholders, providing opportunities for communication between groups that normally do not communicate very well."

A testament to the program's success is the number of speaking invitations and the large number of publications in a broad variety of media. Engaging sponsors and all stakeholders, the EFD team has accomplished it all by being objective and using sound science in supporting practical practices to reach our goals.

One of the many accomplishments of the EFD program has been to develop a Scorecard. The EFD Scorecard has been developed to measure the tradeoffs associated with drilling in environmentally sensitive areas. It assesses operational impact on air, water, site, waste management, biodiversity and societal issues. The methodology was developed through a series of workshops held with ecologists, botanists, wildlife management experts and others in addition to oil and gas industry experts.

The EFD Team believes that a dialog with the public is crucial. Every August since 2001, the Gallup Organization has polled Americans on their views of more than 20 business and industry sectors in the country. The oil and gas industry has been perceived as one of the least respected businesses, despite providing both affordable energy and jobs for millions of citizens. In order to improve our research and technology transfer efforts, a team, led by Dr. Gene Theodori of Sam Houston State University, has studied stakeholders' perceptions in the Uintah, the Barnett and the Marcellus and found in all cases that the greater the dialog between the community and the O&G industry, the better the relations have been between the two. Where industry has taken the lead in steps to reduce the environmental impact of its operations, the better it is perceived to be a good neighbor. The team had developed an effective communication effort to inform and engage all stakeholders through articles, papers, presentations, website, newsletter, conferences, workshops, and meetings.

Key leaders in the EFD program include:

Dr. Richard Haut is currently a Senior Research Scientist at the Houston Advanced Research Center (HARC) where he serves as the program manager for the energy and environmental projects. A major effort is serving as Principal Investigator (P.I.) for the Environmentally Friendly Drilling program in partnership with Texas A&M University, other universities, industry and environmental organizations with the objective of integrating advanced technologies into systems that address environmental issues associated with petroleum drilling and production. The effort was recognized by the Interstate Oil and Gas Compact Commission, receiving their Chairman's Environmental Partnership award in 2009. Dr. Haut also is the P.I. of the Coastal Impacts Technology Program (CITP) aimed at addressing environmental issues associated with energy production along the Texas gulf coast.

Dr. Haut's technical background includes a Masters degree and a Ph.D. in Engineering. He has over 25 years of industry technical and management experience prior to joining HARC in June 2002, having been responsible for analyzing offerings for key technologies or niche capabilities and developing synergistic, strategic relationships in the energy industry. He also was instrumental in establishing joint ventures and other joint industry programs, including the start-up of Enventure Global Technology where he was the Chief Operating Officer. In 1999 he received Hart Publication's Meritorious Award for Engineering Innovation and in 2002 received the Natural Gas Innovator of the Year Award from the Department of Energy. Dr. Haut's career includes a ten year time period where he was assigned to North Sea operations as a well technology manager and advisor for drilling and completion operations in both Norway and Scotland.

Dr. Haut has been invited to speak at various conferences, has authored numerous papers, has been awarded over three dozen patents and has several patents pending. He has also been requested to participate in Congressional hearings and briefings. He was featured in the *Wall Street Journal*, February 11, 2008 as well as the Summer 2008 edition of *Echoes*, the alumni magazine of Rose-Hulman Institute of Technology and has been interviewed on multiple occasions by the media. He has frequently been asked to speak about sustainable development, the built environment and the offshore/energy industry. In addition, he has given testimony to Congress concerning research and technology developments to produce energy in an environmentally sound and safe manner and served on a five member work group to assist the National BP Deepwater Horizon Gulf Spill and Offshore Drilling Commission. He is a board member of the Research Partnership to Secure Energy for America (RPSEA) where he also chairs the Environmental Advisory Group.

Thomas Williams has been in the energy business for over 30 years as an operator and later in his career in the management and commercialization of new energy technologies. He held senior executive positions at the U.S. Departments of Energy, Office of Fossil Energy (DOE) and Department of Interior (DOI) during the Bush Administration from 1989 to 1993 and has continued to be involved in a variety of activities and organizations fostering cooperation between the government and private sector.

At DOE he had primary oversight of the Oil and Gas R&D Program and implemented the first program focused on technology transfer for independent producers; he started DOE's first environmental R&D program and was the official DOE representative for many outside organizations including the IOGCC, GRI and AASG. At DOI he was the Deputy Director and Chief of Staff for the Office of Surface Mining and led a major initiative for the Bush Administration on regulatory review of all Federal regulations of Fossil Fuels.

He was Director and responsible for privatizing a former major oil company upstream research and technology services company in Houston in 1993. The company was sold in 1997 and he has since started and led a number of successful technology companies. As Vice President of Business Development of a leading drilling technology company in 2001, he was instrumental in selling the business to Noble Drilling Corporation.

In 2005 he co-founded the Environmentally Friendly Drilling Project with associates from Texas A&M and HARC; knowing that the effort to identify and develop technologies which would reduce the environmental impact of oil and gas activities must be led by academia. The project has grown with funding from the government and a broad base of industry operator and service companies. The program operates with active participation from over 20 universities, national labs and environmental organizations. He continues to be an active part of the management team of this award winning program.

After he retired from Noble Corporation in 2007, as Vice President, Research and Business Development, he has served on the Board of Directors of Far East Energy Corporation, Petris Technology and Nautilus International. He has also served on the Board of Directors and the Executive Committee of the Research Partnership to Secure Energy for America (RPSEA), co-chairman of the DeepStar consortium contributor's committee which includes over 60 of the leading service providers to the oil and gas industry.

Mr. Williams is well known in the industry and has authored numerous energy publications, presentations and articles and continues to serve on a number of oil and gas organizations, associations, energy advisory boards including the Consumer Energy Alliance, Drilling Engineering Association, IADC, IPAA, Texas Energy Alliance, AADE, SPE and ASME. He learned the oil and gas business from the ground up as a roughneck, land manager, director, president and CEO. He has a business degree from Campbellsville University with continuing education in mineral and property law, the Cambridge school of business management and training/certifications in oil and gas drilling, operations and safety.

Mr. David Burnett is the Director of Technology for the Global Petroleum Research Institute (GPRI) at Texas A&M University and is the Research Project Coordinator for the Department of Petroleum Engineering. He served as the Managing Partner of the U.S. DOE Project DE-FC26-05NT42658 *Field Testing of Environmentally Friendly Drilling Systems* representing a \$4 million joint partnership among university/industry and government organizations dedicated to reducing the impact of O&G operations in environmentally sensitive areas. He currently is one of the principals in the RPSEA funded EFD

program focusing on integrating advanced technologies for low impact drilling. In addition through GPRI, he leads a research team developing advanced membrane filtration technology to reduce waste water volumes at rig sites, including flow back fracturing fluids. He received the 2006 Hearst Energy Award for Technology in the oil industry and his research team won Gulf Publishing's 2008 World Oil Awards (environmental, health and safety).

Burnett is currently the Principal Investigator and Project Manager of the research project *Membrane Treatment Options to Allow Re-Use of Frac Flowback and Produced Brine for Gas Shale Resource Development* Project Number DE-FE0000847 funded by the U.S. DOE and the New York State Research Development Authority (NYSERDA).

Under Burnett's direction, Texas A&M University GPRI Team has had numerous successes, including:

- 1997 First University Program Addressing Barnett Shale Productivity
- 2001 First Major University Research Program on Treatment of Produced Water
- 2005 First Functional Membrane Technology for Produced and Frac Flowback Brine
- 2005 First University Program Addressing Environmental Issues in Oil & Gas Drilling
- 2007 First EFD "Scorecard" Proposed
- 2008 "Disappearing Roads" Program
- 2009 University/National Labs Alliance
- 2009 Eagle Ford Shale EFD Study
- 2010 EFD A&M Marcellus Shale Pre-Treatment Field Demos
- 2010 EFD EU Program Started
- 2011 Frac Flowback Brine Analytical Technology Partnership

Dr. Gene Theodori is Professor & Chair of Sociology and Director of the Center for Rural Studies at Sam Houston State University. Dr. Theodori earned a Ph.D. in Rural Sociology from The Pennsylvania State University in 1999. He teaches, conducts basic and applied research, and writes professional and popular articles on rural and community development issues, energy and natural resource concerns, and related topics. A central feature of his work is the development of outreach educational and technical assistance programs that address important community-level issues associated with energy development. He has served as President of the Southern Rural Sociological Association (2008-2009) and is currently co-editor of the *Journal of Rural Social Sciences*. He is also a member of the Environmentally Friendly Drilling Systems Program management team. Dr. Theodori received the Excellence in Extension and Public Service Award from the Southern Rural Sociological Association in 2007, the Award for Excellence in Extension and Public Outreach from the Rural Sociological Society in 2010, and the Award for Excellence in Research from the Southern Rural Sociological Association in 2011.

Since accepting his first faculty appointment in 1999, Dr. Theodori has maintained an active interdisciplinary research and outreach agenda. When conducting research, he commonly utilizes a mixed-methods approach to data collection and analysis. This approach involves the use of both qualitative and quantitative research protocols. His goal as a researcher is to methodically acquire, assess, and transmit robust social-scientific knowledge that addresses timely community development issues and natural resource-related problems to academicians, policymakers, practitioners, and members of the general

public. In short, his philosophical and applied orientation to research involves: (1) the accumulation and use of sociological knowledge to address current community and natural resource-related problems; (2) the assertion that such knowledge must be obtained by empirical research procedures; and (3) the affirmation that this knowledge should be conveyed to stakeholders and the general public with relevant outreach and continuing education programs and services.

Over the past eleven years, Dr. Theodori has been the recipient or co-recipient of approximately \$2.0 million in research/scholarly funding from several entities, including the United States Department of Agriculture, the United States Department of Energy, the Rural Sociological Society, the Southern Rural Development Center, the Southeastern Regional Small Public Water Systems Technical Assistance Center, and the Texas Water Development Board. Findings from the studies funded by these entities have been, and continue to be, disseminated in a variety of venues. Included herein are paper presentations at professional meetings and printed materials such as research reports to the sponsoring agency, Cooperative Extension/outreach education fact-sheets, and peer-reviewed journal articles.

ATTACHMENT 2

DRAFT FDF WELLBORE INTEGRITY CRITERIA INTRO

Proper well construction and monitoring is necessary to isolate protected groundwater, conserve oil and gas resources and protect public safety. According to the American Petroleum Institute (API), "Maintaining well integrity is a key design principle and a design feature of all oil and gas wells" (API Guidance Document HF-1).

In recent years, numerous states have modernized oil and gas regulations pertaining to well control, construction, integrity monitoring, and hydraulic fracturing stimulation. While upgrading standards within their respective states, Directors have had to wrestle with the questions, "What are the essential elements of an effective regulatory schema, and what standards are necessary for our respective states?" State regulatory standards will never be identical. States must adopt standards within the boundaries of state law, and each state must craft rules that address the unique aspects of geology, hydrogeology, natural resource conservation, drilling practices, petroleum reservoir characteristics, the history of incidents and failures within the state, and state definitions of protected groundwater consistent with state water resource management plans. Although standards will vary, greater consistency in the scope of state regulatory schemas would be beneficial.

The Environmental Defense Fund (EDF) will make available to Osage a first draft outline that proposes a set of elements for consideration in modernizing wellbore integrity rules. The list draws on the API HF-1 (2009), the Groundwater Protection Council's Review of State Regulations Designed to Protect Water Resources (2009), and EDF's collaboration with Southwestern Energy. The draft outline does not propose specific standards, but rather identifies the elements that should be considered to ensure that oil and gas wells are constructed with mechanical integrity, and that mechanical integrity is maintained throughout the full life cycle of the well.

For states and other regulators committed to revising wellbore integrity rules, EDF and Southwestern also developed a "Model Regulatory Framework" (MRF) to serve as a road map for upgrades to regulatory standards for well construction and integrity testing. The MRF is styled in the format of actual regulation and proposes specific standards that reflect the elements identified in the outline.

The Journal Record - Front Page Story

BIA dropping the ball? Agency's Pawhuska office faces accusations of mismanagement

by M. Scott Carter

Published: December 19th, 2012

Oil and gas attorney Charles Davis. (Photo by Brent Fuchs)

PAWHUSKA – The Pawhuska office of the Bureau of Indian Affairs is chronically understaffed and continues to mismanage the giant \$4 billion Osage Mineral Estate, a Tulsa geologist said this week. The mineral estate held by the Osage Nation spans more than 1.4 million acres. It is the largest single-tract mineral estate owned by a single entity in the country. Located in Osage County in northern Oklahoma, the estate has become a hub of oil and gas activity, with companies from across the country and Canada seeking to develop wells there.

"It's a giant, giant mineral estate," said Tulsa geologist Robert Jackman. "There's all sorts of oil and gas activity there, but their BIA keeps dropping the ball."

Jackman said the agency's bookkeeping was an example of total chaos and its officials often request the same documents over and over, even though they have been previously filed and contain date and time stamps.

"They repeatedly lose records," he said. "They can't find anything. And it takes them from 60 to 70 days to officially execute a drilling permit. It's outrageous."

Court documents underscore some of Jackman's complaints.

In a lawsuit filed by the Osage Nation in 1999 and settled more than a decade later in 2010, the tribe said the BIA breached its fiduciary duty and failed to collect, invest and deposit royalty proceeds into tribal trust accounts.

The BIA's actions, the court said, denied the tribe and individual headright owners the ability to invest the royalty proceeds into interest-bearing instruments.

Tribal leaders were eventually awarded more than \$380 million in back payments and damages.

Norman attorney Charles Davis said despite the lawsuit and the award, the problem continues.

"The BIA is supposed to be managing the mineral estate for the tribe, but they are not doing their job," Davis said.

Davis said Melissa Currey, the superintendent of the BIA's Pawhuska office, doesn't have the background to effectively manage the estate.

"They just really don't know what they're doing," he said.

Telephone calls to Currey's office were not returned.

The problem, Davis said, is getting worse.

"I think there's money that falls through the cracks," he said. "In my mind, it's like the gang that couldn't shoot straight. They are not able to figure out how to facilitate getting the permitting process streamlined. And they haven't yet figured out how to help you accomplish the task of getting a permit in the shortest time possible."

Nona Roach agreed. Roach, an independent oil and gas accountant, said the BIA doesn't have anyone in the area who can effectively manage the estate.

"It's very difficult," she said. "You can't get a straight answer out of the BIA."

Roach said the agency's problems are a concern for many in the oil and gas industry.

"It took more than 72 days for one operator to get a lease approved," she said. "No one has any answers for that."

That type of operation, Jackman said, is outdated.

"You have a place that's set up to manage a one-pump gas station trying to run a \$4 billion mineral estate," he said. "It just doesn't work."

Document from Rob Lion

Rob Lion
1-24-2013

Edwards Lease
100% W.I. 79.5% NRI
NW/4 21-24N-9E

Producing Formation:
Bartlesville Sand
2 BO + 25 BWPQ

2012: Production – 730 BO avg. price \$99/bbl.
Income: \$57,656 (gross x NRI)
Expense: 36,794 (includes prod. tax)
O/H: 5,172 (includes salaries, insurance, truck expense)

Subtotal
Profit 15,690
4,300 (deduction for royalty based on NYMEX, \$3 spread)
2
Net Profit \$15,490

If price is \$70/bbl
Income: \$40,625
Expense: 36,794
O/H: 5,172

Subtotal
Profit -1,341
4,300
7
Net Profit \$-1,341

If price is \$60/bbl
Income: \$34,821
Expense: 36,794
O/H: 5,172

Subtotal
Profit -7,145
4,300
5
Net Profit \$-7,145

Breakeven \$73/bbl.

O/H: 84 operated wells (includes T/A) allocated/well

posted-

Amt. OF Cost Between WTI + NYM

			1 Day	30 Days	3 mths	1 yr
1 Bbl.	\$3.45 Diff.	1/6 Royalty	\$.57 1/2	\$17.25	\$51.75	\$207.00
	\$2.45 \$1 Bonus	1/6 Royalty	\$.41	\$12.25	\$36.75	\$147.00
	\$1.45 \$2 "	1/6 "	\$.24	\$7.25	\$21.75	\$87.00
1 Bbl	\$3.45 Diff	3/16 Royalty	\$.65	\$19.40	\$58.22	\$232.87
	\$2.45 \$1 Bonus	3/16 "	\$.46	\$13.78	\$41.34	\$165.00
	\$1.45 \$2 Bonus	3/16 "	\$.27	\$8.10	\$24.47	\$97.87
1 Bbl	\$3.45 Diff	1/5 Royalty	\$.69	\$20.70	\$62.10	\$248.40
	\$2.45 \$1 Bonus	1/5 "	\$.49	\$14.70	\$44.10	\$176.40
	\$1.45 \$2 "	1/5 "	\$.29	\$8.70	\$26.10	\$104.40