Osage Negotiated Rulemaking Committee
Meeting 7 –March 13-14, 2013
951 W 36th Street North, Tulsa, Oklahoma
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 February Osage Reg-Neg meeting.
2. The Committee reached tentative consensus on adding the following text to §226.1 as sub clause (t): "Other marketable product means a non-hydrocarbon product, including but not limited to helium, nitrogen, and carbon-dioxide, for which there is a market."
3. The Committee reached tentative consensus on adding the following language to §226.11(b)(2): "If the actual reasonable cost of processing cannot be obtained, upon approval by the Superintendent, the lessee may determine such cost in accordance with the alternative methodology and procedures set forth in 30 C.F.R. 1206.173."
4. The Committee reached tentative consensus on the following sections of the draft regulation sections: §§ 226.38 and 226.39.

Welcome and Opening of the Meeting

The meeting opened with a prayer. 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. 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 February 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/.

The facilitator explained that, during this meeting, the Committee would review different sections of the regulations. For each section, the proposed regulatory changes would be explained to the Committee and the public, public comment would be taken, and the Committee would consider revising the draft regulations in response to public comments.

The facilitator, Mr. Field, also reviewed 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 a comment on the day of the meeting, in the order that registrations were recorded. Each commenter would have an equal amount of time to comment, distributed according to the number of people who want to comment during the public comment session. 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 and, specifically, to the section of the regulations that the Committee was reviewing. Mr. Field reiterated these guidelines for public comment throughout the meeting, before each public comment period.

The facilitator also made note of the opportunities that have been afforded for public participation in the process to date as well as the ways in which the Committee has incorporated the public's suggested input. There have been 19 public comment sessions and 15.5 hours allocated to public comment across the first 6 meetings (not including the March 13-14 meeting). Mr. Field noted that members of the public have raised concerns both about the contents of the regulations and also about the implementation of regulations, including the operations of the Osage Agency. Those latter concerns are very important and are being handled through a consultation process between the Osage Minerals Council and the Bureau of Indian Affairs that is separate from the Reg-Neg process. Mr. Field said that members of the public expressed concern that the Agency be able to access the same level of resources available to other tribes and on other federal lands, and the Committee has responded by incorporating the ability to draw on federal resources, such as ONRR's tools and Onshore Orders and Notices to Lessees from BLM, into the draft regulations. Members of the public have expressed a desire for greater action to be taken to plug abandoned wells and to make sure that current and future wells are also properly plugged and the Committee has responded by proposing regulations that would increase the resources available for bonding and discourage operators from leaving wells unplugged. Members of the public expressed concern that the proposed period of lease termination for production below paying quantities was too short, at 30 days, and this has accordingly been extended to a proposed 90 days. Members of the public raised a number of concerns about protecting surface lands and the rights of surface landowners, and in response, the Committee increased fees for commencement, has proposed adopting onshore orders for hydrogen sulfide, has proposed enhancing provision around notification of surface owners (including requiring notice by lessees of spills, hazards, etc.), and has added entire new sections to the draft regulations on environmental obligations and site security. Members of the public raised concerns about accurate measurement of product, and

in response, the Committee has clarified and added greater specificity to sections of the regulations regarding measurement of both oil and gas, and has also proposed the adoption of an onshore order regarding the measurement of natural gas. In response to public comments, the Committee added language about "other marketable products," such as helium, that could be produced. Members of the public requested that their responsibilities vis-à-vis the Osage Agency be clarified, and that the responsibilities of the Agency be clarified, and this has been done in a variety of places in the draft regulations. In addition, the Agency's operations are being improved and will continue to be improved by the BIA in consultation with the OMC. A federal representative to the Committee added that the draft regulations are not the final regulations that will be promulgated, as these are simply a draft that will be proposed to the Secretary of the Interior and will be subject to additional public comment and review by the Department of Interior before final approval.

Definitions

The Committee reached tentative consensus on adding the following text to §226.1 as sub clause (t): "Other marketable product means a non-hydrocarbon product, including but not limited to helium, nitrogen, and carbon-dioxide, for which there is a market."

Leases, Rents, Royalties, and Reporting

Presentation of Proposed Changes to Regulations and Initial Committee Discussion

A staff member to the federal representatives to the Committee noted that a suggestion was made at the previous meeting that, if the Superintendent directs an operator to calculate gross proceeds of natural gas, including natural gas liquids, pursuant to §226.11(b), but the operator does not have information available about the actual cost of processing the gas, then an alternative methodology as set forth in 30 C.F.R. 1206.173 could be used. Committee members and staff discussed whether a clause of this nature is necessary and desired as the calculation would happen on order of the Superintendent. In addition, the driver for the calculation, in terms of the cost of processing, would be natural gas liquids.

Public Comment and Response from the Committee

The Committee received the following public comments about leases, rents, royalties, and reporting:

- Bob Jackman said: Good morning, members of the Mineral Council and gentlemen from out of state. On the royalty, I would like the Committee to consider doing as other states and as other mineral estates do, which is dropping the royalty on wells that produce less than 10 barrels per day to a 15% royalty rate. This is an incentive that you need to encourage the smaller operators to continue producing. There is not anyone here from smaller operators who wouldn't tell you that this wouldn't increase production and

royalties in the Osage account. Could the smaller operators be involved in running the numbers with you? There's a body of evidence from the Oklahoma Marginal Producers Association that would clearly show that reducing the royalty rate on stripper wells would stimulate production.

- Dan O'Toole with Encana said: I just want to make one final comment from our perspective on NYMEX pricing. I think that this is something that the government represents "we the people." We just had a settlement for $3B. Now we seem to be going in the same direction and I don't know why we would put ourselves in that place again.
- Cynthia Boone said: I'm a member of the OMC. As you can see, I am not a member of the Reg-Neg committee. As I've said at past meetings, I've advised the Committee to take its time and not affect the mom and pops. I've also suggested that we have a subcommittee of oilmen for their input, but it seems like we won't be able to do that. To all of the oilmen who have sent us letters, thank you for your concerns. The Committee has hired an oil and gas expert from Oklahoma City and a lawyer from Washington DC. There was a meeting last night with producers and I wasn't even invited to attend. I had thought that there would be 2 years to have Committee deliberations and come to a decision. What concerns me is that, do these draft regulations mean that the Osage Nation would be the governing body and would be responsible for administering contracts? Our Nation couldn't even operate a grocery store; I'm concerned about our Nation to serve as the accountant. I also want to know who on the OMC will vote on the final regulations and when that will happen?
- Jamie Sicking said: My comment is about clause 226.11(c). Does that mean that the Superintendent will tell me anything that she wants to tell me about the volume and quality and I have to like it? Is that the way that it's supposed to read? I just wanted to know whether that's the way that it's supposed to read or if it should be more fair.
- Matt Beavers, Devon Energy. 226.1B says Superintendent can make oral or written orders. Just wanted to say that if operator wants oral approval, it is probably because they want approval to drill that day. Orally, anything can be misinterpreted. It opens up liability for all parties. Although we love the efficiency of it, it is dangerous and you may want to revisit that clause.
- Mary Johnson, CEP Midcontinent, said: My only question is on oil and gas rentals at $10 and $20 per acres and adjusted if oil is priced over $100/barrel. I just want to know what the price of oil has to do with gas wells. It seems pretty severe to adjust gas lease rentals upwards due to the price of oil. The two markets are different.

Committee members and staff members to the Committee responded to the public comments:

A staff member to the Osage representatives to the Committee explained that the Committee's purpose in §226.43B(a) was to create some sort of mechanism so that fixed prices do not become outdated over time. The price of oil was chosen because it has a direct relation to oil and gas activity in Osage County, as opposed to something like the Consumer Price Index. This is meant to be a general reflection of inflation, and is not intended to be specific to oil or gas. An Osage representative to the Committee added that the Committee did not look specifically at gas in the context of creating an index by which prices would be adjusted over time, and the Committee could consider looking into that.

A staff member to the federal representatives to the Committee explained that §226.1B is a provision that was adopted from BLM regulations and is meant to replicate how they operate on other Indian and federal lands. While there may be instances where the Superintendent has to operate quickly and issue oral orders, the next sentence is very significant in that the oral order has to be confirmed in writing within 10 working days. The staff member asked a member of the public whether a time period shorter than 10 days would address the stated concern about legal liability. The commenter explained that his concern would be with any sort of oral order, as is illustrated with a current case in which a company was orally told that it could spud a well and then was taken to court the next day. An Osage representative to the Committee stated that, at present, the Agency is not issuing any oral orders because the regulations do not say that they are allowed to do so. The draft regulations would allow the Agency to issue oral order, when needed. A staff member to the federal representatives to the Committee added that, if any operators are currently operating under oral orders, it would behoove them to approach the Superintendent to get those oral orders in writing. A federal representative to the Committee added that the Agency has done considerable work to process permits much faster than in the past. The lawsuit in question likely would not have been an issue if the Agency had been operating as it operates today.

A staff member to the federal representatives to the Committee acknowledged that some people have concerns about §226.11(c) and that she wanted to let people know that the Superintendent cannot make arbitrary decisions. Instead, the Superintendent's decision must be made on a rational basis and according to reasoning that can be explained. In the case of this clause, the Superintendent would have to do an investigation and articulate the reasoning for the volume and quality judgment that he or she is making. The reasoning for including this clause is that the Superintendent is the trustee of the estate for the Osage and the regulations need to make sure that the operators are operating in a prudent manner and that oil and gas is not being wasted and due royalty is going to Osage head right holders. A federal representative to the Committee added that this clause does not resolve all doubt as an administrative appeals process would still be available to operators. While the Bureau would like to minimize the

number of administrative appeals, both producers and the Osage Agency can file an administrative appeal. A staff member to the Osage representatives to the Committee added the language in question is based on trust law and is based on the trust relationship, to require those who waste trust resources to pay for the damage to the trust. The definition of "waste" in this section indicates that the operator has done something wrong. For example, if the operator vents gas, then no one knows how much gas was vented. It is a common legal principle to make a determination against the person who did something wrong and it is a principle of trust law that is pretty standard.

Responding to a public comment about the use of the NYMEX price to determine oil royalty payments, a staff member to the Osage representatives to the Committee explained that the general principles that the Committee has looked it have to do with, historically, what the regulations provided for in Osage County. The rulemaking process comes out of a settlement to a lawsuit. The Reg-Neg process is designed to prevent future lawsuits. Historically, in 1916, regulations were put in place to protect the trust beneficiary. At that time, royalty payments were pegged to the highest market price in the Midcontinent Field. So, starting in 1916, the Superintendent was required to collect royalty at a price that was higher than what most sellers were receiving for their oil. This regulation was put in place to protect the royalty holders from non-arms length sales and other practices that could cause the royalty holders to lose out on their due royalty. In 1974, it was changed to highest offered or posted price in Kansas and Oklahoma, but the principle that the regulation operated on was the same as the previous regulation. In 1990, the regulation was changed so that the highest offered price was limited to Osage County, but the general principle was the same. In 1994, however, the concept was changed to reflect the highest posted price, not highest offered price. Since 1994, the posted price was often below sale prices for many operators and, as a result, Osage head right holders were not always receiving the full royalty amount that they were due. The Committee is now looking to protect the interests of head right holders and is returning to the principle that was in place from 1916 to 1994. The NYMEX price is administratively easier to implement than the pre-1994 systems. The Committee has heard from members of the public that producers often cannot get the NYMEX price. That is often the case when regulations are written to protect the royalty beneficiaries. One key complaint in the lawsuit was that the Agency was not collecting royalties as required. This means that the United States ended up paying damages for royalties that should have been paid by producers but were not. This rule change is designed to prevent that sort of situation from arising again. Producers need to be paying royalties at a level comparable to what was required before 1994.

An Osage representative to the Committee added that members of the public are clear that references to "the NYMEX price" are meant to refer to the "Cushing NYMEX price" in the

regulations. This distinction seems to make a big difference to producers. This concept of using the upper level pricing point is used throughout the federal world. Another mechanism to calculate the upper level pricing point is to use the Major Portion pricing calculation that ONRR uses, which calculates an adjustment factor based on the top 75% of oil sold. Using this Major Portion pricing system is very resource intensive. The way that it works is you start from top oil and go all the way until only 25% of oil is left. It is a major bureaucratic headache to calculate all of that every month, and the NYMEX Cushing price and the 75% price track pretty closely. In addition, producers will pay royalty on the basis of their average monthly sale price, not on specific sale price on any one day. Finally, under the 75% Major Portion system, producers would likely have to pay twice, once before the Major Portion is calculated and once afterwards, which would be administratively burdensome for them, and so the use of the NYMEX Cushing price also simplifies affairs for the producers.

In response to the question about who on the Osage Minerals Council will vote on the final version of the proposed regulations, the facilitator explained that the full Reg-Neg Committee will seek consensus on the full body of regulations. There are 5 permanent OMC representatives on the Committee, with 2 alternate OMC representatives. The consensus vote will be taken with those OMC members who are present at the time that the vote takes place.

A staff member to the federal representatives to the Committee stated that the federal team has heard that there was a meeting that was held last night. The meeting that was held last night was not a Reg-Neg meeting. The federal government was not invited and was not present. The meeting last night was offered by some members of the Osage Mineral Council for some of their producers to walk through the draft regulations. The staff member also said, responding to the comment about the Reg-Neg being authorized for two years, that in order for this Committee to continue working, there has to be business before it to work on. While there continues to be public comments expressing concern about NYMEX, the Committee is considering all of the issues that are brought forth. If members of the public have a proposal as an alternative to NYMEX, the Committee would be happy to discuss and consider it.

A staff member to the federal representatives to the Committee also described the rule-making process after the Reg-Neg Committee completes its work: once this Committee reaches consensus on the draft regulations, those will go the Department of Interior, and the Department may revise draft regulations, then those draft regulations will go out to the public for public comment. At that point, anybody can raise objections or make suggestions. Those comments will not come to this Committee, rather they will go to the Department of Interior. The Department of Interior will then decide whether to adopt or reject those proposed changes

and comments that they received from the public. Finally, after all of this has been done, the regulations will be finalized and the final rule will be published in the federal register.

An Osage representative to the Committee responded to the public comment suggesting a lower royalty rate be adopted for wells producing fewer than 10 barrels of oil per day. He said that the Committee would need to have numbers to see how this would affect the economics of production and royalties. At present, though, many producers are paying royalties at a rate below 15%, since their leases were negotiated at lower rates. He added that the Committee has, from the very beginning of the Reg-Neg process, asked for empirical data to be submitted by members of the public. The Committee would definitely be interested in learning more about the data from the Oklahoma Marginal Producers Association. A staff member to the federal representatives to the Committee added that, in terms of drawing the line at 10 barrels per day, the Committee would have to have a rational basis for drawing the line at any particular amount. The smaller producers are still selling oil in paying quantities. Without a rational basis, the Committee could be subject to claims of arbitrary treatment. In addition, in terms of resources available to the Osage Agency, enforcing the provision around 10 barrels a day would be very difficult and resource-intensive to monitor and enforce. These two concerns, regarding equal protection and resource-availability, would have to be addressed. An Osage representative to the Committee added that the new 20% royalty rate only applies only to new leases and the new regulations would not change any currently-existing lease rates.

Committee Discussion
Committee members and staff discussed who is serving as the current Secretary of the Interior. Ken Salazar is the current Secretary and Sally Jewell has been nominated to replace him. Her nomination is currently under consideration by the US Senate.

An alternate Osage representative to the Committee commented on NYMEX pricing and on the length of time that the Committee is considering for revising the regulations. He said that this is his first time on the OMC, having run in 2010 and that he just barely got in. With regards to NYMEX pricing, he has asked various people why it would have to go higher, and why it would have to go lower. Most of the people he asked said that it would not make much of a difference if it went higher or it went lower. So, as an OMC member, if we raise it, that will cause concerns among a lot of people. The OMC does not need that concern. Once everyone goes back to riding their bikes or putting on their jogging shoes in Washington DC or Maryland, or Oklahoma City or wherever, the OMC members will still be in Osage County and will have to face the people who elected them. They will have to face their relatives, their children, their neighbors. Politics is a rough business. He said that feels for the producers and that he has a feeling that they will leave. They have made the point that they will pull out, and he believes it. The Council

has to face the people. Everyone else will be gone and the OMC and the Osage will be left in Osage County alone.

Committee members discussed whether it would be necessary to clarify that existing leases would not be subject to a royalty rate of 20% as a result of the adoption of the new regulations. The Committee decided that the current language in §226.5 fully conveys this meaning and that no further clarification is necessary. §226.5 reads as follows: "Leases issued pursuant to this part shall be subject to the current regulations of the Secretary, all of which are made a part of such leases: Provided, That no amendment or change of such regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties and approved by the Superintendent."

An Osage representative to the Committee noted that the lease forms would need to be updated with the new royalty rates and a federal representative to the Committee agreed and responded that the Agency would make sure to do that, if and when the proposed regulations take effect.

Tentative Consensus
The Committee reached tentative consensus on adding the following language to §226.11(b)(2): "If the actual reasonable cost of processing cannot be obtained, upon approval by the Superintendent, the lessee may determine such cost in accordance with the alternative methodology and procedures set forth in 30 C.F.R. 1206.173."

Operations (measuring, storing, drilling obligations, etc.):
Presentation of Proposed Changes to Regulations and Initial Committee Discussion
A staff member to the federal representatives to the Committee reviewed the proposed changes to the regulations:

- The following phrase removed from §226.38(a): "and tests of their accuracy shall be made when directed by the Superintendent." Instead, a new sub clause (b) be added to specify how the accuracy of oil meters will be ensured.
- The following text be introduced as a new §226.38(b): "Lessee must ensure that each LACT meter is inspected, calibrated, and adjusted at least twice in each calendar year, no less than five months apart. Lessee must ensure that the Superintendent is given 48 hours prior notice of all LACT meter inspections, calibrations, and adjustments. The Superintendent shall have the right to witness, unannounced, all LACT meter inspections, calibrations, and adjustments. Lessee shall fully cooperate with such witnessing or be subject to lease termination. If the Superintendent is not present, he

may request records relating to all LACT meter inspections, calibrations, and adjustments."

- The following text be introduced as a new §226.39(a): "All gas, required to be measured, shall be measured in accordance with the standards, procedures, and practices set forth in Bureau of Land Management Onshore Oil and Gas Order 5, Measurement of Gas, and any amendments thereto."

The Committee discussed whether it would be necessary to introduce language to address the shutting of production valves for 48 hours after removal of oil in order to address concerns from field inspectors. A suggestion was made that it may not be possible to close valves for wells with high production volumes.

The Committee discussed adding language to require that oil meters be inspected at least twice in each calendar year, no less than five months apart. An Osage representative to the Committee indicated that the Osage representatives would support such a provision as they would be in favor of having regular inspection and calibration.

The Committee discussed who would be responsible for performing the gauging work and whether this would present a resource burden for the Osage Agency. Committee members clarified that it is the responsibility of the lessee to perform the gauging and to inform the Superintendent in advance of any gauging. The Superintendent can choose to witness the gauging, at his or her discretion, and may also require that records of the gauging be sent to the Agency.

Public Comments and Responses from the Committee

The Committee received the following public comments during this section of the meeting:

- Chris Clemenshire, Director on Osage Producers Association Board and small producer in Osage County, said: I'm speaking for me. Feel like most of the gentlemen behind me feel the same way. I'm both addressing these issues and making a statement. Everything that we're discussing is on the producers. The metering, calculating, having people on site, everything is on us. We're the ones who are funding this operation. It's our livelihood. The day-to-day thing with small independent producers, is that we're the mainstay in Osage County. The small producers will stay; the large producers like Devon have said that they'll leave. We're not out there trying to steal oil, and if we mismanage production, then we lose money. During the break, I was managing production. I don't have time to be here right now. I really appreciate the meeting we had last night. It may not mean much to the federal side, but we producers really appreciate it. These regulations are being made for us. If we leave, then there's no funding for any of this

stuff. Its producers who pull oil out of the ground. There was more accomplished last night in one and a half hours than has happened in 8 months in these meetings. Regulations, we know, are needed. But please be careful what happens to the small man. Too many of these regulations are killing this country and it will kill the production here in Osage County.

- Bruce Fadem, Southwestern Exploration, said: I want to thank Chris for what he just said. I came up here to talk about calling the Agency and letting them know that we're selling oil. We're a small operator. My twin brother and I came up here when we were 25 years old. My father was here. We've been here for 60 years. When we're talking about these regulations that are coming from the bureaucratic side, it's an awful lot to take as a small producer. When we have to call the Agency to let them know that we're selling oil. Being a small operator, I use Conoco Phillips and they've been very good to me. If I have a short tank, they're requiring that we call them on the 20th of the month. If I accidentally screw up and don't tell the Agency that I'm going to move the oil, then I don't deserve a penalty for trying to sell oil. We're giving $14-15K /month in royalties to the Osage. We used to be a lot larger. It's a hardship for me to call up the Agency and tell them we're going to sell X barrels from X leases. Then Conoco Phillips tells me that they can't take some of the oil because of a high bottom. They might say to me that I have to keep circulating oil to make sure that it's ready to take. What I'm trying to say is that this is a new regulation that I'm not familiar with. The federal side of the room needs to understand that the small operators have gotten along well with the Osage. Being here for so many years, I have never had one problem with the Osage.
- Charles Wickstrom, Spyglass Energy, said: On §226.38, regarding informing the Superintendent. What is the definition of "inform?" Phone call, carrier pigeon, smoke signal? It isn't set out in the regulations and needs to be clarified. There are other grey areas in the regulations that need to be clarified, if we're going to go to this length.
- Bob Jackman said: Let's do a review of the overall operations. The BIA-trustee relationship is broken here. The federal court found 5 distinct breaches of the trusteeship. Nothing has really been done since the court order to strengthen the management. There are people here who are familiar with the fact that Osage shareholders are losing money. You're hemorrhaging money from gas leases. You've done nothing to strengthen the Agency in Pawhuska. On NYMEX: there's a counter-qualified legal rebuttal to that. I'll explain more on that later, as I don't have open mic time as the attorneys do. The total revenue here is $400M. How can you possibly impose these regulations without qualified auditors and other staff? You have to address that problem before moving forward with new regulations. On transparency: we have reporters here and we appreciate them very much. There have been 7 investigations, some federal and some private. The BIA is letting them gather dust,

either in Muskogee or in DC. You gentlemen here don't have access to those reports. Quoting the judge from Pawhuska: "the BIA is escaping review." The operators did not cause the problem, and yet all of this is being put on the operators. The BIA should be getting hammered, not the operators. How can the Superintendent, who has enormous power and responsibility, follow through with what is being proposed here. Nothing has changed in 18 months.

- Nona Roach, Agape and Associates, said: When Galen was saying the thing about highest posted price, the highest posted price doesn't come into place on producers having to go back and revise reports. I don't have to go amend those reports. As you pointed out, most producers are paid on monthly average. They'll [the Agency] send me a notice saying that your royalty amount wasn't correct. I don't remember receiving this notice in the past 2-3 years. This won't be an accounting nightmare. But NYMEX will be an accounting nightmare. Now I need to go find some obscure number, that I didn't get paid on, and even my purchaser didn't get paid on NYMEX. NYMEX is a delivered, perfect barrel in Cushing. If you have to transfer oil in Cushing, then they have to pay for that too. Purchasers look at how many gates they have to open and how many gravel roads they have to go down before quoting me a price. When you're a small operator, you aren't going to make the big money on the barrels. Nobody is going to make the money that Chaparral makes because they send everything by pipeline. Just like the purchasers came and talked to you guys, they explained how they calculate their prices.
- Tara Righetti, BGI Resources, said: Have a question about the drafting of Section a versus Section b of §226.39. Question about all gas being measured. Would all gas be measured in the way that you're proposing?

Committee members and staff to the Committee made the following comments in response to public comments:

- An Osage representative to the Committee said that he did not understand how a producers could forget to call the Superintendent at the same time as the producer is making a call to the purchaser to come get the oil. One of the things that the Osage Minerals Council said in the settlement is that the Osage want more gaugings. Once the Committee went out and looked at how to improve the gaugings, it found that, in order to do accurate gauging, the gauging has to be conducted when the tank is empty. So, as a result, gauging has to happen when the tank is picked up.
- An Osage representative to the Committee noted that a concern was raised about the ambiguity of the word "inform." He said that the Committee understands that a system will need to be put in. Right now, this will probably have to be a phone bank. But, the OMC is hoping that the BIA will get up to date and people will be able to do it by computer in real time. There are new ways of informing the Superintendent that could

come up in the future, and the Committee wanted to accommodate that possibility in the regulations. But also, the Committee understands that systems for communication need to be set up.

- An Osage representative to the Committee clarified that the Committee has refrained from imposing daily NYMEX pricing and instead decided to implement monthly NYMEX pricing so that it would be less of an administrative burden for producers.
- An Osage representative to the Committee said that, considering that the Bureau of Land Management is going to be involved in operations, the information that will be relayed to the Superintendent will be at all hours. This needs to be defined more clearly to the producers, about how this will take place, when it will take place, etc. It needs to be looked at more clearly by the Committee, and attorneys, by all of us. If the Committee puts something out there that is unclear, then it is misinforming people. The Committee does not want that.
- An Osage representative to the Committee, responding to the comment from Chris Clemenshire about regulations hurting the industry and its ability to conduct business in Osage County, requested that Mr. Clemenshire and other parties propose specific changes or specific sections of the regulations that need to be revisited. He said that the Committee has tried to look at the regulations to eliminate red tape, and so if producers have specific suggestions and could provide that to the Committee as soon as possible, that would be appreciated.
- The Committee agreed that Ms. Righetti's questions were good ones and decided to adopt language that would address her question.
- A federal representative to the Committee said that, contrary to some of what has been said, the Agency has made a number of changes to the operations. The BIA will be putting in place procedures to significantly simplify the burden on operators. The Agency has also made, and will continue to make, improvements to communicate more clearly with producers. Producers have asked for clarity on what is required, and the Agency will be sure to give that to you.

Committee Discussion

An Osage representative to the Committee noted that Bureau of Land Management Onshore Oil and Gas Order 5, Measurement of Gas, as included in §226.39(a), is basically BLM adopting America Gas Association industry standards. He added that the Committee thought that it would be unfair to producers if the regulations were not specific as to what is expected of them.

The Committee discussed §226.39(a). A staff member to the federal representatives to the Committee noted that the prescribed pressure for measurement of natural gas in §226.39(b) is

different in the Osage regulations than in the BLM onshore order. Noting this discrepancy, and recognizing that others may emerge in the future, she proposed adding the following language to §226.39(a): "To the extent that Onshore Oil and Gas Order 5 conflicts with any provision of these regulations, these regulations shall control." An Osage representative to the Committee said that the OMC preferred keeping the current prescribed pressure for measuring natural gas so as that each producer would not have to change its purchase orders. Committee members discussed the possibility that the Onshore Order could change in the future and that the OMC would not have control over these changes. An Osage representative to the Committee pointed out that the purpose of the Onshore Order is to keep up with industry standards. A staff member to the federal representatives to the Committee explained that any future changes to the Onshore Order would have to pass through a federal notice and comment period, which would provide an opportunity for the OMC to voice concerns about potential changes.

Tentative Consensus
The Committee reached tentative consensus on §§226.38 and 226.39.

Bonds, Penalties, and Enforcement:

Presentation of Proposed Changes to Regulations
A staff member to the Osage representatives to the Committee suggested that the language of §226.6(c) should be amended to read: "...number of wells on the lessee's leases, up to a maximum of 20 wells" in order to clarify that the bonding requirement applies to the operator, not to each lease that the operator holds.

Public Comments and Responses from the Committee
The Committee received the following public comments during this section of the meeting:

- AC Box, Performance Operating Company said: On 226.6(c), on the last line. We would like clarification on whether it's 20 wells per lessee/operator or per lease.
- Mary Johnson, CEP, said: In subparagraph (c), last time federal team wanted to strike the word "drilled." There are a number of times when the Superintendent has given the option of taking on existing well bores when you lease the land. The lessee should not be liable for these existing wells. Is there some way to clarify that?
- Bruce Fadem said: This bonding issue is concerning me. I have 10 or 11 wells in Osage County. I've been calling around to bonding companies. They've been telling me that it'' going to be almost impossible to get a performance bond for the amount of $10,000 per well unless I put up $10,000 in collateral myself. Another option is going through my bank, or I could put up CDs. I would be tying up a lot of working capital. I really would like to talk about – the Osage producers should be trying to work on a fund. Maybe it

could be retroactive to the new wells that are going forward and doesn't include existing wells. Or maybe give us an opportunity to get a fund together among the producers, so that each producer puts up $100 per well. We don't want to make the insurance companies rich. We're talking about millions of dollars. If we could put together a sinkers fund. It would show that we're all trying to work together. I talked to a lady that has 2 wells, and would have to put up $20,000. I have checked with four bonding companies. We aren't a risk. They're telling me it's the bonding companies. I'm willing to bear the brunt for this, but not all of this.

- Bob Jackman said: On the bonds, since the BIA is a tax-payer funded agency, and we all like to see transparency, it would be to the benefit of the OMC to see accounting for how much money is in reserve for bonding. That would be like a self-insuring bond fund. That would be money that was posted for bonds that was forfeited, etc. There's an imbalance here in terms of the operators having to bond at $10,000 per well versus the Osage who have who knows how many wells that haven't been plugged.
- Nona Roach said: I've tried to have several companies write bonds, and I've had the same problem as Bruce. Have been told that almost no companies would bond in Osage County because they can't get the bonds released. Basically, the leases are being double-bonded. It's taken me up to 14 months to get a bond released. You're effectively double-insuring these leases. I remember when there was a Council form of government, they passed a resolution saying they didn't want the wells plugged since they thought they would be able to go back and use them with new technology. Also, why did you do away with the nation-wide bonds? It's a BIA bond for $150,000. Did you do away with it in the rest of the US? I have several operators who have nation-wide bonds. If you want to stay equal with rest of OK, the Corporation Commission only requires a $20,000 bond. You're looking at a huge hardship to make these guys come up with $10,000 per well. On the small operators. You're going to tie up all of our capital and it's going to sit in a CD where it's earning almost no interest. We won't have any money to do further drilling and pay for production.
- Lanny Woods said: I'm a part owner in a small oil company named Gyro Resources. We bought production in July of 2011. We chose Osage County because the regulations looked like they were favorable to small producers. NYMEX wasn't in place. Very favorable bonding to other places in Midcontinent. We had limited capital to invest in developing production. Another $150,000 will be taken out of our pockets to generate work. OMC looks at this situation where you'll be uncompetitive and people will go somewhere else. We want to grow our company here in Osage County.
- AC Box said: Following on what Mr. Woods said, I would propose to the Committee that they add a clause that speaks to the release of bonds. It would specify timeframe. It may

be prudent to add a paragraph that would regulate the release of the bond within a certain period of time.

- Lloyd Fadam said: My brother is Bruce Fadam. I want to ask a question to federal side. What happens if we can't get a bond? Merrill said last night that, if you can't get a bond, you shouldn't be in the oil business. We're small producers and we enjoy good success all over. I would like somebody to come out and tell us what happens if you can't get a bond. We've heard from a bunch of people here saying that it will be difficult to get a bond. We need to investigate what would happen if we can't get a bond in Osage County. Are we all going to have to go away? I would like each of you to think about what is going to happen if we can't get a bond.
- Stan DeLong said: Don't want to beat this thing dead, but today I have a $60,000 bond, and if you increase the amount to $200,000, that changes things for me. My costs are going to increase. That means less money for you people also.
- Tara Righetti said: In the context of the way that it's written, our company would be considered a larger company and we would not have to bond all of our wells. Smaller operators would be required to bond 100% of their wells. Would propose to the committee to adopt an either/or provision so that operators would be required to bond either 20 wells or X% (such as 50%), whichever is less.
- Shane Matson, Spyglass Energy Group said: As you've assessed this in Committee, what have you found the exposure to be? If the producers have a better idea of what you're thinking, then we would have a better idea of what you're looking for. If we could have an idea of how much you'd like to have allocated to the issue, then the producers could collectively figure out the best way to fund that? Are you looking for $5 million, $10 million?
- Lloyd Fadam said: for Galen, the thing that's gotten us most off track here is that the bonding is "per well." If we could get language so that the bonding was per lease, then we would be much better. The problem is coming in when we have multiple wells on a lease. Our costs quickly go up. If we have 12 wells on 4 leases, then if we were putting up $10,000 per lease, then we could live with that. The "per well" is really hurting us.
- Chris Clemensire said: Regarding what Mr. Whitehorn said. I'm the vice-chair of the Osage Producers Association at this time. We're very willing to sit down with anybody who would be willing to sit down with us over numbers. We're willing, as a Committee, and we represent 150 producers in Osage County. We're willing.
- Stephanie Erwin said: I'm an Osage shareholder. The OMC needs to slow down and take into consideration what the oilmen are saying. They're bending over backwards to make this work. You need to take into consideration what these men are saying. They're trying to work with you. You need to have meetings with them to work this out.

- Bob Jackman said: I think that this is an official moment. We've tried for 6 months to have the subcommittees include land owners and operators. This is a major breakthrough. On the bond issue: what is the problem? Are we trying to fix something that isn't broken? We have funds to plug wells. The operators did not cause this problem. It was the BIA. If they had been closely monitoring operations, they would have caught bond jumpers.
- Bruce Fadam said: I think that it would be good if the Producers Association got together to see what we could do. But, for me personally, I would think that we could up the bond on a quarter section. This would be the producers giving a little bit. Go from $5000 per quarter section to $7500 per quarter section, this would be very favorable to a lot of people.
- Ron Snyder said: Has anybody talked to CEJA about this? There's a fund out there and they would be willing to come out here.

Committee members and staff to the Committee made the following comments in response to public comments:

- An Osage representative to the Committee said that the Osage Minerals Council has expressed willingness, from the beginning of the Reg-Neg process, to sit down with producers and with other parties to discuss their concerns and suggestions. The OMC has requested that the producers provide specific numbers and proposals for the Reg-Neg Committee to consider. Last night's meeting [the meeting was hosted by the OMC for producers on March 12] was the third meeting that the OMC has had with producers in the context of the Reg-Neg and the OMC is willing to have more meetings.
- An Osage representative to the Committee said that he wanted to address the producers: Last night we talked about discussed it, and after things started getting loud, there were level heads there. I want to say thank you, since we got a lot done. I also want to apologize to people if it seems like we're getting ahead of ourselves here.
- An Osage representative to the Committee said that the bonding issue would be a reason to slow down the pace of the Reg-Neg process. A number of proposals have been made it will require more than 2 weeks to investigate these. He added that the current oil boom is the second boom that he has lived through and that he told his kids that he hopes that they will not have to wait another 25 years for another boom. In terms of finding another sweet spot: currently, the Osage are at the top of the boom and prices will go back down. The Committee needs to create something that the producers can live with through good times and bad times. This Keystone Pipeline, if it comes through, will drive down prices here. The Committee member said that he wants to work something out. He said that he thinks that it will take longer than a meeting this evening to work this out. He suggested that, if the producers can get a group together

to discuss bonding and come up with a proposal, then hopefully the Committee can work something out that would be a better deal for everyone.

- An Osage representative to the Committee asked whether the producers have a preferred bonding amount per well and what they think would be a fair price. The Committee member suggested $7500. He also asked how many wells have been plugged in the last year out of the emergency fund. In response, another Osage representative to the Committee said that no wells had been plugged using the emergency fund during the past year.
- An Osage representative to the Committee said that the Committee looked at what it would cost to plug wells and that the Committee was looking for the sweet spot between protecting the Osage from getting left with the mess that they have in the past while also not overly burdening operators. The OMC has about $200,000 in the emergency fund, which is from forfeited bonds. The last couple of wells that the OMC has plugged from the emergency fund cost some $30,000 and $40,000. Those were emergencies, and so they needed to be plugged right away and cost more than most well pluggings. The Fadam twins seem to be saying that they just would not be able to get bonds, but I hope that they have a $5,000 bond per well now. If the Committee were to lower the required bonding amount, to what level would we need to lower it in order to help the producers? The Committee is trying to find a spot that protects the Osage. It is hard to find that sweet spot between what is needed to protect the head right holders and allow the operators to get bonds.
- An Osage representative to the Committee, responding to Ms. Righetti's suggestion to have a cap on the percentage of wells that would need to be bonded, said that the Committee is seeking to make sure that there are enough wells bonded to make sure that the operator does not leave without plugging wells. The proposed 20 well cap is meant to mimic a nation-wide bond.
- An Osage representative to the Committee, responding to the suggestion that a well plugging fund already exists to plug wells, noted that well pluggers are charging over $30,000 to plug emergency plugging jobs. The emergency fund would not last very long to plug the number of abandoned wells that there are in Osage County.
- An Osage representative to the Committee, responding to the comment about the wells previously being left unplugged for future exploration, said that there was previously a mindset that the Osage wanted to keep old wells open in order to potentially exploit them in the future, but the OMC has since come to understand that these wells are potential problems and present a liability. The OMC does not want to do that anymore.
- An Osage representative to the Committee said that he liked what he was hearing. In all organizations, whatever problems come up with, there has got to be a middle ground. The Committee member said that he hopes that the BIA and BLM are taking heed of this

and are listening. He said that the Committee is trying to find a middle ground whether it's $7500, $6500, or $8500. There are always changes in the world, like for the small guys in the '50s and '60s. Then in the '80s there was the oil boom and bust. There is going to be change always, and now is a time of change. He said that his mother said: "never leave anything undone." If it is, then the federal side is going to go back to wherever they came from and the Osage are going to have to stay here to face the music.

- An Osage representative to the Committee asked Mr. Lanny Woods whether he is unable to secure a bond at present. Mr. Woods responded that he currently has a bond for $50,000 but that the proposed regulations would require him to secure a bond for an additional $150,000, which would be taken out of operations. In response, the Committee member asked Mr. Woods whether he could secure a surety bond, which would not require his firm to put up the full amount itself. Mr. Woods responded that he had not explored this option. The Committee member said that he was not sure that he could offer a solution for operators who are not able to secure a surety bond.
- An Osage representative to the Committee, responding to the comment that operators may be willing to increase the required bonding amount from the current $5000 per quarter section to $7500 per quarter section, explained that this latter amount would not come close to raising sufficient funds for plugging the number of wells that need to be plugged. The Osage are currently under-covered.
- An Osage representative to the Committee said that a red flag for him was operators saying that "we can't get a bond in Osage County." The Committee member said that it seems like that may be because operations have not been sound in Osage County in the past. However, just because there have been problems in the past, that does not mean that the Committee should not take steps to fix them now. The Committee tried to make the provisions for getting a bond pretty broad and offered producers different ways of fulfilling the requirement. However, if a producer cannot get a bond, then he or she will not be able to operate in Osage County.
- Both Osage and federal representatives to the Committee, as well as staff, indicated that they would be open to having producers come together to create some sort of collective bonding entity that would presumably lower the cost of bonding for each producer by pooling risk. The regulations allow for flexibility on how producers satisfy the bonding requirements.
- An Osage representative to the Committee and a staff member to the Osage representatives explained that the nation-wide bond was removed, and that the bonding requirement was changed from per-lease to per-well, because plugging wells happens on a per-well basis and the cost of plugging wells is incurred per-well, not per-lease. The idea of a 20-well cap on the number of wells that need to be bonded is that

an operator is less likely to walk away if they have a large number of wells in operation. The nation-wide bond is a geographic bond, and not a per-well bond.

- Both Osage and federal representatives to the Committee expressed openness and support for introducing a provision that would address the issue of double-bonding and would ensure that bonds are released more promptly. Committee members noted that one of the reasons that it can be difficult to secure bonds for wells in Osage County is because it can be difficult to get bonds released and that addressing the latter would likely facilitate the former.
- Committee members and staff discussed, and clarified, that the draft regulations only require that an operator bond those wells for which he is liable. That is, wells that the operating is operating and those taken by assignment.

Committee Discussion

A federal representative to the Committee explained that there are not guidelines or parameters in federal law that constrain or direct bonding amounts. Rather, it just has to be a rational number and reflect risk.

An Osage representative to the Committee said that he would like to see a committee of the producers get together and see how they would propose solving the bonding issue. He added that he would also propose that a few producers sit in on Committee member Andrew Yates' plugging sub committee to discuss these issues. The Committee member noted that plugging a well can cost as little as $5000, or, on the other hand, one time the Osage had to build a 3-mile road to plug a well. He asked what the producers would like to see.

The Committee created draft language to address the issue of releasing a bond in §226.6(g). Committee members and staff discussed whether this sub clause would conflict with the regulatory provision requiring an operator to remove his or her equipment from the field within 90 days after the completion of operations and the Committee resolved that these clauses would not be in conflict because the Agency has 45 days after equipment is removed to release the bond. A BIA official said that, if the regulations give the Agency 45 days to release the bond, then the Agency will commit to meeting this timeframe. An Osage representative to the Committee pointed out that bonds would be for individual wells, not for the lease, and so the language in §226.6(g) should reflect that. The Committee agreed to work on this clause further and present a draft version at the next Reg-Neg meeting.

A staff member to the federal representatives to the Committee clarified that the OMC is an independent body, separate from the FACA Reg-Neg process, that is responsible for overseeing the mineral estate. The OMC is having meetings outside of this Committee to address issues

relating to the mineral estate. Those outside meetings may be referenced during the meetings of the Reg-Neg Committee, but unless members of this Committee bring up issues to this Committee as a whole, those outside meetings organized by the OMC do not control what is happening at Reg-Neg Committee meetings. Any suggestions from outside of this forum need to be formally brought to this Committee to consider.

Surface and Environmental Issues:

Committee Deliberation and Proposed Changes to Regulations
Committee members discussed proposed changes to the regulations from previous meetings:

- Committee members and staff discussed whether the fees charged per tank in §226.19(d) should be related to commencement of operations and whether the language of the proposed regulations should be revised accordingly. An Osage representative to the Committee said that the fees should not be related to commencement but rather should be paid whenever a tank is sited onto the lease site. The Committee also discussed whether a fee should be paid when the well pad is first constructed, as the tanks sit on the well pad. The Committee decided to retain the language of the clause as was proposed in the previous Committee meeting.
- Committee members and staff discussed whether the language of §226.27, concerning gas for operating purposes and tribal use, should be amended to address environmental safety concerns. Both federal and Osage Committee members stated that they do not have proposed amendments at this time.

An Osage representative to the Committee said that he does not know what the regulations say about restricted landowners, but that he would like to address this issue. He noted that Jim Bigheart fought against allotment in the early 1900s, even traveling to Washington DC to do so. The Committee member said that pipelines pass through the land of restricted landowners but they do not receive the money that is due to them for damages. A federal representative to the Committee responded that the Committee has not proposed any changes that would change the amount that a restricted landowner would get for damages. However, this issue is being discussed in the consultation process between the BIA and OMC to see if there are other changes that need to be made operationally.

A staff member to the federal representatives to the Committee stated that the Committee had received proposed red line changes to the regulations from the Osage County Cattlemen's Association (OCCA). The staff member noted that there are four sets of documents posted on the website with these proposed changes, displayed in different formats. The staff member also explained that the proposed revisions to the regulations had been distributed to the full

Committee, reviewed and discussed by the BIA, and reviewed by attorneys from the Solicitor's Office and the Bureau of Land Management within the Department of the Interior. The staff member explained that she had categorized the comments and would comment on these general categories:

- The staff member explained that the regulations in §226 are intended to focus on management and administration of oil and gas operations in Osage County. The global purpose and thinking of the regulations is that, if they are followed, they are intended to represent a good balance between diverse interests, including environmental concerns. These regulations are not, however, intended to be environmental regulations. Rather, there are other laws and regulations that focus on environmental regulations and these provisions also apply in Osage County. Many of the suggestions from OCCA incorporate concepts and provisions that are covered in other laws and regulations. For example, OCCA has proposed changes that would require operators to refrain from damaging habitat or air quality. Those sorts of amendments would be contrary to the purpose of §226 and could create different standards between the regulations and other applicable laws. If the regulations are followed, then those sorts of environmental purposes would be addressed because the regulations are intended to ensure that producers are not violating any other environmental laws.
- A second category of changes would add language that would, in essence, give the surface owner dominant rights over what could be done with the mineral estate. For example, OCCA has proposed language that makes actions by the lessee subject to approval by the surface owner. From the federal perspective, that sort of provision is a cause for concern because the mineral estate is the dominant estate and the federal government has a responsibility to make sure that the mineral estate can be developed to the benefit of Osage head right holders.
- A third category of changes is operational in nature and concerns things like linings, casings, etc. Many of these proposed changes appear to be in conflict with industry standards. These are of concern to the federal side because the industry standards are generally reasonable and by following these we can balance between diverse interests.
- A fourth category of proposed changes relates to giving surface owners notice when activity is taking place on their land. From the federal side, this concept is a good one and the federal side believes that surface owners should be give notice. Some of the language proposed by OCCA seems to be overly burdensome, but the federal side does have some proposed revision to address these concerns.
- The staff member to the federal representatives to the Committee also noted some discrete changes that OCCA proposed:
    - Removal of the 20-well cap on bonding.

- A prohibition of Osage head right holders from any role in enforcing the regulations while under employ of the BIA. The staff member explained that the federal side thinks that, at the Osage Agency, Osage tribal members are subject to Indian Preference, which was created to promote involvement by the Osage in management of their mineral estate. The staff member said that the federal side does not see this as a conflict of interest.
- OCCA expressed some concerns about emissions of hydrogen sulfide gas and the the federal side thinks that these concerns are understandable. The federal team is proposing adopting onshore order #6 and has some proposed language about when it applies and what needs to be done when it is applied.

The staff member to the federal representatives to the Committee described proposed amendments to the draft regulations designed to address some of the surface owners concerns.

- In order to better inform surface owners about lands that are leased for mineral development, federal representatives to the Committee propose to add the following text to §226.2(b): "Within 30 business days following approval of a lease, the Superintendent shall post at the Agency, a legal description of the Mineral Estate that was leased." As a result of this clause, surface owners could check the Superintendent's posting to find out what land has been leased. This would be a less burdensome way of meeting the interest expressed by OCCA of being informed when land is leased for minerals development.
- Additionally, to further address surface owners' concerns about notification before operations begin, the staff member proposed amending §226.18 to enhance the provisions for notification by: removing the exemption by which notice does not have to be given before surveying or staking a well, removing the specification that notification only has to be given to those who are residents in and are present in Osage County, and requiring that Lessees request the meeting in writing by certified mail and provide a copy of the letter to the Superintendent.
- The staff member proposed amending §226.18(e) to allow the Superintendent to authorize the lessee to proceed with development if the surface owner does not respond to the meeting request from the producer. Therefore, while §226.18 generally enhances the notification requirements that lessees must comply with, it does provide for them to proceed with development if the surface owner cannot be contacted.

An Osage representative to the Committee added that the Osage committee members also reviewed the suggestions from OCCA and consulted with the federal team on the proposed revisions and agree with the recommendations provided by the federal team. An Osage

representative to the Committee also noted that a producer pointed out to him that the BIA puts out a newsletter detailing lease signings, which would be an additional resource for surface owners, although there can be a lag of one or two years between when a lease is signed and when operational activity takes place on the lease. A federal representative to the Committee added that the Osage Agency produces an abstract when it sells a lease. An Osage representative to the Committee also said that, at present, all operators in Osage County are most likely already in compliance with the terms of Onshore Order #6, but that the Committee wants to add an explicit reference to that provision in the regulations.

Public Comments and Responses from the Committee

The Committee received the following public comments during this section of the meeting:

- Ron Snyder said: In the last five years, how much money has the OCCA put into the headright? [Mr. Schneider physically indicated "zero"]
- AC Box, Performance Operating, said: I would suggest that in 226.18(e), you put in a time limit by which the surface owner would have to get back to me. Suggest 30 days there, 30 days back.
- Cynthia Boone said: In §226.17(b): why did you change "Osage Tribe" to "Osage Mineral Estate"?
- Roy St. John said: I am speaking as a surface owner. Two or three statements made by Vanessa that I don't agree with. She says that the mineral estate is the dominant estate over the surface. What's the legal reference for that? You've also said that if you're not able to notify me, and if I'm out of town or not taking mail from producers, then you're authorizing Superintendent to act in my behalf. I have never authorized that. On onshore orders, I don't think that Osage County is in compliance with that. There's a property north of me where when I drive by, I smell H2S gas. I've reported to EPA but all they've done is put up signs saying "Danger."
- Jamie Sicking said: §226.2(b) says that, on day of sale, you have to pay and you get a cashier's check or have a wire transfer or a money order. Well, we're having auctions in Pawhuska and there's no prospect of getting a cashier's check if you don't have your bank in Pawhuska. The general question is, how would these regulations work in practice?
- Dennis Webb said: I want to address the hydrogen sulfide issue. I'm not a newcomer to Osage. I've been working on and off here since 1976. I was always impressed by the Osage retaining authority over their mineral estate. Some of the info that I've seen on the news in not in keeping with what we've found. We have 12 horizontal wells in Osage County in the Mississippian Lime. We have gone above and beyond any sort of regulations. We've been checked by BIA, DEQ, etc. and haven't had any adverse reports. We've had two private air quality studies done and no problems reported on them. We

have continual 24-hour H2S monitoring. What EPA calls the threshold limit is 10 ppm hydrogen sulfide; our personnel all have hydrogen sulfide monitors, and we have yet to have a monitor go off expect when we stick them into the tank to test them. We were working on a well the day before yesterday and we were producing one of the wells that produces hydrogen sulfide and fracking another one and we sat there for 24 hours with no adverse effects. I have no problem at all with the proposed regulations. When we looked over regulations and saw that there were no hydrogen sulfide regulations in place, we adopted on our own the Texas rules around this.

- Bob Jackman said: I want to comment on environmental issues and risks to fresh water. I acknowledge that OCCA put in proposed revisions. That whole subject of protecting fresh water falls under the authority of the Superintendent. So she should have necessary professionals to advise her on this. We have issues with fresh water contamination in Osage County. There should be extensive surveys to document current water quality. You need professionals to assist the Superintendent. Another issue: I have heard that, on a number of issues, that fees, etc. are being adjusted to reflect modern realities. You should show where you're getting your numbers. You should show where they're being used. One last note: I would suggest that the OMC, every 60 to 90 days, have informal meetings with operators and OCCA. Rotate chairman, have agendas. You're solving more problems in informal meetings than you are in these Reg-Neg meetings. I get back to Mr. Black on the necessity of having a Superintendent with qualifications and common business sense. I could give you a number of examples where worthy proposals were turned down because advisors to the Superintendent didn't have common business sense.
- Aaron Lawson, Lawco Explorations, said: On §226.19(b): what was the reason for raising commencement money from $300 to $2500? Our permit fee to permit a well will increase from $300 to $2500. If an operator isn't able to drill a well, for whatever reason, it would increase sunk cost to $2500. In addition, the real problem is that we're paying before the well is permitted. I would be fine paying before commencing operations, but the concern is that we're paying when the well is permitted.
- Jeff Henry, OCCA, said: I extend our appreciation for Committee for reviewing the proposed regulations that were submitted by OCCA. We did our very best in short time to write proposed regulations in legal language. We're here to create a working relationship with all of the people in this room, including the operators. There are good operators and bad operators. We need to get the regulations to level the playing field. One reason that we wrote environmental regulations so strongly is because EPA says they cannot come into Osage County. We would like to see the $500 fee per tank in §226.19(d) phrased as "no less than $500" or have it pegged to commencement fees. With regards to §226.2(b), if it's the intention of the Superintendent to post within their

own office, then that's not really notification. A list of landowners and their addresses can be accessed over the internet on an Osage County website, and it shouldn't be overly burdensome to send out a notice to these land owners.

- Ford Drummond said: I am a third generation cattleman. My father is in the back. We also have some oil production on the ranch. We aren't here to bash the oil business. I want to ask about something that Vanessa said: that these regulations aren't intended to address environmental issues, then that makes me wonder: who is supposed to address these? Who do we call when things happen on our land? With regards to the use of water, our request is that Oklahoma State Law cover water in Osage County just as it does everywhere else in the state. Finally, I want to respond to the producer that asked what contribution surface owners have made to the mineral estate: we have made our contributions through the discarded pipe, killed cattle, etc. that we have been dealing with for decades.
- Nona Roach said: I'm also a landowner in Osage County. I fully agree with what Ford just said. We have contributed to this through saltwater spills, oil spills, etc. On the surface side of regulations, there are about 8 proposed changes. 6 of those changes are clarifications (changing commencement money, or changing wording). So, essentially you aren't addressing our problems. You have a three-legged stool: landowners, producers, restricted Osage head right holders. When I call EPA, if it isn't an underground issue, then they don't want anything to do with it. DEQ doesn't have anything to do with it. And the Oklahoma Corporation Commission doesn't come into Osage County. I have contaminated wells on my property, and I'm sure that these have contaminated the groundwater. Our land has been in my husband's family since 1939. All we ask is that producers treat it like it's their own backyard. Don't throw your trash out and don't drive at 60 mph down the road. I understand that my land is subservient to mineral estate, but I ask that it be treated properly.
- Gene Bowline said: I am a third generation shareholder and landowner. When someone comes on my land, they get permission. So far, we aren't getting any respect. We're getting treated like second-class citizens. Two questions: why does Osage County not have to comply with the regulations in the rest of the state? What is BIA's plan to improve enforcement? Has anything been done? Why the lack of transparency?
- Bob Hamilton, surface owner with OCCA, said: I would like some clarification on §226.2(b): does "posting" mean just putting a piece of paper on a bulletin board in the Pawhuska office or does it also have to be posted online? Please try to drive things in the direction of easy accessibility.
- David Hayes said: I am a landowner in Osage County. About the first of August, I was introduced to the oil industry. I spoke to people who came to drill about safety and health issues. The tank battery is about 450 feet from my house. The winds from the

southeast just cover the house up. My wife had to be taken to ER for nausea and headaches. I have a handicapped daughter. One of her great accomplishments was to walk down to the barn. But then the oil company built a road between my house and the barn and she can't walk down there anymore. Yeah, we were compensated. But it's like 89 cents per day over the next 20 years. I don't like foreign oil. But drill in a manner that doesn't imprison people and doesn't endanger our health. We have seen an example of the attitude of oil companies towards landowners. I believe in "do unto others as you would have them do unto you." I was told by a landman that my daughter's issues are a personal issue and that he didn't really care.

Committee members and staff to the Committee made the following comments in response to public comments:

- A staff member to the federal representatives to the Committee explained that the change from "Osage Tribe" to "Osage Mineral Estate" in §226.17(b) was a technical change that does not change the meaning of the clause.
- A federal representative to the Committee responded that the Committee would be open to addressing the issue of needing to submit a cashier's check or have a wire transfer or a money order on the day of sale in §226.2(b) as that would present an undue burden. A staff member to the federal representatives to the Committee added that Treasury cannot release money from the lockbox for personal checks and business checks until they confirm the funds are available, which takes time and slows the process for issuing the lease and that, ideally, money should be sent directly to the lockbox. The Committee will explore language to address this issue and will present it at the next meeting.
- An Osage representative to the Committee explained that the Committee increased the required commencement fee from $300 to $2500 in §226.19(b) because $300 is a very small amount today and is an outdated amount. One issues that keeps coming up concerns access and the Committee thinks that increasing the commencement fee to $2500 would help mitigate this issue and is a fair amount that would be applied to future damages. The Committee member noted that the public comment asked about paying the commencement fee and then not producing. The Committee member stated that this would be a difficult issue for the Committee to address as the money goes to the surface owner as a down payment on damages and the surface owner is unlikely to return the money. Committee members agreed that this fee should be paid before beginning operations, not at the time of permitting, and that this operational issue would be resolved. In addition, the regulatory language would be clarified to reflect the intention that commencement money should be paid before commencing actual exploration and/or development.

- A staff member to the federal representatives to the Committee explained that the Committee updated dollar amounts that, in most cases, have not been updated in 20 years, by using an inflation calculator.
- An Osage representative to the Committee said that the commencement fee should be reduced from $2500 to $1500 as this is a reasonable compromise.
- A staff member to the federal representatives to the Committee noted that various comments concerned authority and jurisdiction on handling environmental issues in Osage County. The staff member explained that the intent of §226 is to have oil and gas operations run in a manner that does not cause undue harm to public health, safety and the environment. If a surface owner does find a spill, he or she can notify the BIA and the BIA can reach out to the operator and get the spill fixed. If there is a concern about death of livestock, as was raised in one of the comments, that is a damage claim that surface owner should take up with operator. In addition, the Committee is proposing various clauses to bring the Osage regulations into line with regulations in other places, such as the Onshore Order for hydrogen sulfide.
- An Osage representative to the Committee explained that, in Osage County, any surface spill is under the jurisdiction of BIA. Any spill that hits a waterway thereby enters the jurisdiction of the EPA under the Clean Water Act. The Committee member noted that the Safe Drinking Water Act and the Clean Air Act also apply in Osage County and that the EPA is exploring standards and measures under the Clean Air Act to further regulate emissions from oil and gas operations.
- A federal representative to the Committee noted that one of the operational changes that the BIA is implementing is the creation of a tracking system for complaints that tracks the progress of complaints.
- A BIA official added that the BIA is in the process of implementing the tracking system to deal with all complaints that come in, including spills, compliance, and operational issues. The Osage Agency is also developing a policy and procedures guide. The Bureau is committed to working with increasing transparency and ensuring that the Agency responds promptly to complaints. The official noted that he knows of specific instances in which the EPA has come out to respond to specific complaints about hydrogen sulfide emissions. The BIA will also be in touch with EPA as needed in the future. The official said that he is clearly hearing the complaints that the Osage Agency has been nonresponsive and is committed to ensuring that that changes and that the Agency works according to specific timeframes. He said that the Bureau is doing a lot of things outside of the Reg-Neg process to address people's operational concerns.
- A staff member to the Osage representatives to the Committee responded to the suggestion that the fee for tank placement in §226.19(d) either be linked to commencement fees or changed to read "not less than $500" per tank by noting that

this is only one of many charges that an operator would pay to a surface owner, including commencement fees and fees for other damages. As such, it would be excessive to say that the tank fee would escalate beyond $500.

- A staff member to the federal representatives to the Committee responded to comments calling for more active notification provisions at the time of lease sale under §226.2. She said that, it would be overly burdensome on the Agency to notify all surface owners who would be impacted through lease sales and that the surface owners will have the ability to find this information once it is posted by the Superintendent. While, at present, this posting will be a physical posting on paper, there have been operational discussions suggesting that the Agency may need to have a website, and this information would be posted there also if that were to be implemented. In addition, §226.18 does require that lessees send a letter to surface owners before commencing operations. An Osage representative to the Committee added that, since the Reg-Neg Committee began operating [the first meeting of the Committee was in August 2012], the OMC has leased over 70,000 acres and it would be a significant burden for the Agency to track down all of the surface owners who would be implicated by those leases. Hopefully, the relevant information will be put online soon. Finally, while the posting will happen when the lease is signed, operations could start years later and surface owners will receive a letter from the operator before operations begin.
- A staff member to the federal representatives to the Committee addressed the comment suggesting that lessees' use of water be governed by the same rules as in the rest of Oklahoma by saying that water is a very complicated issue and it involves various property rights. Not all water in Osage County is subject to state law; some is also subject to federal Indian water rights law. She said that while this Reg-Neg is not intended to opine on water, generally a dominant mineral estate is able to use not only surface water but also a limited amount of groundwater. The Committee will not be going beyond current regulations on this issue.
- A staff member to the federal representatives to the Committee explained that it is a matter of black letter law that the mineral estate is dominant to the surface estate. In this situation, in Osage County, the mineral estate is held in trust for the benefit of Osage head right holders. Therefore it is managed in trust by the federal government.
- An Osage representative to the Committee noted that a number of commenters raised concerns about hydrogen sulfide mention and said that he is thinking about what can be done. He stated that it is a waste gas that has to be burned and that producers still have to pay royalty on it, even though it is burned. The Committee member suggested the convening of some sort of forum or collaboration between producers and BIA about what can be done to get to the root cause of the issue. Hydrogen sulfide is a very dangerous chemical so some sort of meeting should be convened to look into this.

- A federal representative to the Committee responded to the suggestion to amend §226.18(e) to include a time commitment for the surface owner to respond to the lessee by agreeing with the suggestion and indicating that the Committee would adopt language accordingly. Another federal representative to the Committee suggested that the language be clarified to indicate whether the time within which a response is required would be 30 business days or 30 calendar days. The Committee adopted 30 calendar days.

Committee Discussion and Additional Amendments to the Draft Regulations

The Committee amended that language of §226.19(b) such that commencement money will be paid before exploration or development begins. The revised language reads as follows: "Before commencing actual exploration and/or development, Lessee shall pay or tender to the surface owner commencement money in the amount of $25 per seismic shot hole and commencement money in the amount of $2500 for each well, after which Lessee shall be entitled to immediate possession of the drilling site."

Additional Public Comment

The Committee received the following public comments during this section of the meeting:

- Kerry Sublette, University of Tulsa said: I'm very happy to hear from Mr. Black that you all are revising the BIA's policies and procedures. I hope that that includes environmental guidelines and policies. I hope that you would involve different stakeholders to get them invested in the outcome and also involve environmental professionals, as they would be happy to contribute to the discussion.
- Charles Wickstrom, Spyglass Energy, said: I want to comment on issue of 30-day written notice. It already requires a 90-day process to get a permit. So now we're moving to a 120-day process from time when you file to when you can commence operations.
- Bob Jackman said: On the NYMEX issue, here's some quick history on how we got to NYMEX issue. I have read both 55 page summary from court and 200 page court document. They list 5 breaches/problems. One of the problems that they list is the under collection of royalties. That isn't operators fault; that was BIA's fault. In order to patch that up, they're hitting up the operators. There's no question that royalties were under collected. The solution is to use the NYMEX, but have you visited any other mineral estates of the same size to see how they have prevented or cured this problem? What they do is have audit teams that constantly audit and monitor oil and gas producers. I spoke with Oklahoma Gas Commission office and they said that if they did as little auditing as the BIA does, then their prices would drift down. Another solution would be for the BIA is to ramp up professionalism instead of taking the NYMEX

approach. The court also found that there was chronic understaffing and a lack of highly-qualified professional capacity. What are your plans to correct this, Mr. Black?

- James Wise said: §226.13(b)(3) talks about the format that reports are filed in. I don't think that ASCII is a format for submitting data. On §226.15A(b): that seems overly broad. That seems like it should be more specifically defined. It seems that if you're the lessee and also own the land, it seems like anybody could come into your house and look into your computer without permission.
- Tara Righetti, BGI Resources, said: We have talked about pricing, so I will be brief. 6 years ago, prices were at $120, and the next year they were at $38. We have seen big price shifts. Maybe today, the difference between what operators receive and NYMEX doesn't seem that large, but if prices fall significantly, it's a much bigger difference on a percentage basis. The legacy of these regulations needs to persist over many cycles we will see over several decades. I'm sure that there is a pricing proxy that would work, but not sure that Committee has arrived at the best one. I don't think that there is bad faith on the part of the operators. Thank you guys for your consideration and for your work on how important these CFRs are for the future of Osage County
- AC Box, Performance Operating, said: As the Committee looks at different components, I ask Committee to keep in mind that, as they move from section to section and increase various prices, fees, penalties in different sections (commencement money, penalties, permitting fees, etc.). All of the little raises in the aggregate, lead to significant raises for producers. The best way for producers to increase profit margins is to reduce costs. This poses a challenge for producers. Ask that you keep the aggregate total in mind.
- Stephanie Erwin, Osage shareholder, said: Mr. Black, as you were talking about having policy and procedures in house, or are you going to put those in writing and publish those? Will you put those in writing?
- Charles Wickstrom, Spyglass Energy and Osage Producer Association, said: This morning we gave Vanessa a redline copy and thumb drive with redline of changes to proposed regulations. We worked on these with Matt Beavers at Devon Energy behalf of the Osage Producers Association. I want to talk about impact of these regulations, and specifically the $2500 commencement fee. There is no process to start the permit without the commencement money. So I recommend that we have a permit fee paid to the BIA and that would allow us to complete required regulatory compliance (e.g. archeological surveys) and go out and stake the location. In creating these regulations, let's please think about what has to be done to get the wells drilled. This whole process needs a lot more time and consideration. If given the proper amount of time and consideration, I think that we could come up with regulations with which everyone would be more satisfied.

- Matt Beavers, Devon Energy, said: We were hoping that we could discuss our proposed changes today. There are probably other aspects that we will touch on during this week and send you a revised version. W ask again that we prolong this process and bring the producers and surface owners to table with you guys so that we can come to fair middle points on many of these points. Don't know if there's a resolution that could be passed to prolong this process?
- Roy St. John said: I represent myself. First, I want to thank you all for listening to my ramblings. Hopefully you will consider what I have to say. On the bonding issue: producers have one side of the story. The other side I can see from where I live, which is abandoned wells. I'm not a producer and I just happen to live around it. There's a well north of my place that they drilled 10 years ago. They put a pump jack on it and put a pipe across it. They pumped it for maybe 6 months. Now, 8 or 10 years after they finished pumping, the pump jack is gone and some of the pipe is lying on the ground. Nothing has been done to clean up the site. I don't know much beyond hearsay and observation. I believe that there are producing wells on this lease, and so I think that the lease is still active. My feeling is that when a well goes out of production, we ought to know that and require cleanup at that time. That would solve part of this bonding problem. If there isn't a bond to protect the shareholders, it isn't going to get cleaned up. Ought to keep track of what wells are producing and once they aren't, the site should be cleaned up. I have also been involved with some property with mineral rights in Mississippi and Texas. In those place, for the producers to track down the mineral owner, it's a huge headache. It's a blessing for the producer not to have to do this in Osage County. You could remind them that this makes their job a lot easier in Osage County when they're asking for bond amounts to be reduced.
- Jamie Sicking, Halcon Resources, said: With regards to §226.43, the penalties section, I am hoping we could put something in there that gives some discretion to Superintendent, in addition to OMC, to reduce or remove penalties. I know that we have the right to appeal, but it would be easier to do so at the lower level. If we could add something like that, it would be great. I've heard several times as to why NYMEX pricing was brought into being, going from Midcontinent to OK and KS, to Osage. But, if you think about why they kept reducing the pool, it's to keep the pricing competitive here. We keep hearing about "protecting the mineral estate." If you keep going the way that you're going, the mineral estate will be protected, because there won't be any production. The BIA keeps trying to impose a one-size-fits-all solution because it's the cheapest solution to them. I got a flyer for a CLE in Houston, sponsored by the BLM, on how to fill out the paperwork that they're going to put on you. [Mr. Sicking reads from the flyer, and the course costs almost $1000]. This doesn't seem like the type of thing that small producers here want to get involved with.

- Greg Oliphant, Ceja Corporation, said: My grandfather was born in Pawhuska, and my great grandfather is an honorary chief for all of the work that he's done with the tribe. In my company, we go through processes like this all of the time, and sometimes we decide that the original language was fine. Just because these things are being discussed, doesn't mean that we need to adopt them. It sounds like there is some dissension among the Committee and the public, and so if there isn't consensus, maybe you should reconsider whether to adopt the new provisions or not. For example, with regards to NYMEX and penalties. Also, there's an elephant in the room around surface owners: they don't receive any royalties. So they have a particular perspective. There are some stories, like the story of the producer who built the road between the house and the barn, that just stick with you. Shame on that producer. We wouldn't do something like that. But that's one story and doesn't represent our whole industry. The Mississippian Lime is a big buzz, but it hasn't been proven. These are legacy properties and the low hanging fruit has been picked. So, in order to keep up production, we have to drill a lot of 10-barrel wells. It's really hard to do that. A lot of these regulations could have a significant impact on the economic life of those 5 barrel per day wells. I heard a suggestion that maybe a lower royalty rate could be good. I request that you consider the overall impact of the regulations. This is a partnership in which the producers pay the royalty for the estate.
- Bob Jackman said: I want to build on the topics that the previous two speakers brought up. I ask the Committee to consider a lower royalty rate for stripper wells. I would also request that you consider reentry to check out some of the abandoned wells to see if they have additional life using new technology. I ask you what would be a win-win program around some of these abandoned wells. Previously, we were flat turned down on a technicality when me and my associates proposed this. If we did this in partnership with the OMC, it could be a productive partnership. I made a strong statement yesterday that BIA was at fault for uncollected royalties. To elaborate: the BIA has a fiduciary responsibility to take care of mineral estate. A byproduct of that is that prices were suppressed, and as a result, NYMEX price is now being proposed. To elaborate: other mineral estates have accountants and auditors that do nothing but monitor operators. This is not the fault of the producers. It's like a mayor removing all of the police. The fault would lie with the Mayor, not with the criminals.
- Ray McClain, Osage shareholder, said: I've given a copy of this document to the Committee, and I'm hoping they can plug in some good info. Nobody here likes this bonding, I'm sure, but we need to have some protection and these messes have to be cleaned up. Mr. Fagan said yesterday, and I'm building on that: let's set up a revolving fund for plugging and remediating. The producers would fund this to the tune of two barrels per well per year. It's been said that there's 44,000 wells in the County. If you

take that figure, and $80 per barrel oil, that's $160 per year to put into the fund. If you take 2 barrels per well, that's $3.5M dollars per year. Mr. Yates said that 3 emergency plugging happened last year. You could plug X wells per year with this fund. Then you could take this money and plug the wells, instead of giving the money to the insurance companies, who are a bunch of thieves. Once the current wells have been plugged, then can reduce the amount to 1 barrel per well. And we can plug wells forever.

- Nona Roach, Agape and Associates, said: I asked about nationwide bonding and why you took that out and I didn't understand response that you gave. If the most that you're going to ask for is $200,000, and a nationwide bond is for $150,000, then why would you take that out? Especially since there are basically only 2 companies that I know of that will bond in Osage County today anyway. You're taking away a major option. Also, is this bonding requirement going to be retroactive on existing wells? When I started doing business in Osage County, I looked at the regulations and rulebook, and decided to invest. How can you, in the middle of the game, change the rules? All of our investors, other operators, etc., came here because of the rules that are in place and that the operations in Osage have changed. On the commencement money: while the regulations say "for the commencement of operations," operators are required to pay commencement money for permits. I've asked for the written policy for 37 years and I haven't gotten it. So you're talking about $2500 for a well that I might not drill. There isn't a landowner in Osage County who isn't going to give you money back if you don't drill the well.
- Paul Smith said: I am an heir of the mineral estate and the great grandson of Augustus Captain and Jane Applebee. As an allottee landowner and mineral estate heir and oil producer in Tulsa County, but not Osage County, I know that the decisions that are before you are difficult. It is my prayer that the great strength be with you, and you have our support. It is very different to write out rules that will work for everybody. I have done it for the State of Oklahoma. Because of that, I encourage you to take more time. We have new technology and my concern is for the longevity of the mineral estate. I have an orphaned lease that I live on. All of my family and friends say: "don't operate in the Osage, since you don't know what you're getting into." The large producers do bring economic value, but they'll leave when the big fruit is gone. It's the small producers that give the estate longevity. If you find that your rules and regulations have unintended consequences, it would be worthwhile to explore if there could be a provision for emergency action or expedited action, because there can be unforeseen consequences and unintended consequences. May the spirit be with you. I appreciate that you have volunteered to take on this issue. It's a thankless job to be a public servant. Bless you for doing this. One last comment: the prayer that we had before the meeting was beautiful and that it was spoken in our language.

- Roger Himstreet. I have lived here in Osage County since 1978. I came here since there were so many things that I wanted to take advantage of and be an independent producer. Seeing this opportunity to give input into this process, I want to talk about synergy. It's a corporate buzzword. The big guys are drilling horizontal and are doing great things. But the little guys have been here through thick and thin. The totality of the changes that you're proposing here will kill the little guys. Hope that you don't choke the goose that lays the golden egg.
- Aaron Lawson, Lawco, said: An editorial just came out in the Wall Street Journal just this week. It was comparing oil production on federal vs. private lands. Oil production has increased since 2007, however on federal lands, according to Congressional Research Study, oil production fell by 23% since 2010. Production on 2010 is lower than in 2007. I've heard that we're going with BLM regulations because these are "industry standards." Have you looked at Oklahoma Corporation Commission or Kansas Corporation Commission standards? I recommend to OMC that you slow this process down. I don't want to see the production in Osage County fall by 23%.

Committee members and staff to the Committee made the following comments in response to public comments:

- A BIA official said that the new policies and procedures for the Osage Agency would be published and publicly available. Responding to the comment suggesting that environmental professionals be invited to participate in revising the Bureau's rules, the BIA official clarified that he was not referring to changing regulations, which can only be changed through a formal rulemaking process. Instead, he was talking about how the Osage Agency operates internally, how it responds to complaints, and other things of that nature. Those changes will be in writing will the public can access them through the Freedom of Information Act (FOIA). The BIA will try to make these as public as possible. The BIA official also said that the Bureau will look into updating a field guide that was developed jointly by BIA and EPA in 1997.
- A BIA official, responding to comments about understaffing at the Agency, noted that he could spend hours talking about sequestration and said that the Bureau is faced with potential 5% budget cuts. He said that part of what the Committee is doing, is to think about how to deal with resource constraints while still effectively managing the mineral estate. The Bureau does acknowledge that the Osage Agency has resource constraints, and that is why the BIA is looking at partnering with BLM and ONRR so that Agency staff are better qualified and can work more effectively. He said that he hoped that these comments address the concerns of shareholders, surface owners, producers, and other stakeholders.

- A federal representative to the Committee, responding to the comment that waiting for the surface owner to respond would add 30 days to the current 90-day permitting process, said that the 30-day period would run concurrently with the permitting period. Additionally, the Bureau is working to reduce the wait-time for permitting from 90 days.
- A federal representative to the Committee said that, after looking into the concerns expressed about the ASCII format, this does appear to be the appropriate format for the purpose envisioned, as so no changes would be needed to this clause.
- A staff member to the federal representatives to the Committee said that, generally, the purpose of fines is to put every operator on notice of what the expectations are. It would create a significant burden on the Superintendent and OMC if operators were going to them every time a fine is levied. The idea is to promote strict compliance. There has been a provision built in for these to be appealed, and it would not make sense to have allow operators to appeal every fine to the Agency.
- An Osage representative to the Committee noted that some of the public comments intimated that the federal side was forcing the Osage to take on certain positions. The Osage representative clarified that most of the proposals have actually come from the Osage. The Osage have been using the government's expertise, and have consulted with them, but other than the legal aspect of how the Reg-Neg works, the Osage have not been prodded and pushed at all by the government.
- An Osage representative to the Committee clarified some of the comments made about well plugging. He explained that the Agency has a fund from forfeited bonds that currently holds a little above $200,000. The OMC took on the talk of plugging wells on non-working leases that become environmental hazards and tapped this fund only for these emergency plugging jobs. That does not take into account the many wells that are plugged by operators in their normal course of activity. The OMC only plugs a very small percentage of the total number of wells that are plugged.
- An Osage representative to the Committee thanked everybody who commented. He said that he heard many of the comments about proceeding carefully and the burden and responsibility that sits on the Committee and on the OMC, and that the Osage representatives appreciate that and are trying to be as careful as possible.
- An Osage representative to the Committee responded directly to one of the commenters and said that the commenter should be the first to know why the Committee is doubling the bonding for well plugging. The Committee member stated that he is the budget chairman for the OMC and that, in the four years that he has served on the Council, the commenter's company has plugged 4 wells for us. The cost of each of those pluggings was: $44,000, $20,000, $22,000, and $13,000. The Committee member said that the commenter should know exactly why the Committee is trying to increase bonding amounts. The current $5,000 bond simply does not cover the cost of

plugging wells. The Committee member also said that he does not know what the commenter meant by surface owners not drawing royalty payments, because a lot of surface owners do draw royalty payments as head right holders.

- An Osage representative to the Committee said that he does feel like he has been pushed. He expressed a wish to have more time to visit with producers, surface owners, and shareholders and wanting more time to talk to all of these people.
- A BIA official responded to the comments about the process and many commenters' desire for more time by noting that he has been involved in a number of Reg-Neg processes over 26 years and that he has never seen a process with this much public participation and the amount of consideration the comments have gotten. A lot of comments have gotten incorporated into the regulations. He said that the amount of public participation and the number of meetings has been much more extensive than any other process that he has seen.
- A federal representative to the Committee explained that his office is responsible for developing energy and mineral resources on Indian Trust lands nationwide. He continued by saying that if people look at the statistical database on the website of the Office of Natural Resources Revenue (ONRR), it is clear that oil production on Indian Trust lands tripled between 2008 and 2012. Those figures exclude Osage County. A BIA official added that many of the regulations that are being proposed by the Committee are in line with rest of Indian country and that those are the regulations that have been called "onerous" by some commenters.
- A federal representative to the Committee expressed his appreciation for his Osage partners on the Committee. He said that the primary reason that the Committee was convened is because the United States government was sued for not upholding its trust responsibilities. That settlement brought about the Osage Reg-Neg Committee to do its best to make sure that those trust responsibilities are not violated again. That is what any competent business would do: it would make the changes needed to make sure that it does not happen again. The Committee member noted that there have been a number of public comment interpreting the federal role. He said that the federal role is to provide the best product and services that the government can to the Osage, and at the very least, provide an equivalent to what it does for any other Indian tribe. He said that the Osage have driven the bus, and the federal Committee members have advised them on what the latter think would be helpful. The federal Committee members are doing the best that they can, understanding that both sides have limited resources. While the lawsuit was about past practices, there are still thousands of abandoned wells out there in Osage County. In part, that is because there were no spacing requirements in Osage County. So the Osage have proposed, to their credit, that bonding be done by

well. The federal government needs to ensure that it takes care of their mineral estate as best it can.

- A federal representative to the Committee said that he is one of the people who flew in, from Denver. He said that he spent half of his career in Oklahoma City, and that he had the opportunity to work with Indian landowners across Oklahoma during that time. He worked with the Osage then, and he is grateful to work with them now. The Committee member explained that he also serves on the Indian ONRR Reg-Neg and that, in eight months, that process had not had one public comment to date.
- A federal representative to the Committee responded to a comment made about a course that is being put on in Houston to help operators comply with BLM regulations. The course that the commenter was referring to is put on by a Foundation and they would be happy to take your money, said the Committee member. He explained that ONRR participates in explaining information, for free, in that course. He also explained that ONRR puts on courses for producers, and they are for free [that is, without charge]. The Committee member said that most of the decline in federal oil production has been offshore and that there are huge production increases occurring on Indian lands, for example in North Dakota and in Utah. The Committee member said that he spent some time in a meeting last summer discussing the likelihood for significantly increased production on the Navajo reservation. Every Indian tribe that receives royalties comes under ONRR, except for the Osage. And so the regulations that the Committee is proposing bring the Osage regulations into line with many aspects of the regulations that are in place for other tribes throughout the rest of the country. The Committee member concluded by saying that he has been very impressed by the Osage Committee members' openness to hearing suggestions both from the federal team's experience with other Indian lands and also from the public and for taking those perspectives into account.

Process Items and Next Steps

The facilitator and a staff member to the federal Committee members noted that some written comments and suggested revisions to the regulations were received from members of the public within the past 24 hours and that the Committee would review these suggestions before the next meeting and respond to the comments at that time. All written comments and suggested revisions to the regulations will also be posted to the Osage Reg-Neg website, which can be accessed at the following url: http://www.bia.gov/osageregneg/.

The facilitator and a staff member to the federal Committee members stated that the draft regulations that will be posted to the Osage Reg-Neg website after the current meeting [that is, after the March 13-14 meeting] will be the draft final version of the regulations that will be

reviewed and discussed at the final meeting. These draft final regulations will be titled "March 14 POST COMMITTEE DRAFT PROPOSED REVISED REGULATIONS" on the Osage Reg-Neg website.

The facilitator suggested that all comments be submitted by Monday, March 25 so that the Committee has sufficient time to consider them. While the public has the right to submit comments until the date of the final meeting, it would be more helpful to receive them earlier. In addition, it would be helpful to receive collective comments (e.g. from producers, surface owners) so that it would be easier for the Committee to consider.

At the April 2 meeting, that Committee hopefully will approve a draft of the regulations to submit to the Department of the Interior. A staff member to the federal representatives to the Committee explained that, once the Reg-Neg Committee has concluded its work, that is not the end of the process and that is not the end of the period in which the public can engage. Once the Committee sends its proposed rules to the Department of Interior (DOI), DOI will do internal review and then the revised proposed rules will be posted in the Federal Register, and then there will be at least a 30-day public comment period. After this public comment period, DOI will evaluate the public comments and see if there is reason and justification for making additional changes. DOI may make its own changes. All of those things will be considered internal to the Department and not subject to further consultation or public comment. Only then will the Department of the Interior publish a final rule that will be considered law.

Committee members discussed how long the review process would take at the Department of the Interior. While there is no fixed timeframe for this review, staff members and the facilitator noted that these regulations are a priority for the Department as revised regulations are required under the Settlement Agreement.

The next public meeting of the Osage Reg-Neg Committee will be held on April 2 at the Wah Zha Zhi Cultural Center in Pawhuska.

The meeting adjourned at 10:48 am on March 14, 2013.

Attachments

A. Attendance
B. Action Items
C. Materials Distributed to the Committee

Attachment A: Attendance

COMMITTEE MEMBERS

Last Name	First Name	Organization	Principle or Alternate	March 13	March 14
Abbott	Sonny	Osage Minerals Council	P	X	X
Crum	Galen	Osage Minerals Council	P	X	X
Yates	Andrew	Osage Minerals Council	P	X	X
Bear	Curtis	Osage Minerals Council	P	X	X
Core	Melvin	Osage Minerals Council	P	X	X
Red Eagle	Myron	Osage Minerals Council	A	X	X
Whitehorn	Dudley	Osage Minerals Council	A	X	X
LaCounte	Darryl	Department of Interior, Bureau of Indian Affairs, Deputy Regional Director-Trust Services, Rocky Mountain Regional Office	P	X	X
Stockbridge	James	Bureau of Land Management, Trust Liaison and ONRR Liaison	P	X	X
Tyler	Paul	Office of Natural Resources Revenue, Program Manager, State and Indian Coordination	P	X	X

AGENCY AND OTHER STAFF

Last Name	First Name	Title	Organization	March 13	March 14
Godfrey	Merrill	Legal Representative	Akin Gump, *for* Osage Minerals Council	X	X
Reineke	Dan	Consultant	Consultant *for* Osage Minerals Council	X	X
Mouton	Mitch	Minerals Revenue Specialist	Office of Natural Resource Revenue	X	X
Black	Mike	Director	Bureau of Indian Affairs	X	X
Ray-Hodge	Vanessa	Attorney for DOI	Department of Interior, Office of the Solicitor	X	X
Impson	Robert	Deputy Regional Director, Trust Services	Bureau of Indian Affairs	X	X
Streater	Eddie	Designated Federal Officer	Bureau of Indian Affairs	X	X
Loftin	Rhonda	Acting Superintendent	Osage Agency	X	X
Canady	Cammi	Realty Assistant	Osage Agency	X	X
Field	Patrick	Facilitator	Consensus Building Institute	X	X
Kansal	Tushar	Facilitator	Consensus Building Institute	X	X

MEMBERS OF THE PUBLIC

Last Name	First Name	Public Comment	March 13	March 14
Bashaw	Troy	No	X	
Beavers	Matt	Yes	X	X
Blue	Charles	No	X	
Boone	Cynthia	Yes	X	X
Bowline	Gene	Yes	X	
Box	Aaron	Yes	X	X
Brown	Mickey	No	X	
Brown	Patrcik	No	X	
Carpenter	Donald	No	X	
Carter	E. W.	No	X	X
Clemenshire	Chris	Yes	X	
Clemishire	Mark	No	X	
Collier	Denton	No	X	
Collier	H.R.	No	X	
Cox	Dewey	No	X	
Cox	Jerry	No	X	
DeLong	Stan	Yes	X	
Drummond	Ford	Yes	X	
Erwin	Stephanie	Yes	X	X
Fadem	Bruce	Yes	X	
Fadem	Lloyd	Yes	X	
Fouts	Verl	No	X	
Graham	Marcy	No	X	
Glenn	Betty	No		X
Glenn	Hoyt	No		X
Hayes	David	Yes	X	
Hamilton	Bob	Yes	X	
Hammons	Cristy	No	X	
Heskett	Linda	No	X	X
Henry	Jeff	Yes	X	X
Himstreet	Roger	Yes		X
Hudson	Rick	No	X	
Hurlburt	Charles	No	X	X
Jackman	Bob	Yes	X	X
Johnson	Mary L.	Yes	X	X
Kerbs	Daris	No	X	
Krehbiel-Burton	Lenzy	No	X	X
Lacy	Heather	No	X	X
Lawson	Aaron	Yes	X	X

Lester	Gary	No	X	
Lyon	Rob	No		X
Mahan	Janet	No	X	
Maker	John	No		X
Martin	Bobby	No	X	
Martin	Robert	No	X	
Matson	Shane	Yes	X	X
Maybee	Charles	No	X	
McClain	Ray	Yes	X	X
McIlvain	Joe	No	X	
Medico	James	No	X	
Mundy	Frank	No	X	
Oliphant	Greg	Yes	X	X
O'Toole	Dan	Yes	X	X
Parks	Joel	No	X	
Parks	John C	No	X	
Parks	John L	No	X	
Plummer	Robert	No	X	
Porter	Wayne	No	X	X
Red Eagle	Eddy	No	X	
Righetti	Tara	Yes	X	
Roach	Nona	Yes	X	X
Ross	Brian	No	X	
Rougeot	Jason	No	X	
Saxe	Susan	No	X	X
Schultheis	Aaron	No	X	
Scorsone	Mike	No	X	
Sell	Jake	No	X	
Shields	David	No	X	x
Short	Mark	No	X	X
Sicking	Jamie	Yes	X	X
Smith	Paul	Yes		X
Snyder	Ron	No	X	
Spess	Richard	No		X
Spurgeon	Chuck	No	X	X
St. John	Roy	Yes	X	X
Sublette	Kerry	Yes	X	
Thomas	Warren	No	X	X
Tucker	Tim	No	X	
Tucker	Rick	No	X	
Waller	Everett	No	X	X
Webb	Dennis	Yes	X	X

Whitewing	Joyce	No	X	X
Wickstrom	Charles	Yes	X	
Wilson	Clay	No	X	X
Wilson	Julie	No	X	X
Winlock	Richard	No	X	X
Wise	Daphne	No	X	
Wise	James	Yes	X	
Woods	Lanny	Yes	X	
Woodward	Steve	No	X	X
Yates	Corky	No	X	

Attachment B: Action Items

Task	From	Deadline
Arrange May 2 meeting location	OMC	Complete
Prepare meeting summary of March meeting	CBI	April 2
Produce draft regulatory language.	Subcommittees and staff	April 2
Post draft regulatory language for early review.	DOI/OMC	As early as possible before the April Meeting
Publicize meetings in advance via Federal Register and Osage Minerals website and other means	DOI	Complete
Organize next detailed meeting agenda	Co-Chairs	March 25
Send materials for public repository to OMC	BIA	Ongoing

Attachment C: Materials Distributed to the Committee

1. Final Agenda for Meeting #7 (March 2013 meeting).
2. Draft Meeting Summary from Meeting #6 (February 2013 meeting).
3. Proposed Revisions to Portions of 25 C.F.R. Part 226 – Discussion Draft March 2013