

United States Department of the Interior
Bureau of Indian Affairs
Eastern Oklahoma Region
Osage Agency



Osage County Oil and Gas
Scoping Summary Report

September 2016

BIA Mission Statement

The Bureau of Indian Affairs' mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives.

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ACRONYMS AND ABBREVIATIONS

Full Phrase

1906 Act	Osage Allotment Act of 1906
BIA	United States Department of the Interior, Bureau of Indian Affairs, Eastern Oklahoma Region
BLM	United States Department of the Interior, Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
EIS	Environmental Impact Statement
NEPA	National Environmental Policy Act of 1969
NOI	Notice of Intent
OKT	Oklahoma, Kansas, Texas
RMP	Resource Management Plan
ROD	Record of Decision

CHAPTER 1

INTRODUCTION

1.1 BACKGROUND

The United States Department of the Interior, Bureau of Indian Affairs, Eastern Oklahoma Region (BIA) is preparing an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA). The BIA will use the EIS to guide the management of oil and gas leasing of the Osage Mineral Estate in Osage County, Oklahoma. The EIS will replace the 1979 Environmental Assessment for the Oil and Gas Leasing Program of the Osage Indian Tribe (BIA 1979).

The EIS is intended to update the analysis of the impacts of the Osage oil and gas leasing program on both the surface lands and subsurface mineral estate within the planning area. It is also intended to promote the efficient and environmentally responsible development of oil and gas resources in Osage County.

1.2 PURPOSE OF AND NEED FOR THE BIA ACTION

The Osage Allotment Act of 1906 (“1906 Act”), as amended, reserved all rights to the subsurface mineral estate in Osage County, Oklahoma (“Osage Mineral Estate”) to the Osage. Pursuant to the 1906 Act, the Osage Mineral Estate is held in trust by the United States for the benefit of the Osage. All leases, applications for permits to drill, and other site-specific permit applications in Osage County are approved under the authority of the 1906 Act, as amended, and 25 (Code of Federal Regulations) CFR, Part 226, Leasing of Osage Reservation Lands for Oil and Gas Mining.

The BIA, under delegations of authority from the Secretary of the Interior, is responsible for administering the development of oil and gas resources in Osage County for the benefit of the Osage. The federal actions analyzed in the EIS, including the approval of leases and issuance of permits, are therefore needed in order for the BIA to fulfill a portion of its trust responsibility to the Osage and to promote development of the Osage Mineral Estate.

The purpose of the BIA’s action is to promote leasing and development of the Osage Mineral Estate in the best interest of the Osage pursuant to the 1906 Act, as amended, balancing resource conservation and maximization of oil and gas production in the long term. In addition, BIA is

required, under more generally applicable statutes, to include in the best interest calculation, protection of the environment in Osage County in order to enhance conservation of resources and protection of the health and safety of the Osage people. Based on those considerations, BIA's action will promote the maximization of oil and gas production from the Osage Mineral Estate in a manner that is economic, efficient, safe, prevents pollution, and is consistent with the mandates of federal law.

1.3 DESCRIPTION OF THE PLANNING AREA

Figure 1-1, Planning Area, represents the area subject to environmental analysis in the EIS. The planning area covers all of the subsurface mineral estate in Osage County, approximately 1,474,500 acres.

Osage County is in northeast Oklahoma, bordering Kansas. The BIA's Osage Agency manages all of the subsurface mineral estate in the county. **Table 1-1**, below, and **Figure 1-2**, Surface Administration, show the acreage in each type of surface ownership in the planning area.

Table 1-1
Planning Area Surface Ownership

Landowner/Surface Management Agency¹	Acres	Percent of Total
Allotted	121,500	8%
Private or other (not including The Nature Conservancy)	1,231,000	83%
State	14,500	1%
The Nature Conservancy	35,200	2%
Tribal ²	1,600	<1%
US Army Corps of Engineers (includes water)	70,700	5%
Total	1,474,500	100%

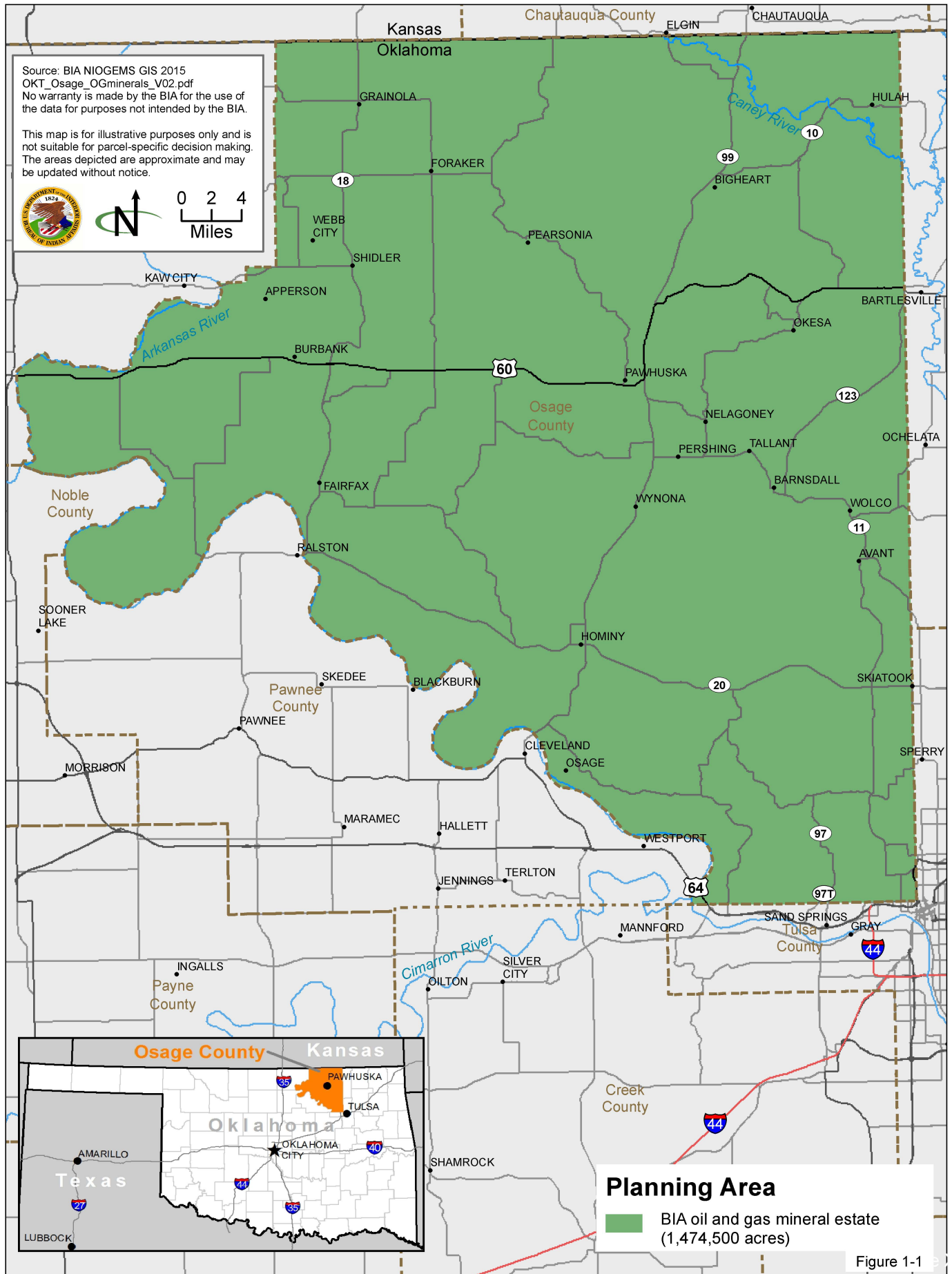
Sources: BIA NIOGEMS GIS 2015; OK GAP GIS 2008

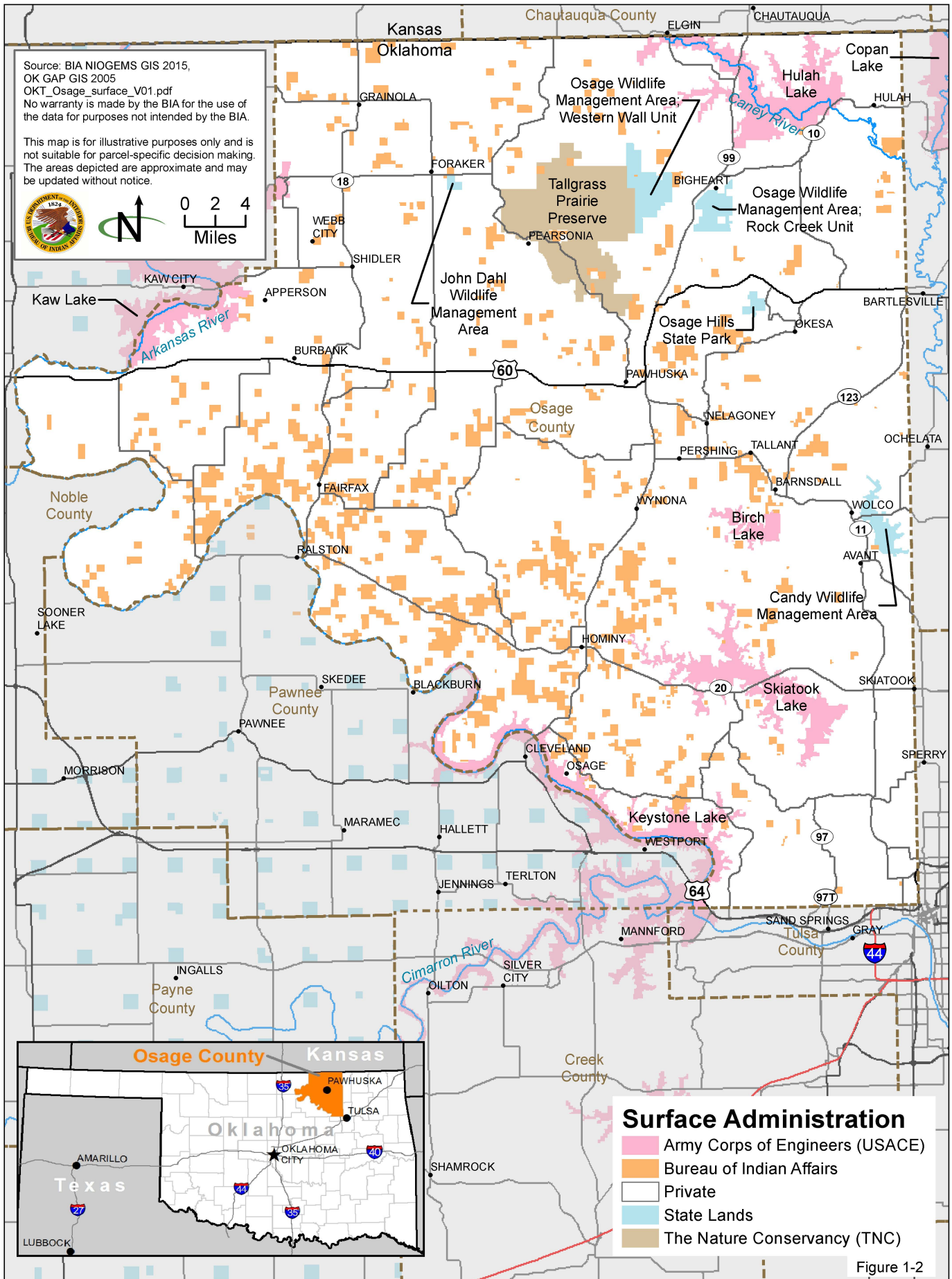
¹Land not identified as state, allotted, or tribal was assumed to be privately owned.

²Tribal acreage is likely larger than that shown. The Osage Nation is working to determine the correct acreage of tribal lands in the planning area based on the historic reservation boundaries.

1.4 OVERVIEW OF THE PUBLIC INVOLVEMENT PROCESS

Public involvement is a vital and legally required component of the EIS process. It vests the public in the decision-making process and allows for full environmental disclosure. Guidance for implementing public involvement under NEPA is codified in 40 CFR, Subpart 1506.6, thereby ensuring that federal agencies make a diligent effort to involve the public in the process. Citizens often have valuable information about places and resources that they value and the potential environmental, social, and economic effects that proposed federal actions may have on those places and resources (CEQ 2007).





Public involvement requirements of NEPA will be satisfied through the EIS process. BIA guidance for public participation related to federal actions that affect tribal lands or minerals held in trust or restricted status is found in Section 8.3 of the BIA's NEPA Guidebook, 59 Indian Affairs Manual 3-H (BIA 2012).

Public involvement for the Osage County Oil and Gas EIS effort includes:

- Public scoping and other outreach efforts requesting public comments to help determine the scope of issues and alternatives to be addressed (see **Section 1.5**, Description of the Scoping Process)
- Public outreach via newsletters, news releases, public meetings, and a project website (see **Sections 1.5.1** through **1.5.5**)
- Collaboration with federal, state, local, and tribal governments and cooperating agencies and entities (see **Section 1.6**)
- Public review of the Draft EIS
- Public review of the Final EIS

1.5 DESCRIPTION OF THE SCOPING PROCESS

Scoping, as required by 40 CFR 1501.7, is an early and open process for determining the issues to be addressed and identifying the significant issues related to a proposed action. Information collected during scoping may also be used to develop the alternatives to be addressed in a NEPA document. The BIA worked internally to identify issues, and also conducted external scoping.

Scoping is a public process designed to reach beyond the BIA. Its aim is to identify the concerns of high importance to the public. External scoping helps ensure the following:

- That issues are identified early and properly studied
- That issues of no concern do not consume time and effort
- That the proposed action and alternatives are balanced, thorough, and implementable

The BIA follows the public involvement requirements documented in Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1501.7 for scoping and Part 1506.6 for public involvement).

The BIA solicits comments from relevant agencies, federally recognized tribes, and the public; organizes and analyzes all comments received; and then distills them to identify issues that will be addressed during the planning process. These issues help define the scope of analysis for the EIS and are used to develop alternatives to the proposed action.

1.5.1 Public Scoping Periods

The BIA held two formal scoping periods to involve the public in identifying significant issues related to the agency's potential land use management actions. The first public scoping period was completed as part of the Oklahoma, Kansas, Texas (OKT) Joint EIS/US Department of the Interior, Bureau of Land Management (BLM) Resource Management Plan (RMP) and BIA Integrated RMP

scoping period. The first scoping period began on July 26, 2013, with the publication of a Notice of Intent (NOI) in the *Federal Register* and concluded on January 31, 2014. Osage County is in the planning area for the OKT Joint EIS/BLM RMP and BIA Integrated RMP. The subject of the Osage County Oil and Gas EIS—oil and gas development in Osage County—was part of the OKT Joint EIS/BLM RMP and BIA Integrated RMP scoping. The scoping period included 17 public meetings, one of which took place in Pawhuska, Oklahoma, at the Pawhuska City Library on January 15, 2014. The results of this scoping effort can be found in the Oklahoma Field Office, Resource Management Plan Revision and Environmental Impact Statement, Final Scoping Summary Report (BLM and BIA 2014).

After the public comment period for a Draft EIS that was released in November 2015, the BIA determined that the Draft EIS should be revised in order to address comments received and to take into consideration additional information. To help accomplish this, the BIA initiated a second public scoping period. This scoping period began on April 11, 2016, with the publication of a NOI in the *Federal Register* and concluded on May 8, 2016. As part of this second scoping period, the BIA hosted a public scoping meeting in Pawhuska, Oklahoma, from 3:00-6:00 p.m. at the Wah-Zha-Zhi Cultural Center on April 28, 2016. This scoping report relays the results of this second scoping period.

1.5.2 Newsletter and Mailing List

To date, the BIA has released three newsletters pertaining to the Osage County Oil and Gas EIS. A newsletter specific to this scoping effort was emailed to individuals on the mailing list on April 19, 2016.

The BIA has compiled a mailing list that includes individuals who attend public meetings, those who request to be on the mailing list, and relevant agencies and organizations, including those that were contacted for possible cooperating agency status. Requests to be added to or to remain on the mailing list will continue to be accepted throughout the EIS process.

1.5.3 Newspaper Advertisements

For the second formal scoping period, a newspaper advertisement was published in four local newspapers in April prior to the public scoping meeting. **Table 1-2**, Newspaper Advertisement Publication Dates and Location, displays the date each newspaper published the advertisement. An example newspaper advertisement is included in **Appendix A**, Scoping Materials (item 3).

Table 1-2
Newspaper Advertisement Publication Dates and Location

Newspaper	Location	Date(s) Advertisement Appeared
Tulsa World	Tulsa, Oklahoma	April 9, 2016
Hominy News-Progress	Hominy, Oklahoma	April 13, 2016
Pawhuska Journal-Capital	Pawhuska, Oklahoma	April 13, 2016 April 20, 2016 April 27, 2016
Skiatook Journal	Skiatook, Oklahoma	April 20, 2016

During the first formal scoping period, a newspaper advertisement was published in 17 local newspapers in November and December 2013 and January 2014 prior to the public scoping meetings associated with that scoping period.

1.5.4 Project Website

The BIA maintains an interactive website to provide the public with the latest information about the EIS process. The website (<http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>) provides background information about the project, a public comment card, information on involvement opportunities, and copies of public documents, such as the Notice of Intent (NOI) and newsletter.

The BIA also created a project email address (osagecountyoilandgaseis@bia.gov) for the public to use to offer comments and to subscribe to the project mailing list referenced in **Section 1.5.2**, Newsletter and Mailing List.

1.5.5 Notice of Intent

The NOI notifies the public of an agency's intent to prepare an EIS for a major federal action and invites the affected and interested agencies, organizations, and the general public to participate in the determination as to the scope of the EIS and identification of significant issues to be addressed therein. The NOI for this revised EIS was published on April 11, 2016 (*Federal Register* Vol. 81, No. 69, April 11, 2016).

All comments received on or before May 8, 2016, are included in this scoping report. The BIA will consider all comments received during the planning process, both before the publication of the NOI and after the end of the official scoping comment period, during alternatives formulation and project planning. However, comments received outside of public comment periods may not appear in comment summaries or be included as part of the EIS. A link to the NOI is posted on the project website (**Section 1.5.3**, Project Website) and it is also included in **Appendix A**, Scoping Materials (item 1).

1.6 COLLABORATIVE INVOLVEMENT PROCESS

In addition to formal scoping, the BIA has implemented a collaborative outreach and public involvement process. As part of this process, the BIA will work closely with cooperating agencies. The BIA will coordinate with interested agencies and organizations throughout the planning process.

1.6.1 Cooperating Agency Coordination

A cooperating agency is any federal, state, or local government agency or Indian tribe that has jurisdiction by law or special expertise and enters into a formal agreement with the lead federal agency to help develop an environmental analysis. The benefits of enhanced collaboration among agencies in preparing NEPA analyses are as follows:

- Disclosing relevant information early in the analytical process
- Obtaining relevant information, including social conditions, from local communities
- Applying available technical expertise and staff support

- Avoiding duplication with other federal, state, tribal, and local procedures
- Establishing a mechanism for addressing intergovernmental issues

In March 2014, the BLM and BIA wrote to all appropriate local, state, federal, and tribal representatives, inviting them to participate as cooperating agencies and entities for the OKT Joint EIS/BLM RMP and BIA Integrated RMP. At the time these invitations were sent, oil and gas leasing and development in Osage County was within the scope of the OKT Joint EIS/BLM RMP and BIA Integrated RMP.

After deciding to separate and accelerate the Osage County Oil and Gas EIS, the BIA sent separate written invitations to eligible federal agencies, state and local governments, the Osage Nation, and the Osage Minerals Council to participate as cooperating agencies and entities during the development of the EIS. These invitations were sent on January 2, 2015. After the initiation of the second public scoping period, the BIA again reached out to eligible agencies to participate as cooperating agencies. At the time that this scoping report was prepared, those who accepted cooperating agency or entity status for this EIS are the following:

- Environmental Protection Agency Region 6
- Osage Nation
- Osage Minerals Council
- United States Geological Survey

The BIA will engage cooperating agencies during the EIS process.

1.6.2 Collaboration and Consultation with Tribes

The BIA sent the Osage Nation a written invitation on January 2, 2015 to participate in the EIS on a government-to-government basis. They were invited to participate on a variety of issues related to the EIS, including mineral development and cultural concerns. The BIA attended the following meetings with the Osage Nation and Osage Minerals Council in the spirit of government-to-government consultation:

- November 18, 2014 with the Osage Nation and Osage Minerals Council (introductory consultation meeting for the project)
- November 19, 2014 with the Osage Minerals Council (introduction to project)
- May 5, 2015 with the Osage Minerals Council (discussion of Preliminary Draft Chapter 2, Alternatives)
- May 12, 2015 with the Osage Minerals Council (government-to-government consultation)
- September 24, 2015 with the Osage Nation (cooperating agency meeting to discuss Preliminary Draft EIS)
- January 12, 2016 with the Osage Nation (review of the Draft Biological Assessment)

The Osage Nation and Osage Minerals Council were also invited to attend all public meetings. As noted above, the Osage Nation and the Osage Minerals Council are also cooperating agencies in the preparation of this EIS.

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CHAPTER 2

COMMENT SUMMARY

2.1 METHOD OF COMMENT COLLECTION AND ANALYSIS

All written submissions received during the second formal scoping period, which ended on May 8, 2016, were evaluated and are documented in this scoping summary report. All comments received during the EIS process will be considered in alternative formulation and project planning. While all comments received outside of the formal scoping period will be considered in alternatives formulation, they may not receive a written response and may not be included as part of the EIS.

There were 15 speakers at the public scoping meeting and 16 written submissions, for a total of 31 submissions resulting in 215 discrete comments. Most comments were submitted via e-mail or verbally at the public scoping meeting. One submission was sent via the United States Postal Service, but this submission was also submitted via email.

To assist with the analysis, the BIA entered comments into the public input and comment tracking database. Staff then organized comments by issue categories and commenter affiliation. Finally, these identifiers were queried and tallied to provide information on planning and other issue categories. Details of comments received by issue are in **Section 2.2.3**, Number of Comments by Issue Category.

2.2 SUMMARY OF PUBLIC COMMENTS RECEIVED

2.2.1 Commenters by Affiliation

The number and proportion of commenters, both written and spoken at the public meeting, received from each type of affiliation are shown in **Table 2-1**, Commenters by Affiliation. Letters on business, agency, or organization letterhead, or where commenters signed using their official agency title, were considered to represent that organization. All other letters were considered to represent individuals. Members of the general public provided 26 percent of the total comments received during the scoping period. Most submissions from commenters (39 percent) were from businesses. A list of commenters and their affiliations is in **Appendix C**, List of Commenters.

**Table 2-1
Commenters by Affiliation**

Affiliation	Number of Commenters	Percentage of Total Commenters
Tribal Government	4	18%
Federal Government	0	0%
State Government	2	9%
Local Government	0	0%
Elected Official	1	4%
Businesses	9	39%
Educational Organizations	0	0%
Other Organizations/Nonprofits	1	4%
Individuals	6	26%
Anonymous	0	0%
Total Commenters	23	100

2.2.2 Commenters by Geographical Area

The number and proportion of commenters, both written and spoken at the public meeting, received by the geographic location of the sender are shown in **Table 2-2**, Commenters by Geographic Area. For many commenters, only an email address was included as a form of contact and therefore their geographic location is unknown.

**Table 2-2
Commenters by Geographic Area**

Location	Number of Commenters	Percentage of Total Commenters
Within Osage County	4	17%
Within Oklahoma	4	17%
Outside of Oklahoma	2	9%
Unknown	13	57%
Total Commenters	23	100

2.2.3 Number of Comments by Process Category

Table 2-3, Comments by Process Category, shows the number of issues raised that will or will not be addressed in the EIS. Of the 215 comments received, 80 (37 percent) were related to an issue that will be addressed in the EIS. These comments are discussed in detail below and in **Section 3**. In addition, 126 comments (59 percent) were related to issues that will be addressed in the EIS but do not fall within a specific resource or resource use issue category. These comments included comments on the NEPA process, alternative proposals, purpose and need, government-to-government consultation, cooperating agency requests, and general project-related comments. The remaining 4 comments (2 percent) were issues beyond the scope of the EIS including interim management of oil and gas leasing prior to the EIS being completed and the current permitting process.

**Table 2-3
Comments by Process Category**

Process Category Code	Number of Comments	Percent of Comments
Resource or Resource Use Issues	80	37%
Other Issues	126	59%
NEPA	113	53%
<i>NEPA Process</i>	45	21%
<i>Alternative Proposals</i>	63	30%
<i>Purpose and Need</i>	5	2%
Government-to-Government Consultation	6	3%
Cooperating Agency Requests	7	3%
General	5	2%
Beyond the scope of the EIS	4	2%
Total	215	100

2.2.4 Number of Comments by Issue Category

Table 2-4, Comments by Issue Category, shows the number and proportion of comments received by issue category. The BIA received 80 issue comments and categorized them into the 6 issue categories. Several comments were categorized under multiple issue categories. **Chapter 3**, Issue Summary, provides a detailed analysis of the comments received for each issue category and subcategory.

**Table 2-4
Comments by Issue Category**

Issue Category	Number of Comments	Percent of Comments
Issue 1. Natural resources and human health	40	50%
Issue 2. Socioeconomics	16	20%
Issue 3. Water resources	14	18%
Issue 4. Roads and noise	3	4%
Issue 5. Seismicity	3	4%
Issue 6. Surface landowners	2	3%
Total¹	80	100

¹ Note that the number of comments does not total correctly due to several comments being categorized under multiple issue categories

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CHAPTER 3

ISSUE SUMMARY

3.1 ISSUE DEVELOPMENT

The CEQ regulations for implementing the NEPA require a process, referred to as “scoping,” for determining the range of issues to be addressed during the environmental review of a Proposed Action (25 CFR 1501.7). The scoping process entails a determination of issues by soliciting comments from agencies, organizations, and individuals. The second NOI comment period for the Osage County Oil and Gas EIS began on April 11, 2016, and closed on May 8, 2016. The issues that were raised during that NOI comment period have been summarized within this scoping report.

The following section lists each of the major issue areas raised by members of the public or government agencies in the scoping process. Specific issues and questions are discussed in each section and will be further addressed in the EIS. Additional issues not specifically raised during public scoping but which the BIA intends to address in the EIS also are discussed in **Section 3.3.6, Other Issues to Be Addressed in the EIS**. General comments, concerns, and questions not falling within one of the major issue areas below, or topics that do not fall within the scope of the EIS, are discussed in **Section 3.4, Issues That Will Not Be Addressed in the EIS**.

Substantive comments received during this scoping period appear in **Appendix D**. A transcript of the public scoping meeting held at the Wah-Zha-Zhi Cultural Center in Pawhuska, Oklahoma on April 28, 2016 is provided in **Appendix B**.

3.2 ISSUE STATEMENTS

An issue is a conflict or dispute over resource management activities, allocations, or land use. It is well defined and deals with only one topic. A number of alternatives can be developed to address an issue.

The issue statements presented below are preliminary and are based on the best information gathered to date. These issues will be addressed through the EIS. The process of developing this EIS will afford many opportunities for collaboration with local, state, federal, and tribal governments; with land-management agencies; and with public interest groups and BIA land

users. As a result, the issues and concerns could be modified, new issues could be added, and others could be deleted in the next phase of the EIS process (i.e., development of the Draft EIS).

Issue 1: What are the impacts on visual and aesthetic resources, vegetation, soils, rangeland, livestock operations, fish and wildlife, special status species, human health and property, air quality, and climate change from oil and gas development and how can these impacts be avoided?

The BIA received 40 comments (50 percent of the issue comments) on impacts of oil and gas development on other resources in the planning area. Several commenters noted the work that the Oklahoma Energy Resource Board has done to clean up sites in Osage County. Other commenters stated the oil and gas industry is negatively affecting the environment and suggested resource conservation measures to reduce impacts on livestock, air quality, fish and wildlife, public health, vegetation, soil, fish and wildlife, and special status species. Commenters were concerned about the following:

- Air quality and odor impacts from illegal/improper venting, open flaring/combustion and emissions of hydrogen sulfide, methane, sulfur dioxide, carbon monoxide, carbon dioxide and other gaseous emissions from other oil and gas infrastructure
- Impacts on National Ambient Air Quality Standards
- Impacts on wildlife, including big game and migratory birds
- Grass fires causing damage to oil and gas infrastructure
- Impacts on public health from past and future oil and gas activities
- Impacts on special status species such as greater prairie chicken, American burying beetle, Sprague's pipit, whooping crane, and upland sandpiper
- Contamination and sterilization of soil and rangeland
- Impacts on visual and aesthetic resources caused by oil and gas infrastructure

Issue 2: How can the BIA promote economic development in Osage County while protecting the human and natural environment?

The BIA received 16 comments (20 percent of the issue comments) related to socioeconomic concerns. Commenters suggested resource conservation measures to reduce impacts. Some of these commenters expressed concern over how the oil and gas industry could be impacted by stipulations placed on oil and gas activities. Commenters were concerned about the following:

- The economics of oil drilling being different in Osage County than in other areas
- Impacts on the economics of cattle production, bison production, and BLM wild horse refuges
- Reduction in property values due to damage caused by oil and gas development
- Economic impacts related to environmental degradation

- Lost investment opportunities and gas royalty loss due to a reduction in permits issued

Issue 3: What are the current and anticipated impacts on ground and surface water and water quantity from oil and gas development? How can these impacts be avoided?

The BIA received 14 comments (18 percent of the issue comments) on impacts of oil and gas development on water resources in the planning area. Several commenters questioned resource conservation measures from the previous Draft EIS while others suggested new measures that should be included to reduce impacts. In particular, commenters expressed concern about the following:

- Groundwater and surface water contamination from existing and new wells
- The estimated amount of water foreseeably needed for future drilling
- Groundwater drawdown
- Intrusions of produced saltwater into freshwater aquifers

Issue 4: What measures are necessary to avoid impacts from roads and noise associated with oil and gas development?

The BIA received 3 comments (4 percent of the issue comments) on impacts of roads and noise associated with oil and gas development in the planning area. These comments stated that certain restrictions on roads and noise were not necessary to include in the EIS, as operators already have measures in place to reduce impacts.

Issue 5: What are the potential impacts on seismicity from oil and gas development and how can these impacts be avoided?

The BIA received 3 comments (4 percent of the issue comments) on the potential for induced seismicity caused by injection of produced water. Two commenters questioned whether available data had been reviewed by the BIA. The third comment encouraged the BIA to determine whether to impose limits on the use of salt water disposal wells in Osage County or to eliminate leasing and drilling due to the possible risk of earthquakes.

Issue 6: How can the BIA better promote oil and gas development in the Osage mineral reserve while also ensuring that BIA-authorized activities avoid or minimize adverse impacts on surface landowners?

The BIA received 2 comments (3 percent of the issue comments) regarding concerns about private property rights. One stated that surface estates have long been impacted by oil and gas development. The other comment argued that mineral owners and producers do not have any special obligations to surface owners.

Issue 7: How can the BIA promote oil and gas development while also ensuring that BIA-authorized activities avoid or minimize adverse impacts on cultural resources?

The BIA did not receive any comments on impacts of oil and gas development on cultural resources in the planning area. However, this has been identified internally as an issue that will be addressed in the EIS.

3.2.1 Other Issues to Be Addressed in the EIS

Several other issues will be addressed in the EIS, but they do not fit in any particular issue category, including comments on the NEPA process, alternative proposals, purpose and need, government-to-government consultation, cooperating agency requests, and general project-related comments (see **Table 2-3**). Comments are displayed in **Appendix D**, Comments by Process Category and Issue.

Other comments included the following:

- Suggestions to improve the NEPA process
- Management and resource conservation measures that the BIA should consider in the alternatives, including measures from the first Draft EIS
- Questions as to the purpose and need for this effort
- Requests for government-to-government consultation with the Osage Minerals Council
- Requests for agencies or organizations to participate as cooperating agencies

3.3 ISSUES THAT WILL NOT BE ADDRESSED IN THE EIS

Approximately 2 percent of the comments were beyond the scope of the Osage County Oil and Gas EIS. Refer to **Appendix D, Table D-1**, Issues Beyond the Scope of the EIS. The following are examples of issues that will not be addressed in the EIS:

- BIA staffing or enforcement of proposed stipulations or mitigation measures
- Adequacy of the 1979 Environmental Assessment for the Oil and Gas Leasing Program of the Osage Indian Tribe (BIA 1979)
- Interim management of oil and gas leasing prior to completion of this EIS

3.4 DECISIONS TO BE MADE

This scoping report does not make any decisions, nor does it change current management. Instead it summarizes those issues identified during the scoping period. The BIA will use issues summarized in this scoping report, along with subsequently identified issues and other information to help formulate a reasonable range of alternatives for management of oil and gas in Osage County, which will be documented in an EIS as required under NEPA.

CHAPTER 4

DATA SUMMARY AND DATA GAPS

As part of the planning, evaluation, and data-collection process, the BIA has inventoried available information and has identified data needs. All relevant data and background information collected to date will be utilized in the development of the EIS. The following additional supplemental information will be included as appropriate:

- Updated reports and studies. State, federal, tribal, or local data sets utilized for analysis in the EIS will be updated as appropriate to include the most recently available data. Any newly released studies or reports relevant to analysis will also be included.
- Specific studies or reports recommended for inclusion in the EIS in public comments. Reports will be reviewed and included as appropriate.
- Resource development scenario, including an analysis of the remaining reserves for each oil and gas field in Osage County, an estimate of the possible development locations that could be drilled, a report of historic drilling activity, and an estimate of future drilling activity.

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CHAPTER 5

FUTURE STEPS

5.1 FUTURE STEPS AND PUBLIC PARTICIPATION OPPORTUNITIES

The next phase of the BIA's EIS process is to develop draft alternatives based on the issues presented in **Section 3.2**, Issue Statements. These alternatives will address issues identified during scoping and will meet goals and objectives to be developed by the BIA interdisciplinary team. In compliance with NEPA, CEQ regulations, and BIA planning regulations and guidance, alternatives should be reasonable and capable of implementation.

An analysis of the alternatives will be documented in a Draft EIS. The BIA may also identify a preferred alternative in a Draft EIS. The preferred alternative, if identified, may be comprised of a combination of components from various other alternatives to best address the issues. The draft document, anticipated to be published in 2017, will be widely distributed to elected officials, regulatory agencies, and members of the public, and it will be available on the project website (**Section 1.5.3**, Project Website). The availability of the draft document will be announced via a Notice of Availability in the *Federal Register*, and a 45-day public comment period will follow. Public meetings will be held in the planning area during the 45-day comment period.

At the conclusion of the public comment period, the BIA will review and analyze public comments and determine what changes need to be made to the document. The BIA will then revise the Draft EIS and prepare a Final EIS. The Final EIS will then be published and the availability of the document will be announced in the *Federal Register*. The date the notice appears in the *Federal Register* initiates the required minimum 30-day availability period. Although this is not a formal public comment period, the BIA may receive comments. If there are comments on the Final EIS, the BIA will determine if they have merit (for example, if the comments identify significant new circumstances or information relevant to environmental concerns and bear upon the proposed action, or if the comments note a correction to be addressed). Any comments received may be addressed in the Record of Decision (ROD).

The BIA will prepare the ROD to document the selected alternative and any accompanying mitigation measures. No action concerning the proposal may be taken until the ROD has been issued, except under conditions specified in CEQ regulations 40 CFR 1506.1.

All publications, including this report, newsletters, the Draft EIS, Final EIS, ROD, and the Notices of Availability of the Draft EIS, Final EIS, and the ROD, will be published on the project website (**Section 1.5.3**, Project Website). In addition, pertinent dates regarding solicitation of public comments will be published on the website.

5.2 CONTACT INFORMATION

The public is invited and encouraged to participate throughout the environmental analysis process for the Osage County Oil and Gas EIS.

5.2.1 Contacts

Anyone wishing to be added to or removed from the distribution list, wishing to change their contact information, or requesting further information may send a request to osagecountyoilandgaseis@bia.gov or mail a request to:

Jeannine Hale
BIA Eastern Oklahoma Regional Office
PO Box 8002
Muskogee, OK 74402-8002

Please provide your name, mailing address, and e-mail address, as well as the preferred method to receive information. Before submitting written comments regarding a NEPA action, be advised that your entire comment – including personally identifiable information (such as your address, phone number, and e-mail address) – may be made publicly available at any time. While you can request that your personally identifiable information be withheld from public review, we cannot guarantee that we will be able to do so.

5.2.2 Scoping Team

This scoping report was prepared by the BIA, with assistance from Environmental Management and Planning Solutions, Inc. (EMPSi). **Table 5-1**, Agency and EMPSi Scoping Team, shows the primary BIA and EMPSi staff who attended scoping meetings and contributed to this report.

Table 5-1
Agency and EMPSi Scoping Team

Name	Company
Eddie Streater	BIA
Jeannine Hale	BIA
Robin Phillips	BIA
Richard Winlock	BIA
Benjamin Daniels	BIA
Michael Miley	BIA
Shelby Hanchera	BIA
Stephen Simpson	Solicitor
Chuck Babst	Solicitor
Kristen Kokinos	Solicitor
Katie Patterson	EMPSi
Molly McCarter	EMPSi

Table 5-1
Agency and EMPSi Scoping Team

Name	Company
Meredith Zaccherio	EMPSi
Alex Finch	EMPSi

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CHAPTER 6

REFERENCES

- BIA (US Department of the Interior, Bureau of Indian Affairs). 1979. Environmental Assessment for the Oil and Gas Leasing Program of the Osage Indian Tribe, Osage County, Oklahoma. Muskogee Area Office. Muskogee, Oklahoma. May 1979.
- _____. 2012. 59 Indian Affairs Manual 3-H—Indian Affairs NEPA Guidebook. BIA, Division of Environmental and Cultural Resources Management, Reston, VA. August 2012. 444 pp.
- BIA NIOGEMS GIS. 2015. GIS data of BIA-administered tribal and allotted lands. Bureau of Indian Affairs, Southern Plains and Eastern Oklahoma Regions.
- BLM (US Department of the Interior, Bureau of Land Management) and BIA. 2014. Oklahoma Field Office Resource Management Plan Revision and Environmental Impact Statement Final Scoping Summary Report. BLM Oklahoma Field Office, Tulsa.
- CEQ (Council on Environmental Quality). 2007. A Citizen’s Guide to the NEPA, Having Your Voice Heard. December 2007. Internet website: https://ceq.doe.gov/nepa/Citizens_Guide_Dec07.pdf.
- OK GAP GIS. 2008. USGS Gap Analysis Program (GAP) data symbolized for owner type as a proxy for land status. Internet website: <http://gapanalysis.usgs.gov/padus/data/download/>.

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Appendix A

Scoping Materials

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APPENDIX A

SCOPING MATERIALS

Public scoping for the Osage County Oil and Gas EIS has included an emailed newsletter, one public scoping meeting, and a project website (<http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>). The formal public scoping period began on April 11, 2016, with the publication of an NOI in the *Federal Register* (Vol. 81, No. 69, page 21376), and closed on May 8, 2016.

Information provided to the public during the public scoping period is included in this appendix. This includes:

1. *Federal Register* Supplemental Notice of Intent To Revise the Osage County Oil and Gas Draft Environmental Impact Statement, Osage County, Oklahoma (*Federal Register* Vol. 81, No. 69, April 11, 2016) (2 pages)
2. Project newsletter (2 pages)
3. Example newspaper advertisement from the Pawhuska Journal-Capital (1 page)
4. Public scoping meeting handouts (4 pages total). These include:
 - a. Project Overview (2 pages)
 - b. Providing Comments During Public Scoping (how to; 1 page)
 - c. Osage County Oil and Gas EIS Planning Process and Tentative Schedule (1 page)
5. Public scoping comment card (2 pages)
6. Public scoping meeting presentation (24 pages)

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title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). However, we may revise our determination based upon review of public comments received in response to this notice.

Next Steps

We will evaluate the permit application, including the draft HCP and comments we receive, to determine whether it meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7 of the Act by conducting an intra-Service consultation pursuant to section 7(a)(2).

Public Review

We request comments from the public regarding our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Morro shoulderband snail and that the HCP qualifies for processing as a low-effect. We will evaluate comments received and make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will incorporate the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If all of our requirements are met, we will issue the ITP to the applicant. Permit issuance would not occur less than 30 days from the date of this notice.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods provided in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

Dated: April 4, 2016.

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2016-08238 Filed 4-8-16; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/
A0A501010.999900]

Supplemental Notice of Intent To Revise the Osage County Oil and Gas Draft Environmental Impact Statement, Osage County, Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Supplemental Notice advises the public that the Bureau of Indian Affairs (BIA) as Lead Agency will be revising the Draft Environmental Impact Statement for the Osage County Oil and Gas program. The BIA will work with cooperating agencies and others to gather additional information and work to prepare an Environmental Impact Statement (EIS). This Supplemental Notice announces an additional public scoping meeting to identify potential issues and content for inclusion in the EIS. The BIA solicits written comments and oral comments at the public meeting on the range of reasonable alternatives for implementing the proposed action and issues to be addressed in the revised Draft EIS, such as information regarding the level of oil and gas development in Osage County or possible mitigation measures for environmental and socioeconomic impacts of that development.

DATES: Written comments on the scope and implementation of the proposal must arrive by Friday, May 8, 2016. A public scoping meeting will be held at the Wah Zha Zhi Cultural Center from 3 p.m. to 6 p.m. on April 28, 2016. The date and location of the public meeting, including any changes, will be announced at least 15 days in advance through notices in the following local newspapers: Hominy News Progress, Pawhuska Journal Capital, Skiatook, and Tulsa World and will be posted on the following Internet location: <http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/index.htm>.

ADDRESSES: You may mail, email, hand deliver, or fax written comments to Ms. Jeannine Hale, BIA Eastern Oklahoma

Regional Office, P.O. Box 8002, Muskogee, Oklahoma 74402-8002; fax (918) 781-4667; email: osagecountyoilandgaseis@bia.gov.

The April 28, 2016, public scoping meeting will be held at the Wah Zha Zhi Cultural Center, 1449 Main Street, Pawhuska, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Ms. Jeannine Hale, Division of Environmental and Cultural Resources, BIA Eastern Oklahoma Regional Office, P.O. Box 8002, Muskogee, Oklahoma 74402-8002, (918) 781-4660.

SUPPLEMENTARY INFORMATION: The BIA previously released a programmatic Osage County Oil and Gas DEIS in November 2015. After the public comment period, the BIA determined that the Osage DEIS should be revised in order to address comments received and take into consideration additional information. This Supplemental Notice advises interested parties that the proposed Federal action(s) is the BIA approval of leases and permits for oil and gas mining activities located in the Osage Mineral Estate. The Osage Mineral Estate is held in trust, and the BIA approves oil and gas leases, applications for permits to drill, and other site-specific permit applications under the authority of the 1906 Osage Allotment Act, as amended and 25 CFR part 226.

The BIA, under delegation of the Secretary of the Interior, is responsible for administering the development of oil and gas resources in Osage County for the benefit of the Osage. The Federal actions, including approvals of leases and issuance of permits, are needed for the BIA to fulfill a portion of its trust responsibility to the Osage and to facilitate the development of the mineral estate. The BIA may use the EIS to support a decision under the National Environmental Policy Act.

Directions for Submitting Public Comments: Please include your name, return address, and the caption "Osage County Oil and Gas Environmental Impact Statement" on the first page of any written comments you submit. You may also submit comments at the public scoping meeting.

Public Comment Availability: Written comments, including names and addresses of respondents, will be available for public review at the BIA, 813 Grandview, Pawhuska, Oklahoma, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire

comment—including your personal identifying information— may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published in accordance with Section 1503.1 of the Council on Environmental Quality regulations (40 CFR part 1500 *et seq.*) and the Department of the Interior Regulations (43 CFR part 46) implementing the procedural requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), and in accordance with the authority delegated to the Assistant Secretary—Indian Affairs in Part 209 of the Department Manual.

Dated: April 5, 2016.

Michael S. Black,

Director, Bureau of Indian Affairs.

[FR Doc. 2016-08260 Filed 4-8-16; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167A2100DD/AAKC001030/
A0A501010.999900]

Notice of Intent To Prepare an Environmental Impact Statement for the Fort Mojave Solar Project on the Fort Mojave Indian Reservation, Mohave County, Arizona, and Clark County, Nevada

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA), as lead agency in cooperation with the Fort Mojave Indian Tribe (Tribe), the Bureau of Land Management (BLM), and other agencies, intends to prepare an Environmental Impact Statement (EIS) that will evaluate a photovoltaic (PV) solar energy generation project on the Fort Mojave Indian Reservation in Mohave County, Arizona. Associated transmission lines and substations located on Tribal trust lands, Federal lands administered and managed by BLM and Bureau of Reclamation (BOR), State-administered lands, and county and private lands in Clark County, Nevada, will also be evaluated.

This notice announces the beginning of the scoping process to solicit public comment and identify potential issues related to the EIS. It also announces that two public scoping meetings will be held to identify potential issues, alternatives, and mitigation to be considered in the EIS.

DATES: In order to be fully considered, written comments on the scope of the EIS or implementation of the proposal must arrive by May 11, 2016. The dates and locations of the public scoping meetings will be published in local papers (*Mohave Valley Daily News*, *Needles Desert Star*, and *Laughlin Nevada Times*) 15 days before the scoping meetings and will also be available on the EIS Web site at FortMojaveSolarProjectEIS.com.

ADDRESSES: You may mail, email, or hand carry written comments to Mr. Chip Lewis, Regional Environmental Compliance Officer, BIA Western Regional Office, 2600 North Central Avenue, 4th Floor Mailroom, Phoenix, Arizona 85004; telephone: (602) 379-6782; email: chip.lewis@bia.gov.

SUPPLEMENTARY INFORMATION: The proposed Federal action, taken under 25 U.S.C. 415, is BIA's approval of a solar energy ground lease and associated agreements entered into by the Tribe with Tribal Solar, LLC (Tribal Solar), a wholly-owned subsidiary of First Solar. If approved, these documents would allow the construction and operation of an up-to 332 megawatt (MW) alternating current solar PV electricity generation facility located entirely on the Fort Mojave Indian Reservation and specifically on lands held in trust by the United States for the Tribe. The proposed generation-tie transmission lines and substations required for interconnection would be located on Tribal trust lands, Federal lands administered and managed by BLM and BOR, State-administered lands, and county and private lands in Clark County, Nevada. The BIA and BLM would additionally approve right-of-ways (ROWs) authorizing the construction and operation of the transmission line and other supporting facilities, as needed. Together, the proposed solar energy facility, transmission lines, and other associated facilities will make up the proposed solar project (Project).

The proposed solar energy facility would be located on approximately 2,800 acres of Tribal trust lands leased from the Tribe out of a total of approximately 3,600 acres available under an option for lease. These lands are currently used for agriculture. The solar energy facility would include PV panels, power inverters and transformers, a 34.5 kV collection system either overhead or underground, a substation, an operations and maintenance building with parking, meteorology towers, security fencing and lighting, and other on-site facilities as required.

The Project would interconnect into the existing Mohave 500 kV Switchyard located near the town of Laughlin, Nevada. As proposed, an approximately 18-mile 230 kilovolt (kV) single or multiple circuit line would be built to a new 230/500 kV substation, which would be located next to/near the Mohave 500 kV Switchyard. Here, the voltage would be stepped up to 500 kV and then a short single or multiple circuit 500 kV line would be built from the 230/500 kV substation to connect to the Mohave 500 kV Switchyard.

The solar facility would be located on Tribal lands in Township 18 North, Range 22 West, Sections 3, 4, 9, and 10 and Township 19 North, Range 22 West, Sections 15, 16, 21, 22, 27, 28, 29, 33, and 34 in Arizona. Access to the solar facility site would be provided by existing roads crossing through and next to the proposed solar facility site. Construction of the Project is expected to take approximately 18 to 32 months. Tribal Solar is expected to operate the energy facility for up to 35 years subsequent to the Project's Commercial Operations Date. No water would be used to generate electricity during operations. Water would be needed during construction for dust control and other construction activities and a minimal amount would be needed during operations. The water supply required for portions of the Project on the Reservation would be obtained from the Tribe.

The purposes of the proposed actions and the Project are, among other things, to: use the Tribe's solar energy resources; provide a long-term, diverse, and viable economic revenue base, job opportunities and other benefits for the Tribe; generate clean, renewable electricity to help Southwestern states to meet their State renewable energy needs and reduce demand for generation facilities that might result in cross-border air pollution; and allow the Tribe, in partnership with Tribal Solar, to optimize the use of the lease site while maximizing the potential economic benefit to the Tribe.

BIA will prepare the EIS in cooperation with the Tribe, BLM, and possibly BOR, Army Corps of Engineers, Environmental Protection Agency (EPA), State of Nevada, and Clark County, Nevada. In addition, the U.S. Fish and Wildlife Service (USFWS) will provide input on the analysis and may also serve as a cooperating agency. The resulting EIS will aim to: (1) Provide agency decision makers, the Tribe, and the general public with a comprehensive understanding of the impacts of the proposed Project and alternatives on and off the Reservation;

Osage County Oil and Gas EIS



U.S. Department of the Interior
Bureau of Indian Affairs
Eastern Oklahoma Region

April 2016

BIA Reinitiating Public Scoping for the Osage County Oil and Gas Environmental Impact Statement

The United States (US) Department of the Interior Bureau of Indian Affairs (BIA) Eastern Oklahoma Regional Office will be revising the Osage County Oil and Gas Draft Environmental Impact Statement (DEIS) that was released in November 2015. After the public comment period for the DEIS, the BIA determined that it should be revised in order to address comments received and take into consideration additional information. The BIA will work with cooperating agencies and others to gather additional information and work to prepare a revised DEIS. To help accomplish this, the BIA is inviting the public to offer written and oral comments at a public meeting on April 28, and to submit comments via mail or email during a public comment period.

For project updates and previously released documents, visit the project website at <http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>.

Public Scoping

As part of the Oklahoma, Kansas, and Texas Joint EIS/Resource Management Plan scoping period, the BIA held a public scoping meeting on January 15, 2014 in Pawhuska, Oklahoma. The BIA's proposed action under consideration for the Osage County Oil and Gas EIS—oil and gas development in Osage County—was part of this scoping effort. To aid information-gathering efforts and preparation of the revised Osage EIS, the BIA will hold an additional public scoping meeting on April 28, 2016. The public scoping comment period will end on May 8, 2016.

The scoping period provides the public with an opportunity to learn about the Osage County Oil and Gas EIS, help

Purpose of and Need for the BIA's Action

Under the Osage Allotment Act of 1906, the US reserved all rights to the mineral estate in Osage County for the benefit of the Osage. The mineral estate is held in trust, and the BIA approves oil and gas leases, applications for permits to drill, and other site-specific permit applications in Osage County under the authority of the 1906 act, as amended, and 25 CFR Part 226.

The BIA, under delegation from the Secretary of the Interior, administers the development of oil and gas resources in Osage County for the benefit of the Osage. The federal actions, including approving leases and issuing permits, are needed for the BIA to fulfill a portion of its trust responsibility to the Osage and to promote the development of the mineral estate.

The purpose of the BIA's action is to promote oil and gas production in a manner that is efficient, that prevents pollution, and that is consistent with the mandates of federal law, in coordination with the Osage Minerals Council. Through this action, the BIA also intends to streamline the permitting process and provide certainty to developers about permit conditions and restrictions.

identify issues and concerns to be addressed in the EIS, and provide input in developing alternatives. Specifically, the BIA would appreciate comments from the public on:

- ◆ The range of reasonable alternatives for implementing the proposed action and issues to be addressed in the revised EIS, and
- ◆ Information regarding the level of oil and gas development in Osage County or possible mitigation measures for environmental and socioeconomic impacts of that development.

Notice of Intent
Published in the
Federal Register

April 2016

Public Scoping
Period

April—May 2016
(Ongoing)

Data Gathering and
Alternative
Development

Spring—Fall 2016
(Ongoing)

Draft EIS and
Public Comment
Period

April 2017

Final EIS and Issuing
of Record of Decision

October 2017

This is the third in a series of bulletins from the Bureau of Indian Affairs regarding the Osage County Oil and Gas Environmental Impact Statement. Contact us at osagecountyoilandgaseis@bia.gov if you would like to be added to the mailing list for future project updates.

How Can You Participate?

Public involvement is an integral part of preparing the Osage County Oil and Gas EIS. The BIA encourages the public to provide information and comments related to preparation of the EIS. The BIA is particularly interested in any new information on oil and gas development in Osage County that would help to inform the development of draft alternatives.

Comments may be submitted by email to osagecountyoilandgaseis@bia.gov; by US mail to Jeannine Hale, BIA Eastern Oklahoma Regional Office, P.O. Box 8002, Muskogee, OK 74402-8002; or by fax to (918) 781-4667.

The official scoping period began with the publication of the Notice of Intent (NOI) in the Federal Register on April 11, 2016, and will continue until **May 8, 2016**. The BIA can best use your comments and resource information submissions if received by this date.

Before including your address, phone number, email address, or other Personally Identifiable Information (PII) in your comment, please be aware that your entire

document—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Mark Your Calendar!

Osage County Oil and Gas Public Scoping Meeting

April 28, 2016 from 3-6 pm (CDT)

Wah-Zha-Zhi Cultural Center
1449 W. Main, Pawhuska, OK 74056

Sign up at the BIA Osage Agency or at the meeting for a two-minute time slot if you wish to provide oral input. The BIA encourages groups wishing to provide oral input to elect a single representative to speak on behalf of the group. You can also submit written comments at the meeting, email them to osagecountyoilandgaseis@bia.gov, or mail them to BIA Eastern Oklahoma Regional Office, P.O. Box 8002, Muskogee, OK 74402. The deadline for comments is **May 8, 2016**.



Kaw Lake event focuses on fishing

By Mike Erwin
Journal-Capital

KAW CITY — Kids Focus on Fishing — an event for children ages 5 to 12 — will be held May 7 at the Pioneer Cove on Kaw Lake.

Organized by the Kaw Lake Association, Kids Focus on Fishing is co-sponsored by Eastman National Bank, The Bass Federation, Kay Electric Cooperative, Centerline and Kaw City. A \$5 pre-registration entry paid by April 21, entitles all children to a free T-shirt and a hot dog lunch. After the deadline passes, the cost for registering is \$7.

Kids Focus on Fishing has been “very popular” for the past few years, according to the president of the Kaw Lake Association, Natascha Holloway. Last time it was held, around 150 children participated, she said.

“We added an educational component to teach the children about fishing — and we’re continuing that this year,” Holloway said.

Persons can pre-register by completing the form available at the Kaw Lake Association office, Kaw City Hall or Eastman National Bank locations in Ponca City and Newkirk. Check-in is Saturday morning, May 7, from 8-9 a.m.



Natascha Holloway and her daughter Laila enjoy a moment at last year's Kaw Lake Kids Focus on Fishing. This year's event will be May 7 at Pioneer Cove on Kaw Lake. For entry form contact the Kaw Lake Association, 580-762-9494 or kawlake@cableone.net

Kaw Lake Association photo

and mini-seminars will follow from 9-10 a.m. The brief programs are on water safety, casting safety and fish identification. Kids will be allowed to fish from the Pioneer Cove bank from 10 until 11:30 a.m., when prizes are to be awarded.

Each child is assigned to a team and every time he or she catches a fish, they will report it to their team leader. Members of the team catching the most fish receive a prize donated by The Bass

Federation.

KLA Executive Director Kathy Tippin said team sponsors are still being sought. Sponsorships cost \$100, plus a bucket of minnows. The event also welcomes volunteers, she added.

“If you own a business and would like to sponsor a team, please call the Kaw Lake Association,” Tippin said.

For more information, contact the Association at 580-762-9494 in Ponca City or 877-671-6985. You also can go to the Association's website: www.kawlake.com

On Facebook, look under Kaw Lake Association.

Kaw Lake Association is one of 11 multi-county organizations which works with the Oklahoma Tourism and Recreation Department and the Oklahoma Travel Industry Association. The group's mission is to promote tourism (the state's third-largest industry) and provide economic development for north-central Oklahoma and south-central Kansas.

Pawhuskan receives Udall internship

By Mike Erwin
Journal-Capital

The Udall Foundation has selected a college student from Pawhuska as one of its Native American Congressional interns for 2016.

Jeni Hendricks, a junior at Dartmouth College in New Hampshire, will be interning this summer with the Environment and Natural Resources Division of the U.S. Department of Justice.

A 2013 Pawhuska High School graduate, Hendricks is an enrolled member of the Cherokee Nation of Oklahoma. She is pursuing a bachelor's degree in Native American studies and anthropology from Dartmouth.

Following her collegiate graduation in 2017, Hendricks plans

to attend law school with the hopes of working in government-to-government relations between Native American tribes and the federal government.

Hendricks is expected to remain involved in her home community and with her family while continuing to be active on campus, as well as with educational organizations and cultural ceremonies. She also enjoys exploring the outdoors.

A dozen students representing 11 tribes from 11 universities were selected for the Udall honors. They were chosen by an independent review committee on the basis of academic achievement and their demonstrated commitment to careers in tribal public policy.

During an intensive, 10-week

internship this summer, the Udall scholars will complete special enrichment activities at which they are to be provided opportunities to meet with key decision makers. Since 1996, 245 American Indian and Alaska Native students from 115 tribes will have participated in the internship program.

The Native American Congressional Internship Program provides specially-selected students with the opportunity to gain practical experience with the federal legislative process in order to understand first-hand the relationship between the tribal and federal governments. The internships are funded by the Native Nations Institute for Leadership, Management and Policy.

LEGAL NOTICES

(Published in the Pawhuska, [Oklahoma] Journal-Capital on April 13th, 20th & 27th 2016). LPXLP

Osage County Oil and Gas EIS Public Scoping Meeting

The Bureau of Indian Affairs (BIA) invites the public to attend a scoping meeting on the Osage County Oil and Gas environmental impact statement (EIS). The BIA is responsible for administering the development of oil and gas resources in Osage County, Oklahoma, for the benefit of the Osage Tribe. Additional information is available on the project website listed below.

The public scoping meeting will be held:

Thursday, April 28, 2016 from 3-6pm
Wah-Zha-Zhi Cultural Center
1449 W. Main
Pawhuska, OK 74056

A re-issued Notice of Intent for the EIS was published in the Federal Register on April 11, 2016, initiating a public scoping period which will end on May 8, 2016. Comments received during this scoping period will be considered during the development of the EIS. Doors will open 30 minutes before the meeting so participants can obtain handouts and forms for written comments. A brief presentation will begin at the listed meeting time, after which the BIA invites written comments and oral comments at the public meeting. Comments are being solicited on the range of reasonable alternatives for implementing the proposed action. Issues to be addressed in the revised Draft EIS, information regarding potential levels of oil and gas development in Osage County, and/or possible mitigation measures for environmental and socioeconomic impacts of oil and gas development.

Sign up at the BIA Osage Agency or at the meeting for a two-minute time slot to provide verbal input. The BIA encourages groups or organizations wishing to provide verbal input to elect a single representative to provide input on behalf of the group or

organization. Please provide any comments no later than May 8, 2016

Need more information? Contact: Jeannine Hale
BIA Eastern Oklahoma Region
3100 W. Peak Boulevard
Muskogee, OK 74401 (918) 718-4660
Email: osagecountyoilandgas-eis@bia.gov
Website: <http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>

(Published in the Pawhuska, [Oklahoma] Journal-Capital on April 13th, 2016). LPXLP

U.S. Environmental Protection Agency
Public Notice of Draft UIC Permit(s)

April 13, 2016

This is to give notice that the U.S. Environmental Protection Agency, Region 6, has formulated a Draft Permit for the following facility (facilities) under the Underground Injection Control (UIC) Program of the Safe Drinking Water Act. Development of the draft permit(s) was based on a preliminary staff review by EPA. The permit(s) will become effective within 15 days after the close of the comment period unless:

A. Comments received by April 27, 2016 in accordance with §124.20, warrant a public notice of EPA's final permit decision.

B. A public hearing is held requiring delay of the effective date.

EPA's contact person for submitting written comments, requesting information regarding the draft permit, and/or obtaining copies of the permit and the Statement of Basis is:

Ms. Evelyn Rosborough
Planning and Analysis Branch
(6WQ-NP)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733
(214) 665-2145

EPA's comments and public hearing procedures may be found at 40 CFR 124.10 and 124.12 (48 Federal Register 14264, April 1, 1983, as amended at 49 Federal Register 38051, September 26, 1984). Additional procedures pertaining to Osage County may be found at 40 CFR 147.2929 (d), Subpart GGG. The comment period during which written comments on the draft permit may be submitted extends 15 days from the date of this Notice. During the comment period, any interested person may request a Public Hearing by filing a written request which must state the issues to be raised. A public hearing will be held when EPA finds a significant degree of public interest.

EPA will consider all comments submitted either in writing or at a public hearing when making its final permit decision. Any person that files comments on the draft permit may appeal the final permit decision. Persons who did not comment on the draft permit may appeal only those changes made to the final permit subsequent to draft permit issuance. Appeals to the final permit decision must be submitted in writing to the Administrator within 30 days after a final permit decision has been issued. An appeal must contain the information set out in 40 CFR 124.19 and 147.2929(j)(3).

EPA will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. A final permit decision means a final decision to issue, deny, modify, revoke or rescind, or terminate a permit. If a request for review of a final permit is granted, EPA will follow procedures found at 40 CFR 127.2929.

Further information including the administrative record is available for public review Monday through Friday from 8:00 a.m. to 4:00 p.m. at the EPA address referenced above or at the Osage UIC Office, 100 West Main, Suite 304, P. O. Box 1495, Pawhuska, OK 74056. It

is recommended that you write or call for an appointment so the record(s) will be available at your convenience.

The Environmental Protection Agency (EPA) has received a complete Underground Injection Control (UIC) permit application number 06S1262P6268 from Chaparral Energy, L.L.C., 701 Cedar Lake Blvd., Oklahoma City, OK 73114

The permittee proposes to convert well number SBU R-W20 to an enhanced oil recovery injection well located in the SW Quarter, Section 10, Township 25N, Range 06E, Osage County, Oklahoma. The application requests authorization to inject salt water into the Burbank formation at an injection interval depth of 2808 to 2888 feet for enhanced oil recovery. The Underground Source of Drinking Water is at a depth of 600 feet below land surface. A maximum of 30,000 barrels/month will be injected at a maximum pressure of 250 psig.

EPA has issued emergency authorization to the permit applicant to inject salt water into the referenced well. The emergency authorization shall remain in effect until EPA issues a final decision on the permit application.

The permit application, supporting data submitted by the applicant, the EPA draft permit modification and statement of basis are available for public review Monday through Friday from 8:00 a.m. to 4:00 p.m. at the Osage UIC Office, 100 West Main, Suite 304, P.O. Box 1495, Pawhuska, OK 74056, (918) 287-5333 or at the Environmental Protection Agency, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-7165. Comments on the permit application and draft permit should be submitted to the Dallas office within 15 days of the date of this notice. Anyone desiring a hearing must submit a written request, identifying the issue(s) for discussion at the hearing, to the EPA office in Dallas, Texas, before the close of business on the last day of the comment period. EPA will give at least 30 days notice of the public hearing, if a hearing is held.

Pasture contracts sought for wild horse adoptions

By Mike Erwin
Journal-Capital

The Bureau of Land Management is seeking additional Oklahoma pastures for its Wild Horse Adoption Program.

An April 29 deadline has been established for the submission of proposals by prospective contractors. Participants must provide humane care in a free-roaming pasture setting for a minimum of 200 wild horses.

BLM officials said the program gives landowners an opportunity to diversify their ranching operations. Pasture lands in 17 states are eligible for wild horse adoptions. In addition to Oklahoma, those states are: Arkansas, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Texas, Utah, Wyoming and parts of Oregon and Washington.

Each proposal must include documentation to support the land's carrying capacity and the contractor's required per head/day cost. In addition to offering a quality pasture, the contractor is required to provide supplemental feed during the dormant months. The contracts are for a one-year period, with a renewal option for a four-year or nine-year period.

The 1971 Wild Free-Roaming Horses and Burros Act (amended) authorizes the BLM to manage and protect wild horses and wild burros while working to ensure that population levels are in balance with other public rangeland resources and uses, federal officials stated. The current free-roaming population of BLM-managed wild horses and burros is estimated to be 58,150, as of March 1, 2015, which exceeds by more than 31,435 the number determined by the BLM to be the appropriate management level.

Applicants who have never conducted business with the federal government must first obtain a Dun and Bradstreet number at www.dnb.com before registering at www.sam.gov/. There is no fee involved.

More information can be found on the Bureau's resource page at www.blm.gov/whb. For assistance, contact Kemi Ismael (phone 202-912-7098 or email at kismael@blm.gov) or Michael Byrd (202-912-7037, mbyrd@blm.gov). For general questions about the BLM's Wild Horse and Burro Program, please contact 866-468-7826 or wildhorse@blm.gov.

Mikey's Mullet Run set April 30

Mikey's 5K Mullet Run/Walk will be held April 30, with the start and finish at the Cultural Park, 520 Lynn Ave. The annual event is held in memory of Pawhuska High School student/athlete Mikey Lynn. Proceeds will fund a scholarship for one of PHS's 2016 graduating seniors.

A 5-K run (\$25) starts at 10 a.m. and a 1-Mile Kiddie Dash (\$15) begins at 10:15 a.m. T-shirts are still available, but they're going fast.

Entry forms are available in all school offices. Pre-registered runners can pick up their packets at the high school office from 3:30-5 p.m. on April 29. On-line registration can be accomplished at: www.runformikey.eventbrite.com

OSAGE COUNTY OIL AND GAS EIS

PUBLIC SCOPING MEETING

Project Overview

Why is the BIA preparing the Osage County Oil and Gas Environmental Impact Statement (EIS)?

The National Environmental Policy Act of 1969 (NEPA) is a federal law that requires federal agencies to consider the environmental effects of their actions prior to taking such actions. The purpose of the NEPA is to help federal agencies make informed decisions while documenting effects on natural and human environments and complying with other laws and mandates. The BIA has determined that an EIS for its oil and gas leasing and permitting program for Osage County, Oklahoma, is necessary in order to update its NEPA compliance efforts. The purpose of the BIA's action is to facilitate oil and gas production in a manner that is efficient, prevents pollution, and is consistent with the mandates of federal law in coordination with the Osage Minerals Council. Through this action, the BIA also intends to streamline the permitting process and provide certainty to developers regarding permit conditions and restrictions.

Why is the BIA reinitiating public scoping?

The BIA released a Draft EIS (DEIS) in November 2015. After the public comment period for the DEIS, the BIA determined that the DEIS should be revised in order to address comments received and take into consideration additional information. Some commenters requested that the BIA reinitiate scoping. The BIA hopes that this additional public scoping period will aid in information-gathering efforts and preparation of the revised DEIS. The scoping period provides the public with an opportunity to learn about the Osage County Oil and Gas EIS, to help identify issues and concerns to be addressed in the EIS, and to provide input used in developing alternatives. Specifically, the BIA would appreciate comments from the public on:

- The range of reasonable alternatives for implementing the proposed action and issues to be addressed in the revised EIS, and
- Information regarding the level of oil and gas development in Osage County or possible mitigation measures for environmental and socioeconomic impacts of that development.

What else has the BIA done to reach out to members of the public?

Prior to this additional public scoping meeting (April 28, 2016) and scoping comment period, the BIA held a public scoping meeting on January 15, 2014 and scoping comment period as part of the Oklahoma, Kansas, and Texas Joint EIS/Bureau of Land Management Resource Management Plan (RMP) and BIA Integrated RMP scoping period. The BIA's proposed action under consideration for the Osage County Oil and Gas EIS—oil and gas development in Osage County—was part of this scoping effort. After the initial scoping meeting, two additional public meetings were held in Pawhuska, OK: a public draft alternatives listening session was held on March 9, 2015 and a public DEIS meeting was held on November 30, 2015. The public DEIS meeting was part of a formal public comment period. To date, three newsletters on these efforts have been emailed to individuals on the project mailing list.

What authority does the BIA have to place requirements on oil and gas leasing and development in Osage County?

The Superintendent of the BIA Osage Agency has been delegated the authority for managing oil and gas operations on the Osage mineral estate. As described in 25 CFR, Part 226, this authority includes, but is not limited to, the following:

- Approving all oil and gas mining leases.
- Approving drilling, workover, and plugging operations.
- Maintaining accurate records of all production and income received.
- Appraising damages and collecting compensation for damages on restricted and tribal trust lands.
- Reviewing all incoming well records to ensure that they comply with BIA Osage Agency standards.
- Monitoring overall lease operations to ensure that lessees do not cause surface or subsurface pollution.
- Ensuring that lessees carry out lease operations in a prudent manner.

Will this revised DEIS prohibit oil and gas leasing and development in Osage County?

No. Oil and gas leasing and development can and will (depending on prices and demand) continue to occur in Osage County. An alternative to cease oil and gas leasing in Osage County will not be considered for detailed analysis. While lease approval or denial is within the BIA's authority under the Osage Allotment Act of 1906 and 25 CFR Part 226, this alternative would not meet the purpose of and need for the BIA action. This is because it is not consistent with the BIA's trust responsibility to facilitate the development of oil and gas resources held by the United States in trust for the Osage.

The 1929 amendment to the Osage Allotment Act of 1906 directs the BIA to "offer for lease for oil, gas, and other mining purposes any unleased portion of [the lands held in trust for the benefit of the Osage] in such quantities and at such times as may be deemed for the best interest of the Osage Tribe of Indians" (45 Stat. 1478).

Royalties from oil and gas development in Osage County are an important source of revenue for the Osage. The 1929 amendment further requires at least 25,000 acres of the mineral estate in Osage County to be offered for lease at all times (45 Stat. 1478).

Has oil and gas development in Osage County been allowed during the preparation of the DEIS?

Yes! The BIA has been permitting new oil and gas development in the county by preparing environmental assessments analyzing the impacts of each new Application for Permit to Drill (APD) proposed by a lessee.

When is the next opportunity for public involvement?

The public will have the opportunity to review the draft alternatives at a public listening session in the fall of 2016. The public will have an opportunity to review and comment on the DEIS in the spring of 2017. This will include a public meeting. There will also be a 30-day public review period following the Notice of Availability (NOA) of the final EIS in the fall of 2017. (All dates are tentative.)



OSAGE COUNTY OIL AND GAS EIS
*Providing Comments
During Public Scoping*

Jeannine Hale
BIA Eastern Oklahoma Region
P.O. Box 8002
Muskogee, OK 74402-8002

The United States Department of the Interior, Bureau of Indian Affairs (BIA) Eastern Oklahoma Regional Office, is developing an environmental impact statement (EIS) as required under the National Environmental Policy Act of 1969 (NEPA) for oil and gas development in Osage County. The public comment period began with an official announcement in the Federal Register on April 11, 2016.

WHY PUBLIC COMMENTS ARE IMPORTANT

This is an opportunity for you to be involved in the BIA's decision-making process and to offer your thoughts on alternative ways for the agency to accomplish what it is proposing. This is also an opportunity for the public to offer data that the agency can use in its analysis of the environmental effects of the proposed alternatives, as well as possible mitigation of potential harmful effects of such actions.

The National Environmental Policy Act "... is intended to help public officials make decisions that are based on the understanding of environmental consequences..." [40 CFR 1501(e)]. To achieve this, the EIS will consider the effects of the BIA's actions on economic and natural resources within the planning area. Citizens such as yourself often have valuable information about places and resources they consider important, and the potential effects proposed federal actions may have on those places and resources.

PROVIDING EFFECTIVE COMMENTS

Comments that provide relevant and new information with sufficient detail are the most useful and are referred to as substantive comments. The BIA reviews all comments and identifies topics that are substantive for consideration in the final published document. Try not to provide comments that offer opinion only.

Substantive comments do one or more of the following:

- Raise issues the BIA has not considered or reinforce issues the BIA has already identified.
- Present information that can be used when developing alternatives and when the BIA considers impacts of alternatives.
- Present reasonable alternatives.
- Recommend specific changes to current management.
- Question, with reasonable basis, the accuracy of information in a report already created.

Comments that are not substantive include:

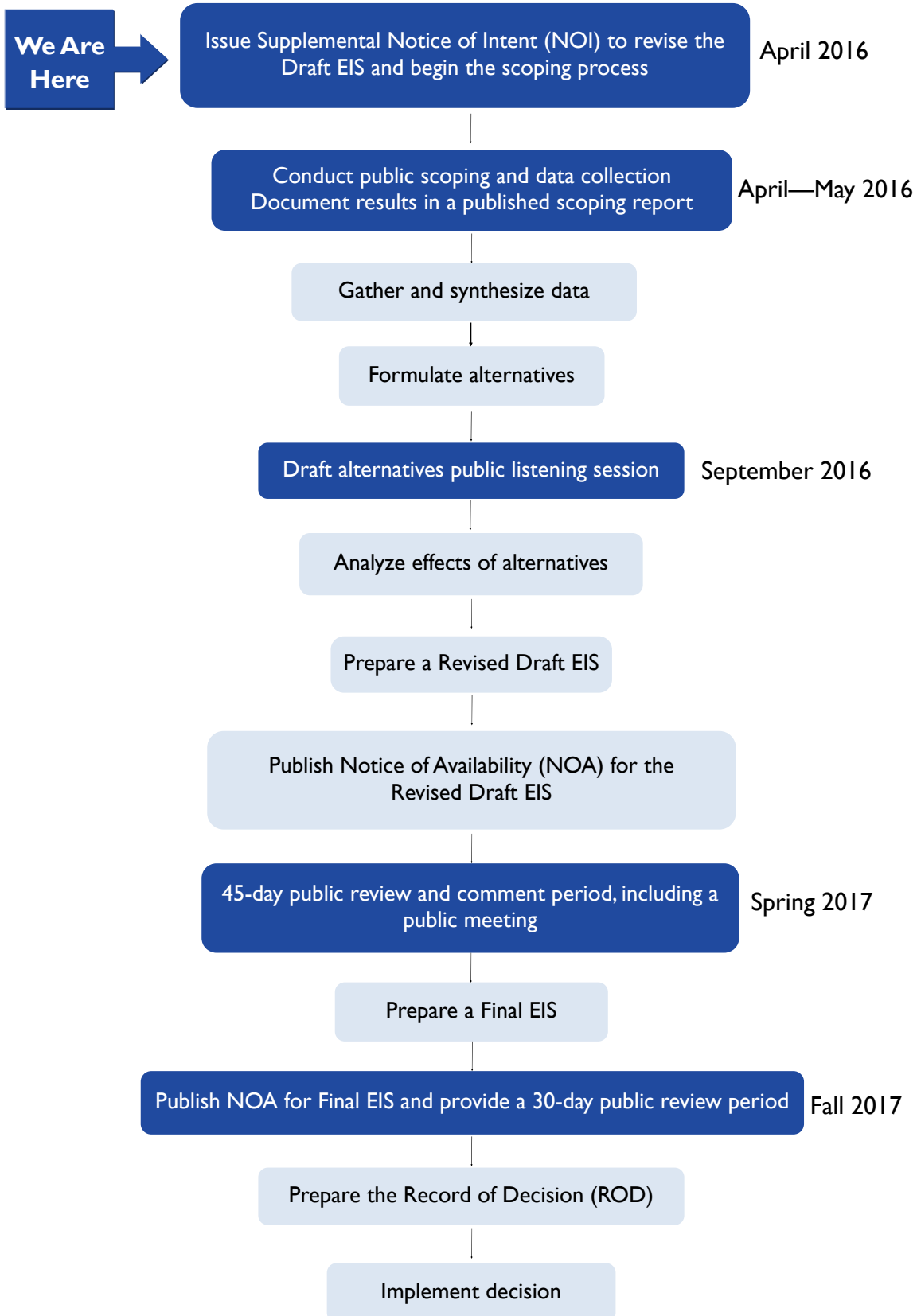
- Comments in favor of or against an action without any reasoning (such as "I do/don't like ____" without providing any rationale).
- Comments that only agree or disagree with BIA policy.
- Comments that take the form of vague, open-ended questions.

Please submit comments by
May 8, 2016

Comments can be mailed to:
Jeannine Hale
BIA Eastern Oklahoma Region
P.O. Box 8002
Muskogee, OK 74402-8002

Comments can also be emailed to:
osagecountyoilandgaseis@bia.gov

Osage County Oil and Gas EIS Planning Process and Tentative Schedule



All dates are tentative.

Formal opportunities for public input are shown in dark blue.

April 28, 2016

**OSAGE COUNTY OIL AND GAS
ENVIRONMENTAL IMPACT STATEMENT**



PUBLIC SCOPING COMMENT CARD

Please check your affiliation below:

<input type="checkbox"/> Individual (no affiliation)	<input type="checkbox"/> Citizen's Group
<input type="checkbox"/> Private Organization	<input type="checkbox"/> Elected Representative
<input type="checkbox"/> Federal, State, Tribal, or Local Government	<input type="checkbox"/> Regulatory Agency

Name¹: _____

Organization (if applicable): _____

Street Address: _____

City/State/Zip: _____

If you wish to provide written comments, please write your comments below (use back if needed). Written comments may be submitted using this card, an e-mail, or any other written format provided to the BIA by the means noted below and within the public comment period.

Comments:

Please submit tonight or mail/email by May 8, 2016 to:

Jeannine Hale, BIA Eastern Oklahoma Regional Office
P.O. Box 8002
Muskogee, OK 74402-8002
E-mail: osagecountyoilandgaseis@bia.gov
Fax: (918) 781-4667

¹ Before including your address, phone number, e-mail address, or other Personally Identifiable Information (PII) in your comment, be advised that your entire comment – including your PII – may be made publicly available at any time. While you can ask us in your comment to withhold from public review your PII, we cannot guarantee that we will be able to do so.

**OSAGE COUNTY OIL AND GAS
ENVIRONMENTAL IMPACT STATEMENT**



PUBLIC SCOPING COMMENT CARD

Please check your affiliation below:

<input type="checkbox"/> Individual (no affiliation)	<input type="checkbox"/> Citizen's Group
<input type="checkbox"/> Private Organization	<input type="checkbox"/> Elected Representative
<input type="checkbox"/> Federal, State, Tribal, or Local Government	<input type="checkbox"/> Regulatory Agency

Name¹: _____

Organization (if applicable): _____

Street Address: _____

City/State/Zip: _____

If you wish to provide written comments, please write your comments below (use back if needed). Written comments may be submitted using this card, an e-mail, or any other written format provided to the BIA by the means noted below and within the public comment period.

Comments:

Please submit tonight or mail/email by May 8, 2016 to:

Jeannine Hale, BIA Eastern Oklahoma Regional Office
P.O. Box 8002
Muskogee, OK 74402-8002
E-mail: osagecountyoilandgaseis@bia.gov
Fax: (918) 781-4667

¹ Before including your address, phone number, e-mail address, or other Personally Identifiable Information (PII) in your comment, be advised that your entire comment – including your PII – may be made publicly available at any time. While you can ask us in your comment to withhold from public review your PII, we cannot guarantee that we will be able to do so.

**OSAGE COUNTY OIL AND GAS
ENVIRONMENTAL IMPACT STATEMENT**



PUBLIC SCOPING COMMENT CARD

Use this page to continue comments from the front.

Comments *(continued)*:

Please submit tonight or mail/email by May 8, 2016 to:

Jeannine Hale, BIA Eastern Oklahoma Regional Office
P.O. Box 8002
Muskogee, OK 74402-8002
E-mail: osagecountyoilandgaseis@bia.gov
Fax: (918) 781-4667

**OSAGE COUNTY OIL AND GAS
ENVIRONMENTAL IMPACT STATEMENT**



PUBLIC SCOPING COMMENT CARD

Use this page to continue comments from the front.

Comments *(continued)*:

Please submit tonight or mail/email by May 8, 2016 to:

Jeannine Hale, BIA Eastern Oklahoma Regional Office
P.O. Box 8002
Muskogee, OK 74402-8002
E-mail: osagecountyoilandgaseis@bia.gov
Fax: (918) 781-4667

*US Bureau of Indian Affairs
Eastern Oklahoma Regional Office*

OSAGE COUNTY OIL AND GAS ENVIRONMENTAL IMPACT STATEMENT

Public Scoping Meeting

April 28, 2016



Welcome!

- The United States Bureau of Indian Affairs (BIA) has reinitiated public scoping for the Osage EIS. After the public comment period for the draft EIS that was released in November 2015, the BIA determined that the draft EIS should be revised in order to address comments received and take into consideration additional information.
- This is your opportunity to tell the BIA your thoughts on how oil and gas leasing should be conducted in Osage County, to help identify issues and concerns to be addressed in the EIS, to provide input in developing alternatives, and to provide information regarding the level of oil and gas development in Osage County and possible mitigation measures.
- Format
 - Introductory Presentation
 - Public oral comments (2 minutes each)
 - Written comments also accepted until **May 8, 2016**.



April 28, 2016

BIA Mission

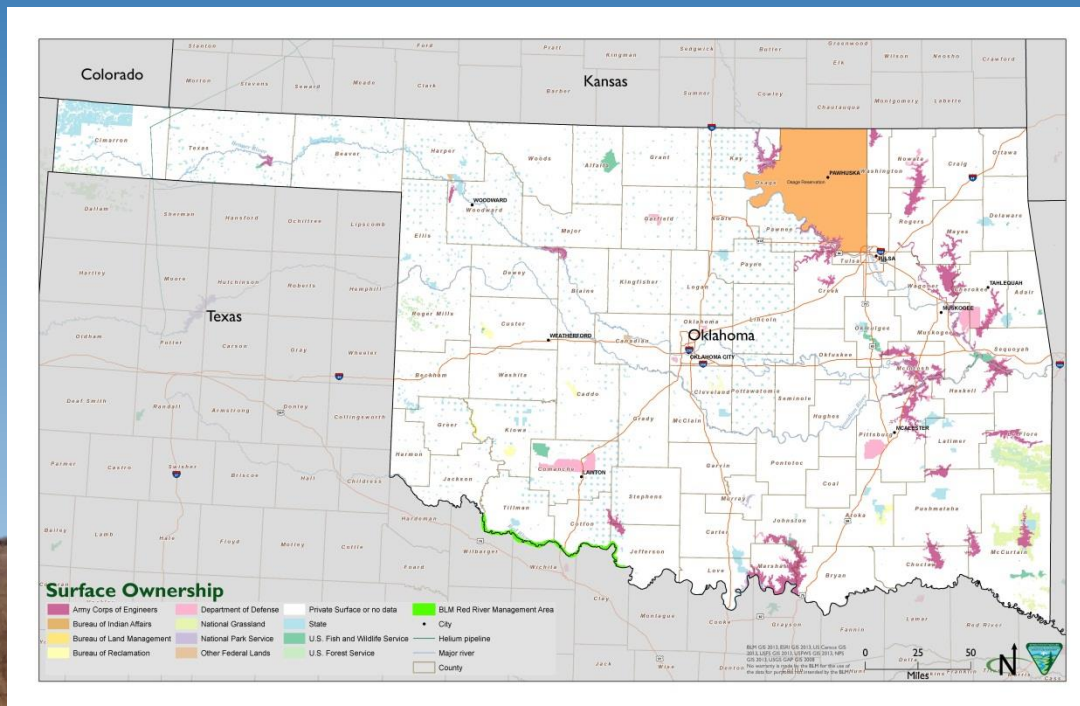
- The Bureau of Indian Affairs' mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives



April 28, 2016

Project Background

- The Osage Tribe retained all mineral rights in Osage County when the surface was allotted in 1906. The Osage Minerals Council negotiates and executes leases for oil and gas development.



April 28, 2016

Project Background *(continued)*

- The Superintendent of the BIA Osage Agency has been delegated the responsibility for managing oil and gas operations on the Osage mineral estate for the benefit of the Osage.
- This includes approving oil and gas mining leases, approving drilling, workover, and plugging operations, and monitoring lease operations to ensure lessees do not cause pollution.
- A draft EIS was prepared and released in November 2015.
- The BIA will be preparing a new draft EIS with new alternatives.
- The Osage EIS will be a programmatic-level evaluation of environmental impacts. It is not necessarily the final NEPA review for all future actions in the planning area.



April 28, 2016

Purpose of and Need for Action

The Osage mineral estate is held in trust, and the BIA approves oil and gas leases, applications for permits to drill, and other site-specific permit applications in Osage County under the authority of the 1906 act, as amended, and 25 CFR Part 226.

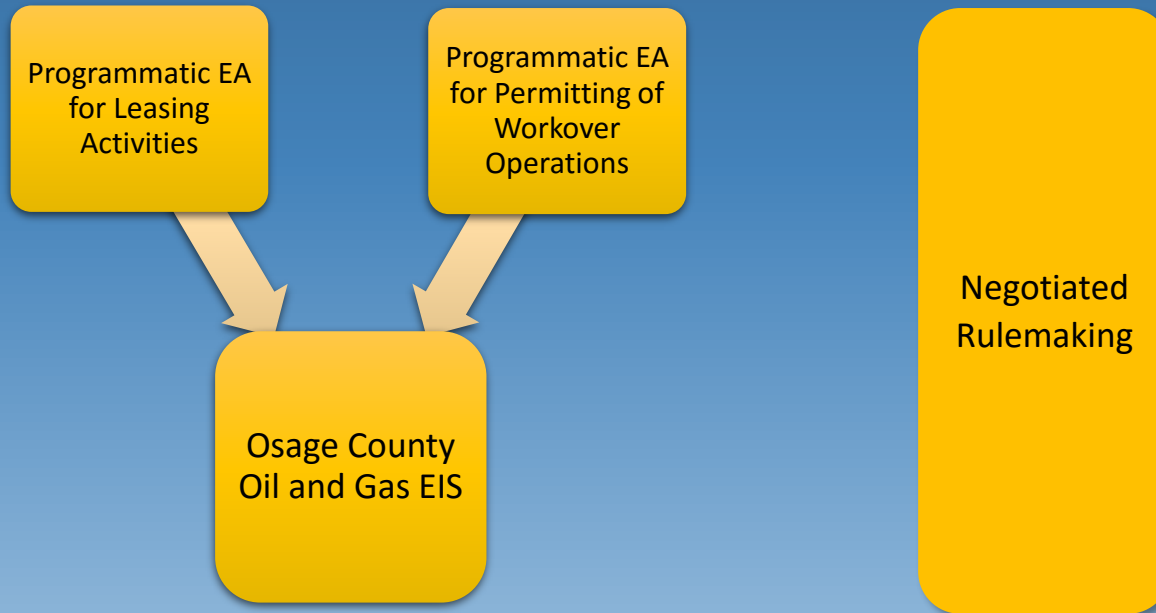
The BIA, under delegation from the Secretary of the Interior, administers the development of oil and gas resources in Osage County for the benefit of the Osage. Federal actions, including approval of leases and issuance of permits, are needed for the BIA to fulfill a portion of its trust responsibility to the Osage and to promote the development of the mineral estate.

The purpose of the BIA's action is to promote oil and gas production in a manner that is efficient, that prevents pollution, and that is consistent with the mandates of federal law, in coordination with the Osage Minerals Council. Through this action, the BIA also intends to help streamline the permitting process and provide certainty to developers about permit conditions and restrictions.



April 28, 2016

How Does This EIS Fit In With Other Projects in Osage County?



April 28, 2016

What is Scoping?

- The early and open process for identifying actions, impacts, and issues that will be addressed in a NEPA document.
- Engages public, federal, state, and local agencies, organizations, and other stakeholder groups in the collaborative planning process.
- Helps the BIA identify planning issues through input received from you.
- Can help the BIA identify related plans, studies, and other information that can be used in the EIS.



April 28, 2016

Who is helping the BIA with EIS preparation?

- Public/Stakeholder Groups
 - Participate in scoping
 - Review draft and final documents
- Cooperating Agencies & Entities
 - U.S. Environmental Protection Agency
 - Osage Nation
 - May include others
- Contractor
 - Environmental Management and Planning Solutions, Inc. (EMPSi)



April 28, 2016

Cooperating Agencies/Entities

Federal, state, or local agencies or Indian tribes with jurisdiction by law or special expertise

Current Agencies/Entities Accepting the BIA's Invitation:

- Osage Nation
- US Environmental Protection Agency (EPA), Region 6

The BIA is reaching out to USGS, Ok Geological Survey and Osage Minerals Council concerning Cooperating Agency status.



April 28, 2016

Issues to be Addressed in the EIS

- Oil and Gas Resource Development
- Water Resources
- Visual Resources
- Noise
- Public Health and Safety
- Soils and Geology
- Socioeconomics
- Fish and Wildlife
- Special Status Species
- Livestock
- Vegetation
- Air Quality
- Cultural Resources



April 28, 2016

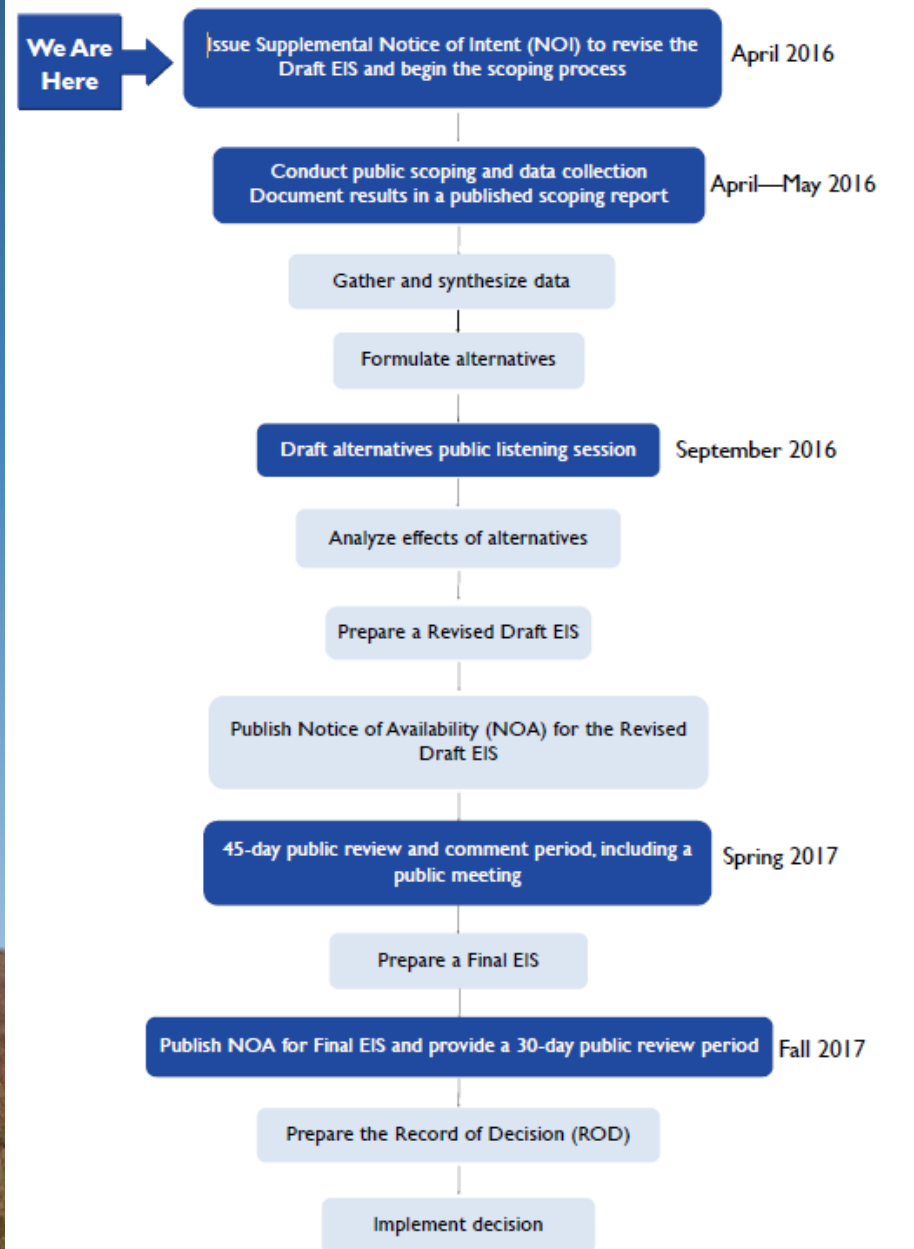
Status of the Biological Assessment

- The BIA is revising a biological assessment document to be based on the existing Osage Agency oil and gas program, including best management practices (BMPs) currently used.
- The BIA may prepare another biological assessment according to whatever preferred alternative is selected in the Osage EIS.



April 28, 2016

EIS Process (Tentative Schedule)



April 28, 2016
All dates are tentative.



Next Steps

- The BIA will compile comments from the public comment period (ends May 8, 2016).
- The BIA will prepare a public scoping summary report that summarizes comments received (May-June, 2016).
- The BIA will work with cooperating agencies to develop draft alternatives (June-August, 2016).
- Draft EIS published March 2017
- Final EIS published September 2017
- Record of Decision October 2017



April 28, 2016
All dates are tentative.

Tell Us What You Think

We welcome your feedback!

Interested parties are invited to submit comments on the Draft EIS. Comments may be submitted through one of the following methods:

- Email osagecountyoilandgaseis@bia.gov
- Mail to
Jeannine Hale, BIA Eastern Oklahoma Region
P.O. Box 8002
Muskogee, OK 74402-8002

Comment orally tonight or submit written comments by
May 8, 2016



April 28, 2016
All dates are tentative.

Contact Us With Questions

Jeannine Hale

Director, Division of Environmental and Cultural
Resources

BIA Eastern Oklahoma Region

P.O. Box 8002

Muskogee, OK 74402–8002

(918) 781-4660

osagecountyoilandgaseis@bia.gov

[http://www.bia.gov/WhoWeAre/RegionalOffices/Eastern
Oklahoma/WeAre/Osage/OSAGEOilGasEIS](http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS)



April 28, 2016

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Appendix B

Transcript of Public Scoping Meeting

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APPENDIX B

TRANSCRIPT OF PUBLIC SCOPING MEETING

The following transcript was recorded by a court reporter at the April 28, 2016 public scoping meeting in Pawhuska, Oklahoma. It includes the oral comments made during the scoping meeting.

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OSAGE COUNTY OIL AND GAS
PUBLIC SCOPING MEETING

TAKEN ON APRIL 28, 2016
BEGINNING AT 3:12 P.M.
IN PAWHUSKA, OKLAHOMA

REPORTED BY: MARY K. BECKHAM, CSR RPR

1 MS. HALE: Good evening. Welcome. My
2 name is Jeannine Hale. I'm from the Muskogee office
3 of the Bureau of Indian Affairs, the Eastern
4 Oklahoma Regional Office. I work in the
5 Environmental Division. We're happy to have you
6 here tonight for a public scoping meeting. I'm
7 going to tell you in a minute what that is. It
8 looks like we have a pretty good crowd and a lot of
9 folks I recognize, so it's good to see you again and
10 have continued participation in our development of
11 an environmental impact statement for the oil and
12 gas program at the Osage Agency.

13 We have a number of staff here from both
14 the Osage Agency and our Eastern Oklahoma Regional
15 Office and our Solicitor's Office, and we have our
16 regional director, Eddie Streeter. We have
17 solicitors; Kristen -- I'm sorry.

18 MS. KOKINOS: Kokinos.

19 MS. HALE: She was supposed to give me a
20 cheat sheet and she didn't, and Chuck Babst, and we
21 have Richard Winlock, the deputy superintendent for
22 Osage Agency. Ben Daniels, who is in the
23 Environmental Department at the Osage Agency. Up
24 here we've got Molly McCarter, who is with our
25 contractor EMPSI, and Steven Simpson, who is our

1 NEPA solicitor expert, and the only people that
2 wanted to come up here and sit with me. These are
3 the brave people. And then we have Michael Miley
4 and Shelby back here. They are trying to blend in
5 and pretend like they are really not with us.

6 So tonight we do have a court reporter,
7 Mary, and she's going to be taking notes, especially
8 when we get to the part about comments, and like I
9 said, we had a sign-up sheet. You know, at any
10 point in time you can sign up. If you forget to
11 sign up and you all of a sudden think of something,
12 you want to speak, you can raise your hand. We're
13 going to ask that you come up here and speak here at
14 the podium with the microphone, and she will be able
15 to hear and see you better and get down what you are
16 saying, because we want to capture all of that.
17 After this is all over with, we will have a
18 transcript prepared and after we review that, that
19 will be posted on our website, and we have some
20 other Osage oil and gas environmental impact
21 statement documents on that same website, so that's
22 where that transcript will be. The documents that
23 we're handing out tonight, most of those things will
24 be on the website.

25 So I want to get started. Is there

1 anything that I've forgotten that anybody wants to
2 remind me of before I start the Power Point and
3 start whizzing through it?

4 OBSERVER: Where's Robin?

5 MS. HALE: I'm sorry?

6 OBSERVER: Where's Robin?

7 MS. HALE: I'm sorry, Robin Phillips, the
8 superintendent, she wasn't able to be here today and
9 she sends her apologies but she's got Richard
10 Winlock, who is the deputy superintendent standing
11 in for her, so I think we have a full staffing in
12 case there's a question that comes up. We're really
13 not going to be in the back and forth answering
14 questions so much tonight because we mostly want to
15 get your input, but it's going to be important that
16 you understand what we're doing. So, of course, if
17 you ask me a question about what we're doing, you
18 don't understand, we're going to try to make sure
19 you do understand before you leave.

20 So let me get out of the way and come
21 around here, and I apologize if you have to see my
22 back. I have a really brief presentation. I'm
23 going to make it be brief. It's pretty brief now.
24 There we go. I'm sorry if some of it isn't very
25 visible.

1 (PowerPoint Presentation given by Jeannine
2 Hale not included in the transcript.)

3 MS. HALE: Now we will --

4 OBSERVER: A question before you start
5 that. Just briefly what's in the negotiated rule
6 making as opposed to what's in the EIS?

7 MS. HALE: Okay. Well, the rules, the
8 rules are based on our law and there's a whole
9 rule-making process under the Administrative
10 Procedures Act that every agency has to go through
11 to write down requirements and rules and get them
12 approved. So it's a whole separate thing where in
13 the case of the negotiated rule making, I anticipate
14 in that that there was actually a committee that was
15 set up and had different representatives and that
16 sort of thing.

17 We don't have any committees. We're not
18 setting up rules. These are not requirements that
19 are going to be set in the Code of Federal
20 Regulations or anything. This is just to identify
21 what different scenarios might look like moving
22 forward with the oil and gas program, how things are
23 going to be developed, to look at the environmental
24 consequences of those things. So, for example, one
25 of the things we might look at is like a high

1 development scenario where the whole county is just
2 a flurry with activity, which is what we really
3 want, and what might be the environmental
4 consequences we can predict from that because there
5 might be more waste water injection, there might be
6 more pits dug, there might be more acres disturbed,
7 so you look at that and you try to describe the
8 environmental consequences. So it's all geared
9 toward environmental consequences as opposed to the
10 regulations.

11 OBSERVER: Okay. One of your slides had,
12 these are all of the areas that we're going to look
13 at, it had the three columns of things, who sets
14 that? Is that already set in stone?

15 MS. HALE: No, those were examples --

16 OBSERVER: Okay.

17 MS. HALE: -- to kind of trigger --

18 OBSERVER: So you --

19 MS. HALE: I'm sorry I didn't read them.

20 They are just examples, but they are common
21 examples. The reason they are there is because
22 we -- most agencies have guidance and have prepared
23 a number of these EISs before, and there's some
24 fairly common sections that are included in almost
25 every EIS that you look at and they are almost all

1 going to look at wildlife, for example, and the
2 impacts to endangered species, for example, impacts
3 to water, and those were just meant to give you some
4 examples of the things we would be looking at, but
5 it's not necessarily all inclusive, so there may be
6 some things that we need to look at or discuss that
7 aren't on that list.

8 OBSERVER: Or vice versa?

9 MS. HALE: Or vice versa.

10 OBSERVER: Okay.

11 MS. HALE: So you can say take this thing
12 off, we don't want to hear about that anymore. I
13 think last time I heard something about prairie
14 chickens and they weren't even good to eat, so you
15 might have some really legitimate concerns that you
16 think weren't addressed in the last version.

17 So, Molly, do we have a sign-in sheet
18 already? I know that I saw some elected officials
19 in the room. Is Chief Standing Bear here? No?
20 Okay.

21 Chairman Waller, are you still here?
22 You're right here, right here in front of me.

23 MR. WALLER: Yes.

24 MS. HALE: Would you like to make a
25 statement first?

1 MR. WALLER: I'd like to go right into the
2 comments.

3 MS. HALE: All right.

4 MR. WALLER: If that would be all right.

5 MS. HALE: We would like for you to be the
6 first.

7 MR. WALLER: Thank you very much. I'm
8 Chairman Everett Waller, Osage Minerals Council.
9 I'd like to add this to the public record on behalf
10 of my shareholders. The initial draft of the EIS
11 was fatally flawed due to its failure to comply with
12 the 1906 Act, its treatment of the Osage Minerals
13 Estate and Osage County as public lands and the
14 BIA's failure to comply with tribal consultation
15 requirements and its tribal trust responsibility.
16 The new draft EIS must therefore be a new NEPA
17 document pursuant to a new NEPA process rather than
18 a reworking of the initial draft EIS. The BIA must
19 develop a preferred alternative based on the 1906
20 Act and the requirements it imposes on the Secretary
21 of the Interior. The 1906 Act, as amended, provides
22 that regulations governing Osage lands and leases of
23 the Osage Minerals Estate must result in the highest
24 percentage of ultimate recovery of both oil and gas.
25 This means that the preferred alternative must

1 encompass provisions that will maximize the
2 extraction of minerals from the Osage Minerals
3 Estate for the benefit of the Osage Head Right
4 Holders as the only beneficiaries of the Osage
5 Minerals Estate.

6 The preferred alternative must reflect the
7 fact that these are Indian lands, not public lands.
8 The BIA or its third party contractor cannot
9 approach the EIS and the preferred alternatives the
10 same way it would for public lands. It's approach
11 much incorporate the BIA's federal trust
12 responsibility and the 1906 Act, neither of which
13 applies to public lands and neither of which were
14 accounted for in a previous draft EIS. Indian lands
15 are to be managed according to very different
16 standards from public lands, and attempting to
17 manage Indian lands according to the public interest
18 standards violates the trust standards established
19 for the management of these Indian lands. The BIA
20 cannot treat the EIS as if these were public lands
21 and prioritize the interests of surface owners over
22 those of the Tribe, as it did in the previous draft.

23 The preferred alternative must address
24 mitigation measures that can be taken to streamline
25 the permitting process and minimize the need for

1 impacts to be addressed on a site-specific basis.
2 This is going to be key in complying with the 1906
3 Act.

4 The BIA must engage the Osage Minerals
5 Council in a government-to-government consultation
6 throughout the NEPA process. Through Executive
7 Order 13175, President Clinton mandated that federal
8 agencies engage in meaningful consultation with
9 Indian tribes when taking actions that will directly
10 affect an Indian tribe. President Obama bolstered
11 this Executive Order through Presidential Memorandum
12 in 2009 declaring that his administration is
13 committed to regular and meaningful consultation and
14 collaboration with tribal officials. Section 2.3 of
15 the BIA NEPA Guidelines states that tribal
16 governments and their delegated tribal programs
17 should not only be consulted but should be partners
18 with the BIA in the NEPA process. The Department of
19 Interior Manual states that it is the policy of the
20 Department of Interior to carry out its trust
21 relationship with federally recognized Indian tribes
22 and to consult with the tribes on a
23 government-to-government basis whenever Department
24 of Interior plans or actions have tribal
25 implications.

1 To date the BIA has fallen short of its
2 consultation requirements. The Osage Minerals
3 Council is requesting in writing that this meeting
4 be postponed in order to initiate consultation prior
5 to public meetings, but the request was denied. I
6 am now restricted to a two-minute window to share
7 the concerns and interests of the Osage Minerals
8 Council like any other citizen. This is not a
9 government-to-government consultation. The BIA
10 should have met with the Osage Minerals Council
11 regarding scoping before meeting with the public.
12 Despite this failure, the OMC intends to enter into
13 an MOU with the Bureau of Indian Affairs as a
14 cooperating agency with respect to this NEPA process
15 and the policies and procedures adopted by the
16 Department and agencies to implement NEPA. Through
17 this agreement and as a matter of law, the Osage
18 Minerals Council expects the BIA to fulfill its
19 trust responsibilities, obligations and its
20 fiduciary role throughout the course of the NEPA
21 process.

22 I'd like to introduce the rest of my
23 council, if you would please stand. Council. I'm
24 done. I want to thank everyone for this time and
25 opportunity.

1 In closing, I just have one item. We got
2 through the Civil War. In 1870 they drove us
3 through a gate up here. We had 2229 people left,
4 families. In 1883 we had to buy our reservation.
5 Every abstract states that in your first paragraph.
6 I represent those people. That's my great, great
7 grandmother over here. I'm here for them. I'm here
8 for my Osages, and I'm definitely here for my
9 children and their grandchildren.

10 With that, I want to thank my council. I
11 want to thank you for your time and I'm going to
12 leave this with you.

13 MS. HALE: Thank you, Chairman, so much
14 for those words, and we will place these comments
15 into the record of this proceeding. Then we are
16 going to continue with our public comment. The
17 first person listed Nona Roach.

18 MS. ROACH: I have one question before you
19 start. When does the EIS kick in after the EA has
20 been done, because that's real confusing to me and I
21 don't understand at what point that we would even
22 require an EIS.

23 MS. HALE: Well, if an Environmental
24 Assessment is prepared and you are not able to make
25 a finding of no significant impact, then an

1 Environmental Impact Statement is required. An EA
2 is not required to be prepared before you go ahead
3 and do the EIS. Is that your question?

4 MS. ROACH: That's my question, because I
5 thought the EA had to be done before the EIS, before
6 it ever kicked in for the EIS, and you are telling
7 me that's not --

8 MS. HALE: I turn to my esteemed
9 solicitors, but our advice has been that we are not
10 required to do the EA first.

11 MR. SIMPSON: That is correct. There are
12 two ways that this could happen. One is under NEPA
13 you can do an Environmental Assessment and, as
14 Jeannine pointed out, and come to either a finding
15 of no significant impact or determine that you need
16 to do an EIS; okay? Or the agency can skip that
17 step and just start an EIS on its own. It can do
18 that if it believes that there may be significant --
19 that there are significant impacts on the quality of
20 human environment from that action, or it can do
21 that in the spirit of NEPA, because an EIS is a more
22 detailed process and a much more useful kind of a
23 document than an EA is. So it can do it on its own,
24 even if there isn't a proposal for it, just because
25 it needs to be done, and that's basically what this

1 one is.

2 MS. HALE: Do you want to come up?

3 MS. ROACH: What triggers that is, I
4 guess, what I'm trying to figure out. On an EA,
5 what would be a trigger to cause you to have an EIS
6 if you went through that process.

7 MR. SIMPSON: The possibility of
8 significant impacts.

9 MS. ROACH: As it impacts what?

10 MR. SIMPSON: An impact on the -- well,
11 the way the statute reads, on the quality of the
12 human environment. If you have -- if the agency
13 sees that a particular action may have a significant
14 impact on air, water quality, whatever, whatever
15 environmental parameter it is, then the -- then it
16 has to go -- it has to go from the environmental
17 assessment to an environmental impact statement to
18 assess those significant impacts.

19 MS. ROACH: So say if you are going to be
20 close to the lake or something, would that be
21 something that's triggering that for you.

22 MR. SIMPSON: It depends what you are
23 doing close to the lake.

24 MS. ROACH: Drilling a well.

25 MR. SIMPSON: Could be. It depends. A

1 lot of it depends on the action itself and the
2 actual location of it and what the action is and the
3 environment around there. It's hard to -- that's
4 why the determination of significance is a very
5 subjective kind of squishy thing.

6 MS. ROACH: And the squishy determining
7 person is who?

8 MR. SIMPSON: The Bureau, the federal
9 agency.

10 MS. ROACH: Like the superintendent or
11 higher up?

12 MR. SIMPSON: In this case the regional
13 director.

14 MS. ROACH: Okay. I'm sure you all
15 understood every bit of that, right? Okay. My
16 concern is this: If you are going to be doing an
17 environmental impact statement study, whatever, did
18 you also do an economic impact study to see how
19 that's going to affect this county, because
20 obviously everything that's been happening all this
21 time has had a huge impact on our economy here, but
22 I've never seen one, so I was just wondering if that
23 was going to be built into the process somehow or
24 that's just not part of the requirements or
25 whatever. So that's a concern to me because the

1 economic part of it seems to me to be the first
2 thing that you would want to do, so I'm concerned
3 about that.

4 As a landowner and just because I live
5 here I'm concerned about -- I know what it's been
6 like so far for having the BIA to come in if there's
7 a problem, so if you are going to add -- and I know
8 we can ignore the draft EIS and you're throwing it
9 out, right? So everything that was in that old one
10 is gone, is that -- is that what you guys were
11 telling us while ago?

12 MS. HALE: We're going to prepare a new
13 EIS. There may be provisions in the old one that we
14 may want to use, that's not been determined yet.
15 We're going to sit down with our cooperating
16 agencies, hopefully the Minerals Council will be one
17 of those, look at the chapters, are there things
18 that we can still use because they haven't changed
19 or they are still -- or they are right, and that
20 could be the description of geology, which those
21 rocks have not changed. Yeah.

22 MS. ROACH: They are still rocks and the
23 bugs are still bugs. Okay. My concern on that,
24 right now we can't get the BIA to come out and do
25 anything as a landowner. We can't get anything done

1 as far as remediating our soil, coming out there if
2 there's an issue or a problem. So if you are going
3 to add, like the last one had, every little
4 nitpicking thing you could find, how are you ever
5 going to have enough staff to take care of that
6 problem? Because it's not happening now and if you
7 start adding a whole lot more regulations and
8 everything on top of that, I can't see you ever
9 keeping up or seeing daylight or taking care of the
10 problems with a 1,444,000 acres. So that's one of
11 my concerns as a landowner.

12 But this is -- I'm asking, too, is this
13 going to be just Osage only? We're not going to
14 have the stuff that was on the Red River and all
15 that stuff, it's going to be right here?

16 MS. HALE: Osage only.

17 MS. ROACH: That's great. That's all I
18 wanted to say.

19 MS. HALE: Thank you. I forgot to mention
20 that Eric, in the back, has like a yellow and a red
21 one-minute stop sheet, but I don't think we've
22 needed it so far.

23 MS. ROACH: I didn't see it.

24 MS. HALE: Even Nona didn't get one. The
25 next person might get one. I don't know. Bob

1 Jackman.

2 MR. JACKMAN: I'm going to switch.

3 MS. HALE: Okay.

4 MS. FORMAN: With me.

5 MR. JACKMAN: Susan Forman first.

6 MS. HALE: Yeah. Susan Forman. I've
7 known Bob a long time. That's why.

8 MS. FORMAN: Take me a minute to set up,
9 guys. Sorry about that. Got to get my eyes on.
10 Okay. Can everybody hear me? I guess I'm turned
11 on. You can hear me?

12 MS. HALE: I have that same issue.

13 MS. FORMAN: Is there anyone that can't
14 hear me? Okay. My name is Susan Forman. I am a
15 member of the Osage Nation and a Head Right owner.
16 Most of you know my background, but those of you who
17 don't, I'm retired after 33 years of a career
18 specializing in natural gas marketing, gathering,
19 processing and transmission on the
20 exploration/production side of the industry, so I
21 know a little bit about the value of the product
22 that we produce in Osage County. As a Head Right
23 owner negatively impacted by all BIA decisions and
24 directives since the settlement of the HPP lawsuit,
25 I believe it is necessary once again to show up and

1 defend the right of the Minerals Estate to be
2 developed and operated and consistently producing
3 for the benefit of the very people the BIA is
4 responsible for supporting.

5 Let's remind all here the BIA mission
6 statement, and I quote, "The Bureau of Indian
7 Affairs' mission is to enhance the quality of life,
8 to promote economic opportunity, and to carry out
9 the responsibility to protect and improve the trust
10 assets of American Indians, Indian tribes and Alaska
11 natives." That's straight off the website.

12 One of the two topics in the April 2016
13 federal registry note as for which comments were
14 specifically requested was for information regarding
15 the level of oil and gas development in Osage
16 County. I can't tell you anything going forward,
17 but I can sure tell you something about what's
18 happened since the HPP lawsuit in 2011. What I'm
19 about to tell you is the bare minimum, extremely
20 conservative economic impact -- and let me interject
21 here that on your impact list, you did not have
22 economic impact. You had socioeconomic impact,
23 which is related but it's not the same thing. I'm
24 shocked that it wasn't on that list. It should have
25 been on the top of that list and here's why: From

1 2008 through 2012 an average of 225 wells per year
2 were drilled in Osage County, sixteen of which, on
3 average, were horizontal wells. Starting in 2011,
4 that number dropped by 32 percent. In 2012 drilling
5 dropped another 14 percent and in 2013 drilling
6 dropped 45 percent, and I'm just talking about
7 number of wells drilled and completed. By July 2014
8 it dropped another 32 percent. During the
9 September 2014 Osage Oil & Gas Summit it was
10 revealed that permitting and drilling had dropped to
11 zero. No wells were being drilled at all, no
12 permits were being approved.

13 I put a pencil to the lost investment
14 opportunity since July 2014, although a study needs
15 to be done back to 2011 because we've been
16 precipitously dropping ever since then. This is the
17 barest minimum case, it does not include the value
18 of natural gas and its components or production from
19 horizontal wells, so we're just talking vertical
20 wells here, a very conservative look -- look back at
21 what it's cost the Osage Minerals Estate. In Mike
22 Black's own words when he presented in a public
23 forum, and I quote, "On average every year 200
24 vertical wells are drilled and completed per year in
25 Osage County at an average cost of \$250,000." I

1 think that's pretty conservative, too. That's
2 \$50 million missed investment annually since
3 July 2014. Considering only vertical wells with a
4 very conservative initial production of 15 barrels
5 per day and first annual production of 5,000 barrels
6 cumulative for first year, this is one million new
7 barrels of oil that were not drilled for and
8 produced. Multiply those barrels by the monthly
9 price of Oklahoma sweet crude, which you can find on
10 Coffeyville Resources website, and the minimum loss
11 from July 2014 through March 2016 is a staggering
12 \$94 million. Lost royalty, \$19 million. This,
13 again, is a very conservative look back. It doesn't
14 include horizontal wells, which produce -- have the
15 capability of producing 50 times more barrels than a
16 vertical well and it doesn't also include the value
17 of natural gas.

18 So the first thing this economic impact
19 statement needs to do is get professionals and go
20 back and look at the impact your actions are
21 causing. Keep in mind this is -- I already said
22 that part. I have no doubt that if we looked all
23 the way back to 2011 and added natural gas and
24 horizontal production, these figures would double or
25 triple easily.

1 Because of the overreaching regulations,
2 successful -- successful producers like Devon and
3 Encana, among many others, have made a beeline right
4 out of Osage County. The Donelson lawsuit that
5 caused a ruinous BIA decision since June of 2014 has
6 been dismissed. The 1979 EA is still valid. The
7 joint Oklahoma, Kansas and Texas EIS Resource
8 Management Plan did not stop wells from being
9 drilled or stop routine operations to keep
10 production increasing at a steady pace. Before the
11 BIA proceeds another step, operations must return to
12 normal. Mr. Babst.

13 MR. BABST: You could not be more wrong.
14 You could not be more wrong. I just have to say
15 that. Thank you.

16 OBSERVER: Tell us why.

17 MS. FORMAN: I would like to finish --

18 MR. BABST: I'll be happy to.

19 MS. FORMAN: -- because --

20 MR. BABST: It's called the Hayes lawsuit.

21 MS. FORMAN: I have the floor. Thank you.

22 I have the floor. Thank you.

23 OBSERVER: Let her finish.

24 MS. FORMAN: All resources must be focused
25 on approving permitting in Osage without the

1 ridiculous 8 page conditions of other requirements
2 added on. The superintendent -- and I might add
3 this isn't the first time she hasn't showed up, you
4 know, it's -- how long have we known about this
5 meeting? She knows every month that she has a
6 meeting she has to go to. She's showing up now
7 because her boss found out she wasn't showing up,
8 but it's unacceptable for her not to be here today.
9 She's known about this. She had plenty of time to
10 fit it into her busy schedule.

11 MS. HALE: Susan, this is my meeting --

12 MS. FORMAN: The superintendent has
13 reported that hundreds of permits have been approved
14 but we all know that no work is getting accomplished
15 due to the continued uncertainty and confusion
16 caused by these conditions. Under no circumstances
17 should any acreage in Osage County be excluded from
18 development of its minerals. The ABB is going to be
19 delisted. The number of Osage County -- that's the
20 American burying beetle -- pardon me, the number of
21 Osage County acres negatively impacted by the oil
22 and gas industry in 2015 is actually less than the
23 acres impacted in 1979, which is why it boggles the
24 mind that the BIA is wanting to precede with this
25 ill-conceived EIS, especially in light of the

1 Donelson lawsuit discussion.

2 The BIA is in direct violation of
3 Secretarial Order 3206, enclosed, American Indian
4 Tribal Rights Federal Tribal Trust Responsibilities
5 and the Endangered Species Act because the Minerals
6 Estate and the oil and gas industry that develops it
7 are impairing a disproportionate burden for the
8 conservation of enlisted species. There is no
9 comparison between the rig count production numbers
10 and economic devastation in Osage County to other
11 Oklahoma counties.

12 The federal program for wild horse
13 pastures is a cakewalk compared to what you have put
14 the most economically valuable industry which
15 enriches many hundreds of more incomes and
16 households. The oil and gas industry, of course,
17 the wind, which is the oil and gas industry, the
18 wind farms got special passes, too. The Pawhuska
19 BIA got \$2 million more to clean up their act after
20 the settlement. They have lost key personnel in
21 accounting, permitting, leasing and other areas.
22 The plats are not updated. They are not properly
23 including contracts, leases, assignments, drilling
24 and work-over programs -- permits. Backlogs and
25 mountains of paperwork have caused great

1 inefficiencies but has not been replaced. And yet
2 you think you can implement an EIS causing more work
3 and creating new regulation and laws that you don't
4 have the staff to enforce?

5 I repeat what I said at the last EIS
6 meeting: As an Osage Head Right owner I reject this
7 environmental impact statement for the Minerals
8 Estate. It is not necessary and absolutely the
9 wrong path to take. Please get back to your
10 mission, which I will remind you is to enhance the
11 quality of life, to promote economic opportunity and
12 to carry out the responsibility to protect and
13 improve the trust assets of American Indians, Indian
14 tribes and Alaska natives. Thank you.

15 MS. HALE: Thank you very much. Bob, are
16 you going to go next?

17 MR. JACKMAN: Sure.

18 MS. HALE: Okay. Bob Jackman.

19 MR. JACKMAN: Thank you, Jeannine. Thank
20 you, ladies and gentlemen, for being here. Susan
21 Forman, what she said I second. I have worked with
22 her on her compiling the notes of the investment
23 lost here and the royalty money lost to the Tribe
24 and also the opportunity lost to the oil and gas
25 operators who are here. I am a certified oil and

1 gas petroleum geologist who testified and is
2 certified and testified in state and federal court.
3 So much of what she said I back up -- well, all of
4 what she said I am backing up. There is a built-in
5 conflict in this whole process. It is in conflict
6 with your very mission statement. Your mission
7 statement is to promote oil and gas production in a
8 manner that is efficient. You're not doing this.
9 You have shut it down. To promote means to sell, to
10 get other people to join you.

11 Many of us in this industry have -- and
12 I've been in it for 40 years and I've done
13 everything from ran my own dozer to running my own
14 pipe, set my own wells, settled surface damages, we
15 know we rely on, lots of times, other people's
16 money. That's called promoting. You can't promote
17 anyone to come in to Osage County because of the
18 total failure of the BIA to follow its mission
19 statement, it's simple.

20 When you look at your record, you don't --
21 I marked a sheet here of your mission statement and
22 you get Fs on a number of things. We can't promote
23 here. We ran off -- you have ran off some of the
24 biggest, best and richest oil companies, also you
25 are straining the patience and the pocketbooks of

1 many of the oil and gas operators sitting in this
2 room by your continual obstruction as if you
3 couldn't plan better how to shut down an industry in
4 a county. As a trustee of a Minerals Estate,
5 there's not one in the United States that gets such
6 deep failing grades as the BIA, and we can prove
7 this in court and, I look forward to saying this
8 again in federal court.

9 Incidentally, a side note here, you bring
10 in a court reporter, you've got four attorneys here,
11 maybe five, did we agree to this? This is part of
12 your heavy-handedness again. Is there an attorney
13 out here representing all of us? No. So again,
14 this gets into the heavy-handedness of the BIA.
15 Maintaining -- you got an F on part of your mission
16 statement of maintaining accurate records of all
17 production and income received. Believe me, you
18 don't know who has what lease and where the wells
19 are. This is proven over daily, time and time
20 again.

21 We have not talked about the gas royalty
22 loss, but rough estimates are starting back 25 years
23 ago to now there has probably been over -- I'll be
24 glad to quote this and take it out, \$100 million of
25 royalty lost to the Osage shareholders. You prove

1 me different, sir, and I will buy you another Coke.
2 That's a challenge from me to you. You got an F in
3 reviewing all incoming well records. The BIA
4 doesn't keep well records. Any promoter -- and,
5 yes, on occasion I'm a promoter -- the first thing,
6 I'm a geologist. The first thing we've got to do is
7 have quick, easy access to the well records. They
8 are not proprietary. Nobody else shuts them down
9 like the BIA does. There's people here from
10 Oklahoma Geological Survey, they will tell you, the
11 key to getting development and promoting your oil
12 and gas resources is having open access to all oil
13 and gas records. You don't have that. You have
14 shut it down again. What I say, you couldn't plan a
15 better attack to shut down the industry in this
16 county.

17 In closing, I will say there's nothing
18 here for the BIA to be proud of. There's nothing
19 here to be proud about ruining incomes, families,
20 livelihoods and ruining this county. The economy of
21 this county has tanked. Yes, the oil and gas prices
22 have gone down, but this county, get this clear,
23 this county got hit with two barrels; one, oil and
24 gas prices went down, and the other aspect was the
25 total, gross, moronic mismanagement of the BIA.

1 Thank you very much, Major Jones.

2 Jeannine, you are just the messenger, so I
3 don't want you to take this too personally. I want
4 you to take this to the top management in the
5 Muskogee office and Washington DC and let them know
6 what I think, and I think I speak for a number of
7 other people, you have totally screwed up. Thank
8 you.

9 MS. HALE: Thank you, Bob. Before you
10 finalize your comments, think about something
11 constructive to say about moving forward and how to
12 improve.

13 MR. JACKMAN: Well, clean up your act
14 then.

15 OBSERVER: Get out of town.

16 MS. HALE: All right. The next person on
17 our list is Travis Keener.

18 MR. KEENER: Thank you. Travis Keener
19 with Hydration Engineering. I would like for our
20 company to be considered a resident throughout the
21 process. I think one of the main interests that we
22 have would be to see the EIS talk about the cost of
23 site-specific analysis compared to the cost of
24 drilling a vertical well, since really what we're
25 mostly talking about are vertical wells, not

1 horizontals. They're not the big, gigantic
2 Pennsylvania horizontals that have 15 million
3 gallons. When we frac a well here, if you ask Tri
4 AM, who has done it for 40 years, it's going to be a
5 500-barrel frac, and that's about half the size of a
6 normal swimming pool, 21,000 gallons. We're not
7 talking about gigantic frac jobs. So I would just
8 like to see the EIS process be real, be specific.

9 You know, we've got lots of paragraphs
10 about timber harvesting, we can remove and put in
11 stuff that talks about specific costs for vertical
12 wells, precise for site-specific analysis. We've
13 done environmental assessments for three different
14 types of companies; public, private and even a
15 landowner who owned both the land and the oil lease,
16 and really all the environmental assessments were
17 the same, and from doing these, I think that the EIS
18 could go ahead and talk about what steps are
19 required from start to finish; Form 139s, the beetle
20 survey. I think you guys are already working on us
21 not having to wait 45 days for the Fish & Wildlife
22 to respond to a negative beetle survey. We know
23 where to have the beetles come. So that's really
24 good. In doing some other things in parallel, like
25 going ahead and working on the drill permit while

1 we're in the 30-day waiting period for the -- once
2 the draft EIS -- I mean EA has been approved -- in
3 this case once we have an EIS, we write an EA off of
4 it, not waiting that full 30 days to go ahead and do
5 the drill permit is a really good idea. Do some
6 things in parallel.

7 I would love to see the EIS go ahead and
8 take a stab at envisioning what the flow sheet is to
9 accomplish this environment goal that you have and
10 what can be done in parallel, because it would
11 really speed the process up. It takes about five
12 months to do one of these, and at the end of the
13 day, from my perspective, the BMPs that get stapled
14 to the drill permit are always the same, and we
15 could have just stapled those on there in the very
16 beginning.

17 I'm speaking as if we're going to have to
18 live with this new life that we're looking at. Some
19 of you guys may be able to convince them that we
20 don't have to do this, but if we do, I'm saying
21 there are things that we could improve and we could
22 make a lot faster by just having everybody agree. I
23 will live by these things that you are going to
24 staple to my drill permit, and why go through all
25 the other hoops?

1 I guess the other thing I don't see yet
2 and I would like to see the EIS address it, I don't
3 see how tiering off of an EIS is really going to
4 save a lot. It still requires site-specific
5 analysis. The only thing it's going to do is take
6 about 70 or 80 pages of boiler plate information out
7 of the 300-page document that we prepared and put it
8 into the EIS, but there's still all the site
9 specifics, so when we throw on the theory we'll be
10 able to tier off of it, I really don't think that
11 that means it will go faster and I don't think that
12 it means that it will go cheaper unless there are
13 some new process improvements done to the process,
14 because that 70 pages of boiler plate, I mean, yeah,
15 if I was typing it with an old typewriter on five
16 carbon copies of onion skin paper every time, that
17 would save me a lot of time, but that's just boiler
18 plate and it can either be in the EIS or it can be
19 in my document. It doesn't matter. So tiering, to
20 me, doesn't seem to help a lot, and I guess the last
21 thing -- that's it. That's all my comments. Thank
22 you.

23 MS. HALE: Thank you so much. Paul
24 Revard. Now he's going to do a dance.

25 MR. REVARD: No. I'm not going to sing,

1 either. Hi, my name is Paul Revard. I'm an Osage
2 shareholder, a third generation Osage County
3 Oklahoma producer on both my mother's side of the
4 family and my father's side. I put my name on the
5 list to comment because I thought there was going to
6 be a presentation for us to comment about. We had
7 already made our comments to the last draft EIS,
8 which I thought was from what you say you've
9 received substantial response. I thought maybe you
10 were coming back to us with a new proposal, and that
11 you would be addressing it and exposing it today for
12 us to comment. That's why I put my name on the
13 list, but since I had this opportunity, I think
14 that, like Chairman Waller said previous and others
15 have, too, the 1979 study we all feel like was
16 sufficient, is still in place, and I would suggest
17 that we just go back to that document and if there's
18 issues that you all have line-by-line on the current
19 1979 study, why don't we just go back line-by-line
20 and see what needs to be updated.

21 There's mention of this new technology
22 called fracking. You know, I'm 64 years old and
23 they invented hydraulic fractured one year before I
24 was born. Prior to that, back in the 80s they would
25 basically frac wells using cores of nitroglycerin.

1 It was pretty successful. That had the same effect
2 of making fractures, producing formations, so, you
3 know, fracking is nothing new.

4 But anyway, if we would just go back to
5 the 1979, which is still in place, and just go line
6 by line of what needs to be updated, it doesn't have
7 to be 300 pages long. So like a lot of us here in
8 the room, producers and shareholders, we have been
9 financially hit hard by all this regulation and not
10 just the regulation, just the cloud that that -- we
11 have that over us. Even if it's not in place yet,
12 just the fear that it's coming has run out -- it's
13 harmed our ability, like Bob Jackman said, for us to
14 bring in outside money, OPM, Other People's Money,
15 which a lot of us small independents, with several
16 exceptions in the room, but guys like me and Bob,
17 you know, we don't drill wells hands up with our own
18 money. We have skin in the game, but we have to
19 bring in, you know, outside financing.

20 There's no one that -- you know, that
21 would come into the county now with new money. I
22 don't know that I could in good conscious convince
23 somebody to come in and drill a well here in the
24 county, take their money, and, you know, I basically
25 have done this. I brought in -- I won't say his

1 name, but somebody well established in Tulsa that
2 was excited about the Indian Osage County, and we
3 came in the last lease and bought a lease to drill
4 on and its over a year-and-a-half old and, you know,
5 we can't get a well permit. We don't even have our
6 lease approved because the superintendent attached a
7 decision to it which ties our hands to the point we
8 can't even drill a well. I made my second appeal to
9 that instrument, but, you know, it's embarrassing
10 for me to have to see this gentleman occasionally
11 and he bought this lease and, you know, we can't
12 drill on it. So I'm not asking anybody to come into
13 Osage County.

14 Travis made the comment about what we
15 could live with and what we can't live with and this
16 EIS, and I can't live with any of it. I won't be
17 drilling anymore wells and I won't be completing
18 anymore wells in the county. I'm going to be
19 leaving the Osage County, like several already have,
20 and the ones that haven't, many are just hanging on.

21 So anyway, I appreciate this opportunity
22 for you all to come and talk to us again, but I --
23 like I said, I thought we were going to have a
24 meeting today where you were going to present a new
25 EIS for us to comment on. So I will yield to the

1 next. Thank you.

2 MS. HALE: Thank you. Hopefully by the
3 time we have the next meeting, we will have met with
4 our cooperating agencies and we'll have something
5 like a hard copy or a presentation that you can
6 comment on, but we're just at the initial stages
7 right now, so we haven't drafted anything, nothing
8 is etched in stone. It's wide open right now, so I
9 appreciate everybody's comments from that
10 perspective. David House.

11 MR. HOUSE: Pretty much everything that we
12 wanted to say has been said. We're a newbie in
13 Osage County. We've only been up here for about
14 five or six years, but I can tell you that is the
15 most -- for 35 years before that I worked oil over
16 all the other counties in Oklahoma. Without a
17 doubt, this is today the most difficult county to do
18 business in as an oil and gas operator. There's no
19 doubt. I mean, the ability to get a drilling permit
20 in Roger Mills County is a 24 to 48-hour process.
21 You file it online. You get it back the next day.
22 There's no reason that can't happen here. It's just
23 a matter of modernizing the processes to be up to
24 date with the technological advances that have been
25 made in the industry, and that's what we haven't

1 seen here.

2 I just reiterate the comments that let's
3 don't let the environmental impact study overcome
4 your fundamental purpose and that is the
5 preservation, the exploitation and the enhancement
6 of the Minerals Estate for the Osage Nation. We as
7 producers go hand in hand with that because we're
8 spending capital dollars to try to do that, and when
9 our -- when we -- when I hear that there's been 100
10 permits issued, we actually got a permanent back
11 from the BIA about three weeks ago. It had been
12 filed two years prior to that. So that's -- that's
13 what -- that's the experience that our recent
14 experience is; two years to get a permit.

15 So I just think that there's -- we need to
16 have a spirit of cooperation from the BIA. Let's
17 make this thing work together for the benefit of the
18 Nation. That's what we're all here for. They own
19 this asset. You are supposed to regulate this asset
20 but you are supposed to regulate it in a way that
21 enhances it, not to the detriment of the asset, and
22 what we have seen versus all of the other -- I can't
23 see, is that red or yellow? Red? I guess I'm done.

24 MS. HALE: Everybody else has ignored it.

25 MR. HOUSE: I'm sorry. So going forward,

1 I would agree with Paul, let's start with what we
2 know best, that's the '79, and let's adjust from
3 there. We all know the '79 best. We operated on it
4 for a number of years. If it's inadequate, okay,
5 but let me just tell you that the Osage land is in
6 much better shape today than it was 25 or 30 years
7 ago. We were really produce -- the producers worked
8 hard to take care of the environmental problems.
9 We're not perfect. Nobody is perfect.

10 The OERB has spent -- has cleaned up over
11 900 sites in Osage County and spent over \$10 million
12 doing that in the last seven years up here, and they
13 are committed to continuing to do that. So for
14 landowners who have problems that they can't get
15 solved through the BIA, call the OERB. They won't
16 help you?

17 OBSERVER: Not if there's an operator
18 already.

19 MR. HOUSE: I'm sorry?

20 OBSERVER: Not if there's already an
21 operator on the land.

22 MR. HOUSE: Oh, okay. Yeah, if there's an
23 operator, they won't help you. I mean, that's true.
24 I apologize for that. But if you've got no --
25 inactive wells and old stuff that needs to be

1 cleaned up, call the OERB. They would love to come
2 up here to help you do that. It's a process. It
3 takes about 18 months to get it done, but I have
4 talked to hundreds of landowners that are so pleased
5 with what the OERB can do for them. So I encourage
6 anyone who hears of someone that says, I can't get
7 my deal taken care of, call the OERB. That's what
8 they are there for. We just spent over \$100 million
9 in the state of Oklahoma, 10 percent in Osage
10 County, cleaning up old sites, so that's an asset we
11 need to utilize.

12 The last thing I want to say is that as we
13 develop new rules, they need to be more concise than
14 the last one. There were too many generic words
15 that had multiple meanings that could mean one thing
16 to me and another thing to you. What is a creek and
17 what is a pond and what is this and what is that.
18 We need to have as much specificity as possible in
19 the rules so that we know exactly what we're
20 supposed to do. Thank you very much.

21 MS. HALE: Our next speaker is Dale
22 Jessie. Dale, did you sign up?

23 MR. JESSIE: I signed the sign-in sheet.

24 MS. HALE: Do you want to speak?

25 MR. JESSIE: Do I want to speak? No, I

1 better not.

2 MS. HALE: Do you want me to come back to
3 you? Okay. Richard Dollar.

4 MR. DOLLAR: Many of you know me, many of
5 you don't. I'm not a landowner nor a producer nor a
6 tribal member. I'm a vendor. I fit into the
7 category of oilfield trash, and I do spill plans
8 from Mississippi to Utah, New Mexico to Ohio. I've
9 seen environmental problems like you've never seen
10 before.

11 But my question -- or my comment on this
12 is economic. As well as doing spill plans, I do
13 H-15 tests in Texas, and each month the railroad
14 commission publishes online the two -- about 2,000,
15 2,500 tests that are going to be done that quarter.
16 As a vendor I can call those people and do their
17 H-15s, which is an MIT; okay? Oklahoma has no
18 system like that and I can't even get online to see
19 what Osage County has, what your wells are, do
20 anything. But in my travels and doing my work, by
21 profession I'm an investigator with a degree from
22 the University of Oklahoma and Tulsa University. I
23 was a George Kaiser investigator for 10 years. I've
24 worked for about 35 oil companies doing special
25 projects, let's just call it that. But I've done

1 phase one environmentals, which is basically what
2 this is, in Hobbs, New Mexico, we're out there, I'm
3 looking for the sagebrush lizard for a couple of
4 weeks. Greenbrier, Arkansas, on a drilling rig so
5 they could drill, and in Big Spring, Texas, looking
6 for jackrabbits, and what I've seen in the past is
7 that these phase one environmentals can run from
8 5,000 to 25,000 up to 250,000.

9 I'm also a real estate broker, have been
10 for 24 years, and I've seen phase one environments
11 get real expensive. What you folks have here is a
12 cookie cutter compared to what Hobbs and Greenbrier,
13 Arkansas, had, probably different topography. You
14 are in a pocket here. You've got basically the same
15 thing over and over and over. When these things end
16 up being 300 pages, there's no sense of printing 300
17 pages every time. You can get it down to a tab
18 sheet, which might be what the '79 program was, I
19 don't know. I haven't read it. But you need to get
20 it simplified to where it doesn't cost \$5,000 for
21 each one just to drill a well. And time wise, like
22 Travis said, it takes five months to do one of
23 these. That's unrealistic, and that's basically all
24 I have to say.

25 MS. HALE: Councilman Redcorn.

1 MR. REDCORN: (Addressing the audience in
2 a native language.)

3 I'm a member of the Osage Minerals
4 Council. My name is Talee Redcorn. I was voted in
5 in 2014. It's a pleasure to serve what I've always
6 referred to as the Osage Head Right holders. I also
7 wanted to thank the representatives of the United
8 States to be here and meet with us. I want to just
9 reinforce what our Chairman Everett Waller says and
10 that we have four points that he outlined today to
11 Ms. Hale and I stand behind those comments.

12 A little history, we became associated
13 what we call (speaking native language) the large
14 knives, the long knives people, and that's the
15 United States, that's the Americans, back in 1806,
16 and these gentlemen here, as you can see, a lot of
17 those people knew the representatives of the United
18 States at that time. It was General Leavenworth and
19 General Montgomery Pike and those people, and the
20 United States dragoons at that time. We had an
21 understanding among the Americans, and we called
22 them long knife people and they called us the
23 (speaking native language), referred to us as
24 Osages. 100 years later we have what we call the
25 1906 Act, and again the United States made maneuvers

1 and laws to re- -- what I refer to as reinforce this
2 relationship of the Osages and the Americans.

3 So we come to 2006 and now we're here
4 today. I want the United States to please recall
5 that this property is owned by somebody. It's not
6 the American people, and you've always acknowledged
7 that and we appreciate that, but it is for the
8 beneficiary of the Osage Head Right owners. I
9 reemphasize that to you today, that we build from
10 this point on, if you can, just remember who these
11 people are, that you're trying to work with us, our
12 Nation, our people and then the people you
13 represent.

14 The other thing is I wanted to come up
15 with some questions. Number one, I had a comment on
16 the EIS process. I have not been in favor of an
17 EIS. I was hoping, pushing, politicking that we
18 stick to business as usual. As I move more and more
19 in communicating, I think that's probably something
20 that's more blasphemous words for the BIA to
21 consider, et cetera. This is bad language to talk
22 about a categorical exclusion, I guess, in this
23 atmosphere. That's my question. And the EA in '79,
24 I see some heads shaking over there. I'm going to
25 take that as a confirmation.

1 The second question, are we talking about
2 a lease application and then the EIS stapled
3 underneath it and then that's an approved process,
4 that person can go forward and drill, or are we
5 talking about the lease application, site-specific
6 stuff that has to happen, and then the EIS is
7 stapled to all three of those sections, stapled
8 together and that's your lease application? Is that
9 more what we're talking about site-specific stuff
10 happening in this process?

11 MS. HALE: Do you want me to try to answer
12 that? This EIS, I believe we're going to go down
13 the same path as we were before, it would
14 incorporate the programmatic environmental
15 assessment that we did for leasing, and so hopefully
16 when we're done with this EIS there will not be
17 another EIS document that's required for a lease;
18 however, if you are going to require permits, such
19 as a drilling permit, you are probably still going
20 to have to have, unless you've already done an EA
21 for that particular area, an EA that's tiered to
22 this EIS and addresses site specific conditions,
23 like the creek that runs by your well or, you know,
24 if there's an endangered species there. Does that
25 answer your question?

1 MR. REDCORN: That answers my question.
2 Thank you, Ms. Hale. So my comment will be, and my
3 understanding that this lease stapled together with
4 site-specific stuff with the EIS on the third
5 stapled together so you can drill will have to
6 happen, site-specific stuff? I see some heads
7 shaking yes.

8 I'm going to ask this. That you consider
9 as you call the Osage, you leave it blank, I would
10 appreciate that at the end of this document I just
11 read and handed it to us. You are laughing. You
12 understand what I'm saying. You consider the Osage
13 in that process. I know we're an infant group, but
14 we want to be involved and have to shorten that to
15 make it more robust, make it more faster literally.
16 We cannot -- if I'm going to have to eat this thing,
17 which I feel like I'm going to have to eat it, then
18 let's talk about that discussion there and that
19 process.

20 As we are -- as the Osage, so I also want
21 to say that the history council -- Congressman John
22 Baker back here, one of his people is called
23 (speaking native language). That's a name among the
24 Osages, it's overseer of the land, a sojourn for
25 that land. It's a powerful name among the Osage.

1 It comes from the Dear Clan, and I'm asking you that
2 you acknowledge, as the United States, our right to
3 sojourn over our land (speaking native language).
4 Thank you.

5 MR. BABST: I'm Charles Babst with the
6 Solicitor's Office. I wanted to follow up on what
7 Councilman Redcorn just said about site-specific
8 analysis when I was mentioning to that gentleman
9 right there the Hayes case. The Hayes case is the
10 second lawsuit that was filed against the Bureau of
11 Indian Affairs and an oil company called Chaparral,
12 maybe you've heard of it, and in that case Judge
13 Frizell ruled in December that a lease and two
14 drilling permits were invalid from the inception.
15 From the day they were signed and approved they were
16 invalid because they relied solely upon the 1979 EA
17 and because they did not have site-specific analysis
18 performed by the BIA for that lease and those two
19 drilling permits; okay.

20 OBSERVER: He later reversed himself.

21 MR. BABST: No, he did not. No, he did
22 not. I'll show you the order.

23 OBSERVER: You don't have to be --

24 MR. BABST: The lease -- the lease is
25 invalid, void ab initio, and the two drilling

1 permits are, too.

2 OBSERVER: Well, must not have read the
3 same lawsuit.

4 MR. BABST: He remanded the case back to
5 Indian Affairs for additional NEPA compliance work,
6 and thankfully for Chaparral he stayed Mr. Hayes'
7 trespass action against Chaparral.

8 OBSERVER: They didn't even want the damn
9 lease back anyhow.

10 MR. BABST: I'm just telling you what
11 happened. I'm answering Councilman Redcorn's
12 concern about site-specific work. We believe that
13 site-specific work will have to be done in order for
14 these leases and permits to survive other lawsuits.
15 Is that helpful, sir?

16 MR. REDCORN: Yes.

17 MS. HALE: Thank you.

18 OBSERVER: Jerk.

19 MS. HALE: Cynthia Boone, Councilwoman
20 Boone.

21 MS. BOONE: Good afternoon. My name is
22 Cynthia Boone. I'm an elected official with the
23 Osage Minerals Council. I am a landowner in Osage
24 County. My family has been here since the 1800s.
25 There have been oil wells drilled on my property,

1 and I welcome them all. I wish there were more. I
2 am a Head Right owner. I am a beneficiary of the
3 Osage Minerals Estate. I am the only third-term
4 elected official to represent my Head Right owners.

5 The BIA mission statement says to promote
6 economic opportunity and to carry out the
7 responsibility to promote and improve the trust
8 assets. My constituents do not believe that this is
9 what happened in the first draft EIS. You stated
10 earlier that you hoped the Osage Minerals Council
11 will become a cooperating agency, yet when we
12 submitted our memorandum of understanding, all
13 references to trust responsibility and Osage
14 Minerals Estate were marked out.

15 I look forward to negotiating with you on
16 a new memorandum of understanding. One of the
17 things I don't want to see in the next draft is that
18 Galen Crum is identified as Osage Minerals Council.
19 Mr. Crum was appointed by the Osage Nation. Their
20 constituency is different than the Osage Minerals
21 Council, but yet on page 4-21 and 4-78 Galen Crum is
22 identified as an Osage Minerals councilperson. What
23 I do want to see is a preferred alternative that
24 must encompass provisions that will maximize the
25 extraction of minerals from the Osage Minerals

1 Estate for the benefit of the Osage Head Right
2 owners as the only beneficiary of this Osage
3 Minerals Estate. It's not the Osage Nation. Thank
4 you.

5 MS. HALE: That's actually everyone who
6 signed up so far. Except for Dale. I'm going to
7 come back around to Dale. Do you want to say
8 anything?

9 MR. JESSIE: Not at this meeting.

10 MS. HALE: Is there anybody else? Would
11 you state your name for the record, sir?

12 MR. SICKING: Sure. My name is Jamie
13 Sicking. I wanted to talk about something I heard
14 earlier. That is you said the BIA made the
15 determination that an EIS was the best way to go
16 without doing an EA first. Isn't that correct?

17 MR. SIMPSON: That's --

18 MS. HALE: It should be on the record,
19 yes.

20 MR. SICKING: And that's -- that was done
21 even in light of the fact that the last time they
22 did an EA we were producing and drilling four times
23 as much as we are now and we had a FONSI at that
24 point, so we've reduced our efforts by 75 percent
25 and yet you are not willing to run an EA up the

1 flagpole to see if we can't get a FONSI right out of
2 the gate? I mean, is that -- that's what -- that's
3 the decision that was made to not even consider the
4 thing that worked last time when we were doing four
5 times as much work, we're not even going to try that
6 route? That's based on, I think you said air and
7 water quality, right? So do we have an air and
8 water quality expert here in Osage.

9 MR. SIMPSON: I was asked for examples of
10 environmental impacts and those were the examples I
11 gave. There's a lot more examples than that, like
12 the list that Jeannine put up on her slide.

13 MR. SICKING: Okay. All right. So let's
14 get on with this to NEPA. NEPA requires that the
15 government be informed when they make a decision.
16 That's it. It just requires that they take a hard
17 look at what they are doing. That's it. And
18 somehow you guys have managed to get off the rail so
19 badly that we're looking at a document that imposes
20 regulations, when, in fact, NEPA only requires that
21 you say, yeah, I looked at that and I approved it.
22 It's about informed decision-making and that's from
23 the Hayes decision that NEPA is not about new
24 regulation at all. It's just that the government,
25 when they make a decision, that they are informed.

1 Now, I'm not sure how we've gotten so far
2 afield, but as it pertains to this EIS that we're
3 putting together, let's just try to tailor it back
4 to taking a hard look at the environmental impact.
5 It's not the EIS' responsibility to try to fix any
6 of the environmental issues it sees. It just says,
7 yeah, I looked at that. That's what NEPA says.
8 NEPA has turned -- somehow this molehill is now a
9 mountain, and if you look at the Hayes decision,
10 it's clear that Frizell is seeing what's happened,
11 and he says, oh, no, it's just supposed to be a hard
12 look. All you are supposed to do is say, yeah, I
13 was aware, I made an informed decision, and somebody
14 has really taken the ball and run with it in the
15 wrong direction.

16 You said earlier when we need to operate
17 in a responsible manner and that we need to cut down
18 on unnecessary pollution. Are you implying we are
19 not operating currently in a safe manner and that we
20 are not cutting down on pollution when we can,
21 because it kind of feels like if you are going to
22 make these accusations and use them as reasoning
23 behind putting all these burdens on us, then you
24 ought to be able to show us where we made our
25 mistakes, because we've got a pretty clean county,

1 and to be treated as if we didn't and punished, I
2 mean, it just rubs us the wrong way.

3 MS. HALE: Jamie, I think that was stated
4 as a goal not an accusation.

5 MR. SICKING: Right, but if our goal, say,
6 is to score 7 points and I score 10 points a game,
7 then it kind of seems weird. You said that you guys
8 wanted stakeholders to be on this committee. Are
9 you going to invite --

10 MS. HALE: We don't have a committee. I'm
11 sorry, you misunderstood.

12 MR. SICKING: I'm sorry, I thought one of
13 your slides said you wanted input from all the
14 stakeholders and you were going to --

15 MS. HALE: We do want input from
16 stakeholders. There's not a committee.

17 MR. SICKING: Well, for, let's say, the
18 memorandum of understanding, people want a seat at
19 the table. Are you going to offer the Osage
20 Producers' Association --

21 MS. HALE: No, sir.

22 MR. SICKING: -- as a stakeholder a seat
23 at the table.

24 MS. HALE: No, sir.

25 MR. SICKING: Who knows more about

1 producing oil and gas in Osage County and how it's
2 done?

3 MS. HALE: Let me clarify. Under CEQ
4 regulations, which I'm sure as an attorney you have
5 read, it talks about cooperating agencies and who
6 qualifies.

7 MR. SICKING: Uh-huh.

8 MS. HALE: It doesn't include nonprofits
9 and trade organizations and that sort of thing.
10 That doesn't mean you don't have a seat at the table
11 in developing this EIS, because you will have
12 multiple opportunities to have input such as you
13 have today.

14 MR. SICKING: Doesn't -- I think --
15 doesn't it allow for us to have a seat at the table
16 on a subcommittee that also sits at the table?

17 MS. HALE: There isn't a committee.

18 MR. SICKING: I'm sorry if you don't like
19 the term, but the fact is if you guys want this deal
20 to work the first time, it would make sense to run
21 it by the people that have to make it work the first
22 time. Not, hey, go put it in and then, oh, sorry
23 that pie is half cooked, I didn't know it had to
24 bake for 30 minutes when we could have told us.
25 Yeah, 30 minutes, 350, because we're out there every

1 day. It seems to me that might be a nice place to
2 start.

3 Just want to touch on that Hayes lawsuit
4 again. He did say void ad initio in his December
5 ruling.

6 MR. BABST: And he said invalid in the
7 second.

8 MR. SICKING: And he said invalid in the
9 second. There's a huge difference. Void ad initio
10 is you've got a lot of trouble. Invalid means the
11 BIA can do something to make it valid

12 MR. BABST: We are.

13 MR. SICKING: I have another question.
14 Mr. Winlock, it's my understanding that the BIA,
15 when they get a 139 drilling permit or something,
16 they send somebody out to look at the location, eyes
17 on.

18 MR. WINLOCK: Yes.

19 MR. SICKING: Okay. That's all that NEPA
20 requires, except you also have to put a paragraph in
21 the file that says I went and looked at it, and we
22 don't have that paragraph in the file. We've done
23 the work, but BIA has done the work when it comes to
24 taking a hard look. All I have to do is say, yeah,
25 I was there, it's 250 --

1 OBSERVER: Jamie, they never have come out
2 and looked at any of my wells.

3 MR. SICKING: I don't know. It's my
4 understanding they go to every one. That's part of
5 the 139 permitting process is they have an eyes-on
6 guy. The problem has come from not documenting it
7 and not saying, hey, per NEPA, I went out and looked
8 at it and it's a lack of documentation on the part
9 of the BIA, not even a lack of doing the job.

10 So I think I would ask, going forward,
11 that somebody who has some decision-making authority
12 take a hard look at what NEPA actually says, and
13 it's that you just make an informed decision, not
14 that you do anything about it. It's just, yeah, I
15 knew that when I made the decision. This just seems
16 like another way to pile on and it's unfortunate.
17 Those people have been through enough.

18 MS. HALE: I think I saw Shane. Good
19 evening. Would you state your name?

20 MR. MATTSON: My name is Shane Mattson.
21 To quote Charles Winstrom (phonetic), It's like deja
22 vu all over again. My name is Shane Mattson. I'm
23 the president of the Osage Producers Association.
24 The Osage Producers Association is a nonprofit
25 organization filled with producers and service

1 industry focused on Osage County oil and gas
2 operations. We are pleased that the BIA recognizes
3 that the Osage oil and gas EIA -- EIS requires a
4 significant midcourse correction. As the EIS
5 process requires a statement of the range of issues
6 of possible alternatives, the basic alternative must
7 be the administration of an oil and gas permitting
8 process, which is supported by and consistent with
9 existing federal law and regulation. The
10 alternatives should include permit processing
11 improvements, allowing quick turnaround permit
12 applications unless there are unique environmental
13 issues. The alternatives should acknowledge
14 contentious issues and the BIA's limitations in
15 providing solutions.

16 If the BIA wishes to consider mitigation
17 alternatives; such as esthetics, noise, which are
18 not supported by existing laws and regulations, the
19 proposed changes must be identified as such. The
20 analysis of such alternatives must provide for the
21 continuation of business as usual and the
22 uncertainty of success.

23 The BIA need only describe the environment
24 of Osage County as necessary for the responsible
25 official to make a, quote, detailed statement on the

1 environmental impact of the proposed action from the
2 NEPA Act. A complete description of the Osage
3 County environment entails impacts from cattle and
4 creeks, wind farms, urbanization, rural residential
5 development, et cetera. Only those aspects of the
6 Osage environment relevant to the proposed action
7 within the BIA's authority should be included.

8 The BIA should recognize the environmental
9 benefits which resulted from the U.S. EPA
10 administered Spill Prevention Control and
11 Countermeasures Regulations and the Underground
12 Injection Control Regulations. If there are
13 failures or shortcomings in these areas, the EPA's
14 response should be incorporated into the EIS. The
15 BIA's plate is full. It can ill afford to
16 redundantly embrace environmental measures
17 administered by other agencies.

18 Compliance with existing laws and
19 regulations must be a premise of the EIS, and Osage
20 must absolutely be competitive with adjacent
21 counties for investment. The BIA must carry out its
22 Endangered Species Act obligation by presenting to
23 the U.S. Fish & Wildlife Service a biological
24 assessment related to the American burying beetle in
25 the beginning of the ESA Section 7 consultation.

1 While the draft EIS is in process, the
2 current highly redundant site-specific environmental
3 assessment must be streamlined. Special provisions
4 attached to drilling permits, which are not
5 supported by existing laws and regulations and are
6 not enforceable, should be avoided. The current
7 environmental assessment process in combination with
8 a project-by-project American burying beetle
9 procedures have presented -- have prevented new
10 wells from even being considered because of delayed
11 costs and uncertainty that otherwise would be
12 producing today to the benefit of the Osage Minerals
13 Estate.

14 We as the OPA are encouraged by the BIA
15 expressing interest in working with, "others" to
16 gather information and work to prepare a revised
17 EIS. The Osage Producers' Association wishes to be
18 a participant, and in your document it says the BIA
19 will work with cooperating agencies and others. We
20 consider ourselves others. We would be pleased to
21 participate in any and all aspects. It's wonderful
22 today to see my friend Neil Suneson with the
23 Oklahoma Geological Survey here and to see that the
24 OGS is considering executing a memorandum of
25 understanding.

1 Two additional agencies I would recommend
2 that you speak with would be the United States
3 Geological Survey, who has a 100-year publishing
4 record on the oil and gas resources of Osage County,
5 and the Oklahoma Corporation Commission. The
6 Oklahoma Corporation Commission can explain to you
7 how the process works outside of this county, and
8 perhaps there are things that could be incorporated
9 into the process that will speed things up. I think
10 they would benefit, both agencies the USGS and the
11 Oklahoma Corporation Commission, in participating.

12 In order to participate in environment --
13 in order to anticipate environmental impact, it's
14 necessary to establish the full scope of future oil
15 and gas development. Paraphrasing Neil Morris,
16 prediction can be difficult when it involves the
17 future; nevertheless, we believe we are uniquely
18 qualified as the OPA to make developmental forecasts
19 and will endeavor to do so if allowed to
20 participate. We will submit written comments on
21 May 8th elaborating on my remarks and further
22 defining our proposal to prepare a forecast of oil
23 and gas activities. Thank you.

24 MS. HALE: I am not sure if USGS is here
25 tonight. Bill Andrews was going to attend. We do

1 have somebody? Okay. That's great. I just wanted
2 folks to know we did invite USGS. We certainly
3 reach out to other folks as well, as suggested, and
4 it's encouraging to hear your remarks that you are
5 willing to participate and give us additional
6 information, such as production forecasts and that
7 sort of thing. So did we have anybody else that
8 wanted -- okay. Myron.

9 MR. REDCORN: Hi, name is Myron Redcorn.
10 I'm a former member of the Osage Minerals Council --
11 Second Osage Minerals Council. (Speaking native
12 language). I've been out of the loop for quite a
13 while now, but I hear things and I talk to people
14 and ask around about what's going on, and they all
15 give me just about the same answer and it's not
16 getting any better, and I just have one question.
17 I've talked to several people about this, and in our
18 studies I've even talked to Dr. Hunter about it and
19 questioned her about it, and she doesn't really have
20 a whole lot to say about it, but the question I have
21 for this session is: Are these environmental
22 studies done on the same leases as -- twice or every
23 time?

24 MS. HALE: Richard, you may be able to
25 answer this better than I. My understanding is we

1 have some records, Richard Beaty, our archeologist
2 at the Osage Agency, always checks his records to
3 see if a survey has been done before, and if it has
4 been whether or not it needs to be updated or not,
5 but I don't believe usually they are done twice.

6 MR. WINLOCK: No, a lot of times the oil
7 companies do a block survey, too.

8 MR. REDCORN: That was my biggest concern,
9 you know, because a lot of the producers that come
10 in here, all they talk about is expediting it,
11 speeding the process up. That would be an excellent
12 thing to do, you know, if it's already been done
13 before, why do it again. I know I'm a landowner
14 myself and the graveyard -- our family graveyard, it
15 was vandalized, some of the pictures we had of my
16 uncles were shot out, and I can see the importance
17 of archeological studies like that, but also we have
18 to think about who helps us in the county and that's
19 the Osage producers. We need to do everything we
20 can to help them because as far as I'm concerned
21 it's going to be around forever. Thank you.

22 MS. HALE: Thank you so much.

23 MS. JONES: I'm Jill Jones. I'm the board
24 chair of Osage Nation Energy Services, LLC. I'm an
25 Osage tribal member. I wanted to emphasize I'm not

1 speaking on behalf of Chief's office or on behalf of
2 the Osage Nation. We are an independent company
3 under the Nation, so I'm really only speaking on
4 behalf of our board and reflecting some comments
5 that we have previously about the EIS.

6 We agree with Chairman Waller and the
7 Minerals Council that any measures to address
8 impacts cannot and must not violate the trust
9 responsibility owed by the United States to promote
10 the development of the Osage Minerals Estate. This
11 must be considered first and foremost by BIA in
12 relation to all aspects of the EIS.

13 It is imperative that the EIS be
14 specifically formulated for the unique and
15 specialized situation existing in Osage County, most
16 importantly that the Osage Minerals Estate is held
17 in trust and that the responsibility for developing
18 the Minerals Estate lies with the BIA. This results
19 in an area in Osage County where energy development
20 is one primary component of the economy and
21 historically supported by the Osage Nation and its
22 operating partners. We believe it's not feasible to
23 utilize the same type of document or wording.
24 Resource conservation measures or procedures in the
25 EIS that are used for other federal lands related to

1 areas where oil and gas development or any type of
2 energy development is not a priority, such as
3 federal lands, public lands, and that sort of thing.

4 It is our opinion that the BIA is required
5 to review the EIS from the perspective of the
6 specific type of land and the type of energy
7 development prevalent in the Osage and not use
8 references which are applicable to other areas or
9 federal lands where that type of development is
10 typically not promoted or even allowed. More
11 specifically BIA must formulate this EIS for the
12 specific purpose of meeting the requirements of
13 Osage energy development rather than starting with
14 documentation and wording or templates meant for
15 other purposes and simply trying to remove
16 references and measures which do not or should not
17 apply in the case of Osage County.

18 We also believe the intent and final
19 outcome of this EIS must be defined right up front,
20 especially as it relates to the CFRs. There needs
21 to be clarification on what the record of decision,
22 or the ROD, will address as a result of the EIS and
23 how this integrates with the existing regulations
24 that are already in place. From a process
25 perspective, we don't support outlining a variety of

1 BMPs or RCMs which are then applied at the
2 discretion of the Osage BIA Agency or the
3 superintendent.

4 Without exactly defined process for
5 applying rules and measures to manage oil and gas
6 activities, the operating environment continues to
7 be unstable and this practice makes profitable oil
8 and gas operations difficult to achieve from a
9 business standpoint. So a concern for us is that
10 future implementation of RCMs and other measures
11 included in the EIS will be at the discretion of the
12 BIA Osage Agency or the superintendent without a
13 specifically defined or documented procedure. But
14 this lack of specific details on implementation
15 would create an extremely subjective process which
16 does not support the consistency and management
17 required for effective implementation of the Osage
18 Minerals Estate. Any action must be defined
19 specifically and not left to later interpretation by
20 the BIA.

21 To close, we stress any measures to
22 address impacts cannot and must not violate the
23 trust responsibility owed by the United States to
24 promote the development of the Osage Minerals
25 Estate. We agree that better consultation with the

1 Osage Minerals Council and the Osage Nation is
2 required as part of this process, and we agree with
3 the Osage Minerals Council that the development of
4 the EIS must be tailored to fit the unique
5 requirements of the Osage Minerals Estate in order
6 for BIA to meet its trust responsibility. Thank
7 you.

8 MS. HALE: I'm looking to see if anybody
9 else has their hand raised. Have we missed anyone?

10 MR. MAKER: I'm John Maker. I'm an Osage
11 tribal member, 3/4th Osage, from Hominy, Oklahoma.
12 I am a landowner and Head Right owner. I also sit
13 on the Osage Nation Congress, but I'm not here as a
14 representative of the Congress nor am I allowed to
15 be.

16 So what I would like -- I would like to
17 see some cooperation here. I see -- I hear -- I see
18 two sides here. What I think we need here is a lot
19 more cooperation between the producers and everybody
20 who has an interest in this needs to be allowed to
21 sit at the table in negotiations. That's the key to
22 any realistic outcome, a positive outcome is to have
23 everybody involved, not just a few, especially here
24 in the Osage Reservation.

25 Our history goes way back with the

1 government, as we all know. I know all you people
2 here are well educated, and the Osage people have a
3 long relationship with the government and as we all
4 know we are the only Indian tribe that has a Mineral
5 Estate on the planet here. So we have a special
6 relationship with the government as we all know, as
7 you know, and I would say that the Osage people
8 through history have been very generous with our
9 assets here. During all the wars that we've been
10 involved in; WW1, WW2, even before that, the
11 Revolutionary War, we've always had a hand in the
12 history of this government, this country, these
13 United States of America.

14 So all we want is a chance to have our
15 constitutional rights to the pursuit of a life and
16 the revenue and to be business owners and have --
17 and just have the right to pursue happiness here,
18 but I would like to say that the Osage Nation has
19 had a lot of adversity through the years, centuries,
20 throughout floods, war, but I never thought that a
21 beetle would be one of our greatest adversaries.
22 The great Osage Nation, warrior tribe of people, to
23 a standstill by a bug.

24 OBSERVER: Kill them all.

25 MR. MAKER: In closing, I would have to

1 say I would like to see a lot more cooperation here,
2 and I think everybody with an interest here has the
3 right to be involved in negotiations. Thank you.

4 MS. HALE: Thank you so much.

5 MS. FORMAN: Can I ask a question of
6 Congressman Maker, if possible? It's to clarify.
7 When you said we are the only tribe that has a
8 Minerals Estate, did you mean we are the only tribe
9 that purchased with their own money, their own
10 Minerals Estate? The gentleman at the table was
11 shaking his head.

12 MR. MAKER: In the history, from what I
13 know, I don't know of another tribe in the United
14 States that has a Minerals Estate like we do.

15 MS. FORMAN: I think there's plenty that
16 have oil and gas, but we bought ours, fee simple.

17 MR. MAKER: We actually bought our own
18 land and --

19 MR. BABST: Only one purchased.

20 MR. MAKER: Okay. I stand corrected on my
21 statement that we were the only. We were the only
22 ones that did, in fact, buy our only reservation.

23 MS. FORMAN: Thank you.

24 MS. HALE: Thank you, sir. We will bring
25 conclusion to our public comment period. To just to

1 reiterate, I don't see anybody else with their hands
2 up. We are going to take these comments back and
3 the additional ones that we hopefully get some more
4 on our e-mail address or in the mail. We're going
5 to put the Power Point up on our website, and then
6 we'll have a transcript of the comments as well that
7 we will review, and it usually takes a little while
8 for us to get that transcript and get that posted.
9 Is there any other question about our process that
10 we can answer? Shane?

11 MR. MATTSON: How do we obtain the
12 transcripts of the last EIS meeting.

13 MS. HALE: Shane, I thought it was up on
14 the website. Is it not? Is there not a link to it?

15 MR. MATTSON: Not that I've seen.

16 MS. HALE: It is? We have conflicting --
17 if it's not, I know I've sent it by e-mail to, I
18 think, Councilwoman Boone, I think I actually sent
19 it to you, didn't I.

20 MS. BOONE: Yes, you did.

21 MS. HALE: I'm happy to send it if you
22 can't get to it.

23 MR. MATTSON: Thank you.

24 MS. HALE: Anything else about the next
25 steps or the process? All right. Thanks for

1 coming.

2 (PUBLIC SCOPING MEETING CONCLUDED AT 5:04 P.M.)

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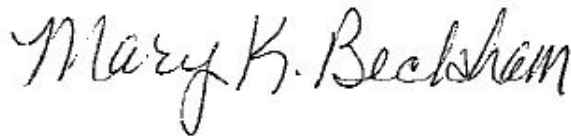
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CERTIFICATE

STATE OF OKLAHOMA)
) SS:
COUNTY OF TULSA)

I, Mary K. Beckham, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing Public Scoping Meeting at the Wah-Zha-Zhi Cultural Center was by me taken in shorthand and thereafter transcribed; that the foregoing pages constitute a full, true and correct transcript of the Public Scoping Meeting; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 4th day of May, 2016.



Mary K. Beckham, CSR, RPR
CSR No. 01053

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Appendix C

List of Commenters

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APPENDIX C

LIST OF COMMENTERS

The formal public scoping period began on April 11, 2016, with the publication of an NOI in the *Federal Register* (Vol. 81, No. 69, page 21376), and closed on May 8, 2016. The list below shows the commenters who submitted substantive comments during this period, both written and during the public scoping meeting.

1. Catherine Howell, The Nature Conservancy
2. Cynthia Boone, Osage Minerals Council
3. David Chambers
4. David Hayes
5. David House
6. Donald Lepp, Drummond Law, PLLC
7. Everette Waller, Osage Minerals Council, Chairman
8. Geoffrey M. Standing Bear, Osage Nation
9. Jamie Sicking, Osage Producers Association
10. Jennifer Baker
11. Jill Jones, Osage Nation Energy Services, LLC
12. John Maker
13. Marla Peek
14. Myron Redcorn

15. Nona Roach, Agape & Associates Inc.
16. Paul S. Revard, Revard Oil and Gas Properties, Inc.
17. Richard Dollar
18. Ron P. Reed, REED BROS.
19. Shane Matson, Spyglass Energy Corporation
20. Susan Forman, Osage Headright Owner
21. Talee Redcorn, Osage Minerals Council
22. Thomas Williams, LEID LLC
23. Travis Keener, Hydration Engineering

Appendix D

Comments by Process Category and Issue

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APPENDIX D

COMMENTS BY PROCESS CATEGORY AND ISSUE

The BIA received 215 discrete comments during the scoping period. These comments were classified by process category and by issue category. Comments for each of the EIS process categories and for issue categories are included in this appendix. Comments are included verbatim from the comment submissions, including the scoping meeting transcript; however, information in letters that was not considered a substantive comment is not included here. Comments are included for the following groups:

Comments by Process Category

Table D-1 Issues Beyond the Scope of the EIS (page D-3)

Table D-2 Comments on NEPA Process or How to Improve the Overall EIS Process (page D-3)

Table D-3 Alternative Proposals (page D-9)

Table D-4 Comments on the Purpose of and Need for the EIS (page D-17)

Table D-5 Comments Regarding Government-to-Government Consultation (page D-17)

Table D-6 Cooperating Agency Requests (page D-18)

Table D-7 General Comments in Support of or Opposition to the Project (page D-19)

Comments by Issue Category

Table D-8 Mineral Extraction (Oil and Gas) (page D-19)

Table D-8 Agriculture (page D-20)

Table D-9 Air Quality and Climate (page D-20)

Table D-10 Fish and Wildlife (page D-21)

Table D-11 Special Status Species (page D-21)

Table D-12 Public Health and Safety (page D-23)

Table D-13 Topography, Geology, Paleontology, and Soils (page D-23)

Table D-14 Vegetation, Wetlands, and Noxious Weeds (page D-23)

Table D-15 Visual Resources (page D-24)

Table D-16 Socioeconomics and Environmental Justice (page D-24)

Table D-17 Water Resources (page D-25)

Table D-18 Traffic and Transportation (page D-27)

Table D-19 Noise (page D-27)

Table D-20 Landowner Concerns and Private Property Rights (page D-27)

Table D-1 **Issues Beyond the Scope of the EIS**

Conditions should be included in any leases or permits issued during the pendency of the EIS. BIA should take effective action to assure that new oil and gas leases and permits issued in Osage County during the pendency of the EIS will include provisions requiring the implementation of any mitigation measures adopted by the EIS as well as any new or more stringent measures adopted in the OKT EIS. Under CEQ's regulations, BIA may authorize project-specific actions (such as issuance of leases, workover permits, or drilling permits) during the pendency of a programmatic EIS only if a number of conditions are met, including that the project-specific action "will not prejudice the ultimate decision on the program." 40 CFR 1506.1©(3); CEQ, *Effective Programmatic Review under NEPA*, December 14, 2014, pp. 37-39. In order to ensure that such leasing and permitting actions do not prejudice the ongoing EIS and to provide effective and consistent administration of BIA's oil and gas leasing and drilling program in this region, the BIA should include terms in any leases or permits issued during the pendency of the EIS which allows BIA to modify such leases or permits by imposing new or more stringent mitigation measures which might be adopted in records of decision based on the Osage County EIS or OKT EIS.

They are still rocks and the bugs are still bugs. Okay. My concern on that, right now we can't get the BIA to come out and do anything as a landowner. We can't get anything done as far as remediating our soil, coming out there if there's an issue or a problem. So if you are going to add, like the last one had, every little nitpicking thing you could find, how are you ever going to have enough staff to take care of that problem? Because it's not happening now and if you start adding a whole lot more regulations and everything on top of that, I can't see you ever keeping up or seeing daylight or taking care of the problems with a 1,444,000 acres. So that's one of my concerns as a landowner.

Without a doubt, this is today the most difficult county to do business in as an oil and gas operator. There's no doubt. I mean, the ability to get a drilling permit in Roger Mills County is a 24 to 48-hour process. You file it online. You get it back the next day. There's no reason that can't happen here. It's just a matter of modernizing the processes to be up to date with the technological advances that have been made in the industry, and that's what we haven't seen here

While the draft EIS is in process, the current highly redundant site-specific environmental assessment must be streamlined. Special provisions attached to drilling permits, which are not supported by existing laws and regulations and are not enforceable, should be avoided. The current environmental assessment process in combination with a project-by-project American burying beetle procedures have presented -- have prevented new wells from even being considered because of delayed costs and uncertainty that otherwise would be producing today to the benefit of the Osage Minerals Estate.

Table D-2 **Comments on NEPA Process or How to Improve the Overall EIS Process**

In preparing the EIS, we ask that BIA thoroughly review and evaluate the past, present and reasonably foreseeable cumulative effects from the oil and gas activity in Osage County. This is a requirement of NEPA which we believe was not sufficiently developed in the prior DEIS. Only with a clear identification of these impacts can any meaningful alternatives be developed and evaluated.

As we have previously commented, we would also strongly suggest that BIA engage STRONGER, a non-profit organization specializing in the review and improvement of existing oil and gas regulatory regimes throughout the U.S. We believe STRONGER has the technical and regulatory depth, breadth, expertise and experience to ensure no stone is left unturned in this collective effort to vastly reduce the environmental impacts of oil and gas drilling in Osage County.

In closing, we want to express our concern with the apparent re-boot of the EIS process after so much time and money has already been invested in the process to date by all stakeholders. We are ranchers who want to get back to the business of ranching. We have engaged in this process from the start in good faith, yet the process continues to change midcourse, resulting in confusion, frustration and expense on all sides. On the BIA side, we can only guess at how much taxpayer money has already been spent on staff time and contractors, and now the process is starting all over. As a matter of transparency, we ask that you publish the costs incurred by BIA to date in this process.

The Agency should not lease while EIS is in process. When an EIS is underway, as here, NEPA regulations prohibit an agency from taking any actions that could undermine that decision-making process unless such action is accompanied by an adequate EIS. See 40 C.F.R. § 1506.1(c). NEPA establishes a duty "to stop actions that adversely impact the environment, that limit the choice of alternatives for the EIS, or that constitute an 'irreversible and irretrievable commitment of resources.'" *Conner v. Burford*, 848 F.2d 1441, 1446 (9th Cir. 1988).

NEPA requires an agency to study the impact of an action on the environment before the action is taken. See *Conner*, 848 F.2d at 1452 (NEPA requires that agencies prepare an EIS before there is "any irreversible and irretrievable commitment of resources"). Where "[i]nterim action prejudices the ultimate decision on the program," NEPA forbids it. 40 C.F.R. §§ 1506.1(c)(1)-(3). Action

Table D-2

Comments on NEPA Process or How to Improve the Overall EIS Process

prejudices the outcome "when it tends to determine subsequent development or limit alternatives." *Id.* Proceeding with future leasing and drilling in Osage County should be halted due to the inherent prejudice that this action will cause to the pending EIS.

The Agency should not pre-determine its decision to allow additional leasing and drilling. NEPA "requires... that an agency give a 'hard look' to the environmental impact of any project or action it authorizes." *Morris v. U.S. Nuclear Regulatory Com'n*, 598 F.3d 677, 681 (10th Cir. 2010). This examination "must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made." *Forest Guardians v. U.S. Fish and Wildlife*, 611 F.3d 692, 712 (10th Cir. 2010) (quoting *Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000)); see also 40 C.F.R. § 1502.2(g) ("Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made."); 40 C.F.R. § 1502.5 ("The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made.").

The Agency should determine within the scope of its EIS whether environmental impacts from oil and gas development can be mitigated without significant, unacceptable impacts. The Agency should not presuppose that oil and gas resources, if developed, outweigh non-oil and gas resources, like wildlife habitat, air quality, water quality protection, and human communities in Osage County.

If the Agency makes a predetermined conclusion that additional leasing or drilling is permissible, it creates an un-level playing field that benefits oil and gas leasing and drilling at the expense of other interested parties. The Tenth Circuit has cautioned: "[I]f an agency predetermines the NEPA analysis by committing itself to an outcome, the agency likely has failed to take a hard look at the environmental consequences of its actions due to its bias in favor of that outcome and, therefore, has acted arbitrarily and capriciously." *Forest Guardians*, 611 F.3d at 713 (citing *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002)). The Tenth Circuit further stated that "[w]e [have] held that predetermination [under NEPA] resulted in an environmental analysis that was tainted with bias" and was therefore not in compliance with the statute. *Id.* (citing *Davis*, 302 F.3d at 1112–13, 1118–26)).

The Agency should take a hard look at the cumulative impacts of the proposed future drilling activity. There are currently over 19,500 wells in Osage County. Many of these wells are in need of plugging and remediation. Many of these wells are leaking and have contributed to diminished water quality in Osage County. The Agency should investigate and determine whether certain parcels should be removed from future drilling until the existing environmental issues have been completely remediated.

NEPA imposes "action forcing procedures ... requir[ing] that agencies take a hard look at environmental consequences." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (citations omitted) (emphasis added). These "environmental consequences" may be direct, indirect, or cumulative. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8. A cumulative impact - particularly important here - is defined as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1508.7. To adequately assess the environmental impacts of a proposed action, the Agency must assess three types of actions: (1) connected actions, (2) cumulative actions, and (3) similar actions. 40 C.F.R. § 1508.25. Connected actions "are closely related and therefore should be discussed in the same impact statement. Actions are connected if they (i) automatically trigger actions which may require environmental impact statements; (ii) cannot or will not proceed unless other actions are taken previously or simultaneously; (iii) are interdependent parts of a larger action and depend on the larger action for their justification." *Id.* Cumulative actions are those actions that "when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement." *Id.* Similar actions are those actions that "when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

The Agency should analyze all connected, similar and cumulative actions in this EIS.

The Agency should consider all alternatives. "[T]he heart" of an environmental analysis under NEPA is the analysis of alternatives to the proposed project, and agencies must evaluate all reasonable alternatives to a proposed action." *Colorado Environmental Coalition*, 185 F.3d at 1174 (quoting 40 C.F.R. § 1502.14). An agency must gather "information sufficient to permit a reasoned choice of alternatives as far as environmental aspects are concerned." *Greater Yellowstone*, 359 F.3d at 1277 (citing *Colorado Environmental Coalition*, 185 F.3d at 1174); see also *Holy Cross Wilderness Fund v. Madigan*, 960 F.2d 1515, 1528 (10th Cir. 1992).

Thus, agencies must "ensure that the statement contains sufficient discussion of the relevant issues and opposing viewpoints to enable the decision maker to take a 'hard look' at environmental factors, and to make a reasoned decision." *Izaak Walton League of America v. Marsh*, 655 F.2d 346, 371 (D.C. Cir.1981) (citing *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n. 21 (1976)).

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The Agency should identify all reasonable alternatives utilized by not only the Agency in other Indian lands across the nation, but also alternatives considered by the Bureau of Land Management on public lands. Examples of reasonable alternatives that should be considered include, but are not limited to, use of mitigation measures, requirement of best management practices, exempting certain lands from drilling, required remediation of existing well sites prior to new drilling in an area, and site-specific analysis prior to leasing, drilling, workovers and any type of surface disturbance.

We recognize that it is the BIA's option to address its NEPA compliance issues through the preparation of and Environmental Impact Statement. However, Environmental Assessments remain an essential tool in the BIA's NEPA compliance effort. We have the following suggestions:

- The 1979 EA's forecast of environmental impact should be compared to existing conditions in the new draft EIS.
- The Programmatic EA for Workovers and the Programmatic EA for Leasing should be replaced with simpler concise documents which are consistent with the BIA's existing authority.
- A curative EA should be published immediately which addresses issues arising from the BIA's failure to maintain compliance with NEPA and failure to evaluate leases for environmental impact prior to approval (25 CFR §226.2(c)). The excellent performance of the oil and gas business under existing regulations argues that no environmental harm has been done due to this failure.
- A generic drilling permit EA based on a simple and concise check list should be published as soon as possible to speed up new drilling permit processing.
- Access to the Well Record Files should be opened up to the public as they have been for decades.
- EA's for future leases should be in place prior to the Superintendent's approval of the lease per 25 CFR 226.2(c): "Each oil and/or gas lease and activities and installations associated therewith subject to these regulations shall be assessed and evaluated for its environmental impact prior to its approval by the Superintendent."

The BIA's NEPA compliance efforts must assume and trust that the various regulations administered by other federal and state agencies are valid and enforceable. The BIA cannot act on behalf of these agencies unless as directed by law. If the BIA has concerns regarding other agency regulations the BIA should gain their participation now as a "cooperating agency" (40 CFR §1501.6).

The draft EIS need not attempt a complete description of the environment of Osage County.

"The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The description shall be no longer than is necessary to understand the effects of the alternatives." "Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement." (40 CFR §1502.15)

The Environmental Impact Statement ("EIS") must comport with the Act of June 28, 1906, 34 Stat. 539, as amended ("1906 Act") and the requirements it imposes on the Secretary of the Interior, by ensuring "the highest percentage of ultimate recovery of both oil and gas" from the Osage Mineral Estate. This means that, as a matter of federal law, the preferred alternative must prioritize the rights and interests of Osage headright owners, rather than surface owners. These are Indian lands, not public lands. In order to maximize oil and gas development pursuant to the 1906 Act, the preferred alternative must address and focus on mitigation measures rather than resource conservation measures. Because these steps were not taken in the drafting of the Draft Environmental Impact Statement ("DEIS"), it is imperative that the BIA begin anew with this NEPA process. While it may be appropriate to incorporate limited data (such as census data, description of soils, and geology) from the previous DEIS which the BIA published in November 2015 ("2015 DEIS"), reliance on the 2015 DEIS cannot exceed this narrow scope. The issues to be addressed in the DEIS and the alternatives to be developed must be generated through this new scoping process, based on the parameters described above.

Finally, a no action alternative must be addressed. 40 C.F.R. § 1502.14(d). While this alternative would maintain the status quo, the Secretary would fail in its obligations to Osage headright holders under the 1906 Act if the no action alternative were selected because there are other alternatives (specifically, the preferred alternative) that would result in greater recovery of oil and gas from the Osage Mineral Estate. The no action alternative would not conform to the need for the BIA's action, which is to fulfill the mandate of the 1906 Act.

The objective of the alternatives must focus first and foremost on oil and gas development. One of the fatal flaws of the 2015 DEIS was that the objective of its alternatives was to "minimize potential adverse impacts on landowners, wildlife, and natural and cultural resources from noise, traffic, excavations, dust, and other disturbances associated with construction and operations under oil and gas leases." 2015 DEIS 2-2, § 2.3. This objective does not comport with the Secretary's duties under the 1906 Act. The proper objective of the alternatives must be to consider various options for the development of the Osage Mineral Estate in order to identify the option that best enables the maximization of oil and gas recovery.

"The intent of scoping is to focus the analysis on significant issues and reasonable alternatives, to eliminate extraneous discussion, and to reduce the length of the EIS." Indian Affairs National Environmental Policy Act (NEPA) Guidebook, 59 IAM

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3-H, § 8.3.3. It is therefore important that the BIA eliminate from its consideration issues that fall outside of the mandate imposed by the 1906 Act.

Due to the impediments currently hindering production of oil and gas from the Osage Mineral Estate, time is of the essence for this EIS process. The OMC urges the BIA to establish deadlines for the various stages of this process that reflect its urgency, while still maintaining the integrity of the process and allocating sufficient time for meaningful participation from and partnership with the OMC.

It is imperative that the EIS be specifically formulated for the unique and specialized situation existing in Osage County, most importantly the fact that the Osage Minerals Estate is held in trust and the responsibility for developing the Osage Minerals Estate lies with the BIA. This results in an area (in Osage County) where energy development is one primary component of the economy and historically supported by the Osage Nation and its operating partners.

It is not feasible to utilize the same type of document or wording, resource conservation measures, and procedures in the EIS that is used for other federal lands, related to areas where oil and gas development, or any type of energy development, is not a priority, such as federal public lands or parks, etc.

It is our opinion that the BIA is required to review the EIS from the perspective of the specific type of land and the type of energy development prevalent in the Osage, and not use references which are applicable to other areas or federal lands where energy development is typically not promoted or allowed. More specifically, BIA must formulate this EIS for the specific purpose of meeting the requirements of Osage energy development, rather than starting with documentation and wording meant for other purposes and simply trying to remove references and measures which do not or should not apply in the case of Osage County.

We believe the intent and final outcome of this EIS must be defined, especially as it relates to the CFR's. There needs to be clarification, as a first step in the process, on what the Record of Decision (ROD) will address as a result of the EIS and specifically how this integrates with the existing regulations in place.

From a process perspective, we do not support outlining a variety of BMP's or RCM's which are then applied at the discretion of the Osage BIA Agency or the Superintendent. Without exactly defined process for applying rules and measures to manage oil and gas activities, the operating environment continues to be unstable, and this practice makes profitable oil and gas operations difficult to achieve from a business standpoint.

Future implementation of RCM's or other measures included in the EIS should not be implemented at the discretion of the BIA Osage Agency or the Superintendent without a specifically defined or documented procedure. Lack of specific details on implementation would create an extremely subjective process which does not support the consistency and management required for effective implementation of the Osage Minerals Estate. Any action must be defined specifically and not left to later interpretation by the BIA.

The Osage Nation government operates two departments which provide important services and oversight for Osage County. These are the Osage Nation Environmental & Natural Resources (ENR) Department and the Osage Nation Historic Preservation Department. It is advisable for BIA to utilize the resources within these departments at an early stage in the process to get their direct input and assistance in developing an EIS which is applicable and appropriate for Osage County.

Throughout this process, it is advisable for BIA to consult with experienced operating companies in Osage County to ensure accurate information regarding planned development. Engaging appropriate oil and gas industry professionals will aid in creating an applicable EIS which fits the oil and gas operational environment of Osage County.

Specifically regarding endangered species, we recommend utilizing the resources of the Osage Nation Environmental & Natural Resources (ENR) Department for developing reasonable mitigation procedures for the American Burying Beetle (ABB). That department has conducted a number of ABB surveys throughout Osage County in past years, and continues to collect significant data. Directly utilizing their findings and resources in developing applicable ABB mitigation recommendations, procedures, and oversight would significantly advance the effectiveness of ABB administration.

Any action concerning the listing of species must comply with Secretarial Order 3206. In this respect, any regulations applied as a result of the EIS must not place a "disproportionate burden" on the Tribe in fulfilling BIA trust responsibilities to the Osage Mineral Estate (Sec 1. Purpose and Authority).

Comprehensive and credible review of past, present and reasonably foreseeable cumulative effects is critical to adequately develop and evaluate alternatives. NEPA requires that the EIS evaluate impacts on the environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. 40 CFR 1508.7. NEPA documents previously issued by BIA for public comment (including the DEIS and the Programmatic Environmental Assessment for Leasing) failed to assess the extent of the impacts caused by past and ongoing oil and gas development. We acknowledge the significant task that lies before the BIA in conducting this review; however, only through the clear identification

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of past, present and foreseeable impacts can any mitigation measures be adequately developed and evaluated for potential effectiveness and completeness. BIA should be able to utilize its data on existing leases to estimate both direct and indirect impacts of future leasing and drilling activity and perform a reasonably detailed analysis of those impacts, both individually and cumulatively. Furthermore, BIA's leasing program has been operating for decades, providing ample data to identify impacts based on existing and historical oil and gas activity in the area. Impacts to land, soil, vegetation, surface and groundwater resources, air quality, public health and safety, agricultural resources, and wildlife species and their habitat have all occurred.

The cumulative impacts analysis will necessarily require careful review and evaluation of historical and current data. For example, meaningful habitat mapping or generalized analyses of special status species surveys in the county will be necessary to identify even at a programmatic level impacts to wildlife species or habitat. Furthermore, the size of the impacts from the oil and gas activities (e.g., the amount of air emissions expected to be generated, the degree of fragmentation) will also be a necessary component of the analysis. The analysis will also need to consider whether existing leases will be modified to include any of the adopted mitigation measures, and the environmental impacts that are reasonably foreseeable from any leases that may not be subject to adopted measures. In this manner, the BIA will ensure that an effective cumulative effects analysis is undertaken and will provide a strong factual foundation for the adopted mitigation measures.

The EIS should comprehensively address the environmental impacts of leasing, workover and drilling activities. The previous DEIS treated leasing and workover permits differently from drilling permits for NEPA purposes, and expressed that the EIS would fulfill the BIA's NEPA obligations associated with lease approvals and workover permits. As the Conservancy has previously commented, if the BIA intends for the EIS to satisfy its NEPA obligations for site-specific leasing and workover permits, the BIA must not only analyze the broad environmental impacts of its leasing and workover program but must also provide detailed environmental analyses for the specific leasing and workover decisions, including the number, location, and site-specific environmental impacts of such decisions. Council on Environmental Quality, *Effective Use of Programmatic NEPA Reviews*, p. 15 (December 18, 2014). As CEQ has explained, "[p]rogrammatic NEPA reviews designed to meet NEPA responsibilities for proposed actions without a tiered review are governed by the regulations and guidance that apply to non-programmatic reviews" and "[t]hey should be developed and their adequacy judged as a stand-alone final NEPA review." *Programmatic NEPA Guidance*, p. 4. For those proposed actions which will not undergo further NEPA review, the EIS must "provide sufficiently detailed environmental analyses for specific decision, such as determining the locations and designs of one or more proposals to implement the broad Federal action." *Programmatic NEPA Guidance*, p. 17. In light of the additional analysis and breadth of coverage for the EIS to be considered the final NEPA review for site-specific leasing and workovers, we strongly recommend that the EIS be programmatic for all of the oil and gas activities, from which further detailed NEPA analysis will occur at the site-specific level for leases and workover permits.

The initial draft EIS was fatally flawed due to its failure to comply with the 1906 Act, its treatment of the Osage Mineral Estate and Osage County as public lands, and the BIA's failure to comply with tribal consultation requirements and its tribal trust responsibility. The new draft EIS must therefore be a new NEPA document pursuant to a new NEPA process, rather than a reworking of the initial draft EIS.

The preferred alternative must reflect the fact that these are Indian lands, not public lands. The BIA or its third party contractor cannot approach the EIS and the preferred alternative the same way it would for public lands. Its approach must incorporate the BIA's federal trust responsibility and the 1906 Act, neither of which applies to public lands and neither of which were accounted for in the previous draft EIS. Indian lands are to be managed according to very different standards from public lands, and attempting to manage Indian lands according to public interest standards violates the trust standards established for the management of Indian lands. The BIA cannot treat the EIS as if these are public lands and prioritize the interests of surface owners over those of the Tribe, as it did in the previous draft EIS.

However, the fact that the DEIS treated the entire 1.4 million acres in Osage County as environmentally equal does not take into account that clearly some locations will be more suitable for oil and gas activity with less environmental impact than other locations which are environmentally sensitive.

The timeline for reinitiating the public scoping for comments to a final ruling on October 2017 makes no economic, environmental or public policy sense for any stakeholder.

The current Draft EIS even with Alternatives 1 and 2 do not fully consider assessments of prior cumulative impacts from operations. As you know, NEPA requires the EIS to evaluate actions from past, current and potential future activities and the required mitigation measure prior to issuing a permit.

The evaluations in Chapter 4 are confined to the actions that have more prominent, immediate, or direct effects. Some of the proposed management actions and potential future development may affect only certain resources and alternatives. The variability in the differences in land and environmental sensitivities will require additional Environmental Assessments (EA). The EIA was not clear that if an activity or action is not addressed in a given section it assumes no impacts, or the impact is expected to be negligible. This is not always the case. This EIS analyzes the impacts of leasing and workover activities and includes a

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general analysis of the surface and underground impacts of drilling and other development activities. Specific surface and underground impacts of drilling and other development activities as a result of a proposed permit will need to be assessed in site-specific NEPA review tiered to this EIS. Because the exact locations of well pads, roads, pipelines, and other facilities and activities associated with future drilling and other permitted activities are unknown, will the analysis related to these activities in the EIS be programmatic? Without updates in the EIS I am not sure if or how the EIS will provide an umbrella analysis of subsequent federal actions and new rules in the planning area (as implied in the EIS document). In this regard, there is a need to provide a clear process that would/should not alleviate a NEPA assessment for APD or workover, without causing an undue burden on the lessee, in a transparent manner for landowners, and a process to expedite it.

As BIA has noted, the approval of these actions would require additional documentation of NEPA compliance, such as a tiered environmental assessment or EIS or a documentation of NEPA adequacy. Approval would be subject to on-site examinations of each proposed new well, (unless on an existing pad), or pipeline or road locations. The scope of this additional approval process should be streamlined and facilitated by a programmatic evaluation of impacts contained or identified for additional assessment in this EIS.

The January 5, 2016 ruling by US District Court Judge Gregory K. Frizzell in Hayes vs. Chaparral Energy Case # 14-CV-495-GKF-PJC was compelling and very well thought out. This ruling confirms the need for the EIS to be conducted and done properly in full compliance with NEPA and updated on a regular basis, not every 35 years!

Because of the overreaching regulations, successful -- successful producers like Devon and Encana, among many others, have made a beeline right out of Osage County. The Donelson lawsuit that caused a ruinous BIA decision since June of 2014 has been dismissed. The 1979 EA is still valid. The joint Oklahoma, Kansas and Texas EIS Resource Management Plan did not stop wells from being drilled or stop routine operations to keep production increasing at a steady pace. Before the BIA proceeds another step, operations must return to normal.

I guess the other thing I don't see yet and I would like to see the EIS address it, I don't see how tiering off of an EIS is really going to save a lot. It still requires site-specific analysis. The only thing it's going to do is take about 70 or 80 pages of boiler plate information out of the 300-page document that we prepared and put it into the EIS, but there's still all the site specifics, so when we throw on the theory we'll be able to tier off of it, I really don't think that that means it will go faster and I don't think that it means that it will go cheaper unless there are some new process improvements done to the process,

the 1979 study we all feel like was sufficient, is still in place, and I would suggest that we just go back to that document and if there's issues that you all have line-by-line on the current 1979 study, why don't we just go back line-by-line and see what needs to be updated.

I would agree with Paul, let's start with what we know best, that's the '79, and let's adjust from there. We all know the '79 best. We operated on it for a number of years. If it's inadequate, okay, but let me just tell you that the Osage land is in much better shape today than it was 25 or 30 years ago.

What you folks have here is a cookie cutter compared to what Hobbs and Greenbrier, Arkansas, had, probably different topography. You are in a pocket here. You've got basically the same thing over and over and over. When these things end up being 300 pages, there's no sense of printing 300 pages every time. You can get it down to a tab sheet, which might be what the '79 program was, I don't know. I haven't read it. But you need to get it simplified to where it doesn't cost \$5,000 for each one just to drill a well. And time wise, like Travis said, it takes five months to do one of these. That's unrealistic, and that's basically all I have to say.

The other thing is I wanted to come up with some questions. Number one, I had a comment on the EIS process. I have not been in favor of an EIS. I was hoping, pushing, politicking that we stick to business as usual. As I move more and more in communicating, I think that's probably something that's more blasphemous words for the BIA to consider, et cetera. This is bad language to talk about a categorical exclusion, I guess, in this atmosphere. That's my question. And the EA in '79, I see some heads shaking over there. I'm going to take that as a confirmation.

Now, I'm not sure how we've gotten so far afield, but as it pertains to this EIS that we're putting together, let's just try to tailor it back to taking a hard look at the environmental impact. It's not the EIS' responsibility to try to fix any of the environmental issues it sees. It just says, yeah, I looked at that. That's what NEPA says. NEPA has turned -- somehow this molehill is now a mountain, and if you look at the Hayes decision, it's clear that Frizzell is seeing what's happened, and he says, oh, no, it's just supposed to be a hard look. All you are supposed to do is say, yeah, I was aware, I made an informed decision, and somebody has really taken the ball and run with it in the wrong direction.

So I think I would ask, going forward, that somebody who has some decision-making authority take a hard look at what NEPA actually says, and it's that you just make an informed decision, not that you do anything about it. It's just, yeah, I knew that when I made the decision. This just seems like another way to pile on and it's unfortunate. Those people have been through enough.

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The BIA need only describe the environment of Osage County as necessary for the responsible official to make a, quote, detailed statement on the environmental impact of the proposed action from the NEPA Act. A complete description of the Osage County environment entails impacts from cattle and creeks, wind farms, urbanization, rural residential development, et cetera. Only those aspects of the Osage environment relevant to the proposed action within the BIA's authority should be included.

Two additional agencies I would recommend that you speak with would be the United States Geological Survey, who has a 100-year publishing record on the oil and gas resources of Osage County, and the Oklahoma Corporation Commission. The Oklahoma Corporation Commission can explain to you how the process works outside of this county, and perhaps there are things that could be incorporated into the process that will speed things up. I think they would benefit, both agencies the USGS and the Oklahoma Corporation Commission, in participating.

It is imperative that the EIS be specifically formulated for the unique and specialized situation existing in Osage County, most importantly that the Osage Minerals Estate is held in trust and that the responsibility for developing the Minerals Estate lies with the BIA. This results in an area in Osage County where energy development is one primary component of the economy and historically supported by the Osage Nation and its operating partners. We believe it's not feasible to utilize the same type of document or wording. Resource conservation measures or procedures in the EIS that are used for other federal lands related to areas where oil and gas development or any type of energy development is not a priority, such as federal lands, public lands, and that sort of thing.

It is our opinion that the BIA is required to review the EIS from the perspective of the specific type of land and the type of energy development prevalent in the Osage and not use references which are applicable to other areas or federal lands where that type of development is typically not promoted or even allowed. More specifically BIA must formulate this EIS for the specific purpose of meeting the requirements of Osage energy development rather than starting with documentation and wording or templates meant for other purposes and simply trying to remove references and measures which do not or should not apply in the case of Osage County.

What I think we need here is a lot more cooperation between the producers and everybody who has an interest in this needs to be allowed to sit at the table in negotiations. That's the key to any realistic outcome, a positive outcome is to have everybody involved, not just a few, especially here in the Osage Reservation.

Table D-3

Alternative Proposals

Once the BIA threw out the governing rules that had been in place since 1979, it then proceeded to provide three alternatives, none of which are acceptable to producers. They are unacceptable to producers for a number of reasons. The first alternative would require a new EIS on every new procedure. This is time consuming, expensive and unnecessary. How could any logical person reach the conclusion that a well drilled in an existing field would need a new EIS? The permit has already been issued for previous wells, so what could have changed to create the need for another EIS? There is simply no logic for these rules. The second and third alternatives are no better because they continue to create uncertainty and complexity at a time when certainty and simplicity are sorely needed. This industry is in dire financial straits and the Osage County production is the most at risk due to the stripper nature of 95% of the production in the county. The single best thing the BIA could do for the preservation and exploitation of the mineral interest for the Osage Nation is go back to the 1979 EA.

As we look at your list of Resource Conservation Measures (RCM), we find nothing that acts as a production enhancement measure for oil and gas. There is not one item in your list of 30 or so RCM's that serve to enhance the value of the mineral estate for the Osage Nation. From our perspective, we do not understand what the BIA is doing or has done to enhance the value of the Osage Nation minerals. Judging by actions and not words, it seems the BIA is in fact doing everything in its power to limit and in fact degrade the value of the mineral estate. We believe the fundamental perspective of the BIA must make a 180 degree change if the BIA is serious about its mission to help the value of the Osage mineral estate. What value is the BIA to the Osage Nation if it does not work to enhance the value of the mineral estate?

The BIA's analysis and other content focuses almost entirely on concerns and values relating to the surface estate as opposed to the mineral estate. In fact, of the 308 pages of the Draft EIS, less than 3 pages directly address the question of how the BIA's proposed alternatives and RMCs might impact oil and gas development or the interests of Osage headright holders.

Avoid altering the run-off path from new construction assumes (1) there is new construction and (2) there is run off. This is precisely the type of regulation that will cause money to be spent that has exactly zero value. What is new construction, what is runoff? I suspect the definition in the mind of the author is different that oil and gas operators in Osage County. New crossings

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Alternative Proposals

are perfectly legal if necessary for the operation of oil and gas properties. We believe the BIA's only involvement is to set a route if a disagreement exists between a land owner and the operator.

The use of closed loop mud management is simply not cost effective in Osage County. This is a perfect example of the BIA taking an excellent technique for a 10,000 foot deep 2 mile long horizontal well and trying to apply it to a 2,000 foot deep vertical well. The vertical well will be drilled and completed in a matter of days. The closed loop mud system for a horizontal well will be there for months or years. The cost of installing a closed loop mud system would make every vertical well in Osage County uneconomic. Again, this regulation documents the BIA's lack of understanding of operations in Osage County.

The terrain of Osage County makes burying any line difficult and more problematic than found in other areas. Whether dug with a backhoe or trenched, the rocky nature of Osage County makes it a near certainty that a rock will eventually damage an underground line. The question is where do you want a leak, on the surface where it can be found and repaired, or underground where it might go undetected for a long time?

Operators have an obligation to remediate salt water burns if they happened on their watch. For the most part, operators are excellent in fixing their own problems. To the extent a new lease was taken subsequent to the spill, the current operator has no obligation to remediate the old spill. However, that being said, the industry is directly funding a state agency to remediate all those old spills an operator is not responsible for. As noted above, if a landowner will contact OERB, they will begin a process that will end with the burn remediated. For details see OERB.com.

The submersible pump has been discussed at length. In most leases there is not enough water volume to keep the pumps from burning out after a short period of time. Producers are relatively savvy business folks. While some engineering applications make sense for certain high volume wells that run continually the cost of electricity to operate these pumps will make many leases non economic.

The RCM to work only Monday thru Friday sounds like a great idea, until you realize it doubles or triples the total time it will take to drill a well. Since most drilling contracts are based on an hourly rate charged from the time the rig gets to the location until it leaves the location, the cost would be driven up substantially higher. Again, the vast majority of Osage County wells will be drilled in just a few days, not the months it might take to drill a deep horizontal well. It is more logical to have a well completed as rapidly as possible rather than drag it out due to having to shut in every evening, the rig back up every morning.

There are already adequate regulations from Federal agencies regarding signage. Incremental regulations covering the same topic only serve to confuse, cost extra money that could go into developing the mineral estate and are duplicative in nature.

Current regulations require removal of equipment. Again, if those rules are not followed, the BIA has adequate power to enforce them without create a new set of rules.

I suspect the RCM to "line and gravel tank batteries" is meant to line pits and gravel tank batteries. Any regulation to line tank batteries would be without merit nor make economic sense. As the BIA heard in their listening session, some producers use clay instead of gravel to line tank batteries, in order to reduce vegetation. This should be an alternative allowed under the rules.

Stockpiling topsoil and returning disturbed areas to the natural contour is normally done. However, some land owners want the drill pads left as they make good areas to feed cattle, park equipment etc.

Burying power lines, assuming this means transmission lines, is putting a requirement on oil and gas operations that is not required of any other industry nor landowner in Osage County. Other than lines buried between locations, there are few if any power lines buried in Osage County. Ranchers do not bury lines going into their houses, barns or other structures.

Equipment placement is based on where the oil and gas reserves are found. A well is drilled based on geology not surface topography. Thus the requirement to place the equipment in wooded areas, in valleys, and away from GPC areas may or may not make sense based on the geology of the area. Of course this placement reverts back to the rights of mineral owners versus surface owners. Mineral owner's rights are superior to surface rights.

There are several actions the BIA could take that will significantly help the value of the mineral estate in Osage County. The first is to make all historical production and log data available to oil and gas operators. This data is the lifeblood of exploitation for producers and operators. This is what we use to assess the viability of new prospects, redrills on existing leases and workovers and recompletions. The recent actions of the BIA to severely restrict access to this data is without precedent and counter to the prevailing course of action in all other producing areas, to make data more available to allow for greater exploitation so that domestic production can be enhanced and grown.

The BIA could staff the Pawhuska office with technical personnel which understand the oil and gas business from both a geological and engineering perspective. This would be a big step in helping producers get permits approved, explain what is needed to get permits approved and allow for an open exchange of ideas from two entities trying to accomplish the same goal.

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The focus of the BIA recently seems to be in gotcha inspectors who are much more concerned with enforcing minor rule as opposed promoting the production of oil and gas in Osage County.

The BIA could hold more open forums that seek to better understand the needs of producers and explore ways the BIA could be a promoter of solutions as opposed to part of the problem.

We also request that operational improvements and best management practices be included in alternatives, including without limitation:

1. No activities in environmentally sensitive areas and buffer areas.
 2. Proper casing and cementing of all wellbores.
 3. Baseline testing of proximate groundwater wells.
 4. Installation of plastic liners at all existing and new drilling pits and tank battery pits holding hydrocarbons, produced water, and saltwater.
 5. Installation of French drains along perimeters of existing unlined tank batteries to intercept and properly dispose of subsurface seepage of pit fluids until such time as plastic liners are installed.
 6. Installation of netting over all pits and tanks to prevent landing and deaths of migratory and other birds.
 7. Closed loop system to capture and reuse or re-inject all fugitive gases from oil and gas wells so that no such gases need be combusted.
 8. Reuse and reduction of all frac and produced water to reduce virgin surface and ground water needed for drilling and frac-ing of wells.
 9. Where feasible, use of submersible pumping units for all production wells.
 10. Where feasible, burial of power lines.
 11. Remediation of all historic and ongoing brine scarring.
 12. Regular monitoring and inspection of drilling and production activities.
-

We acknowledge that a number of these measures were included in Action Alternative 2 in the previous DEIS, which we supported as our preferred alternative. However, we were troubled by the fact that the DEIS treated the entire 1.4 million acres in Osage County as environmentally equal. Clearly some locations will be more suitable for oil and gas activity with less environmental impact than other locations which are environmentally sensitive (such as intact/unfragmented prairie lands, natural areas, and ABB habitat and greater prairie chicken habitat).

The development of alternatives should identify appropriate lease locations and avoid sensitive locations, as well as identify areas that should have a reduced level of oil and gas activity.

The alternatives need to include measures for ensuring monitoring and enforcement, with strong remedies and penalties for violations (such as revoking a permit for non-compliance). We would like BIA to consider delegating the enforcement/environmental protection role to BLM or the Oklahoma Corporation Commission (OCC). BLM and OCC have a strong history of monitoring and oversight of oil and gas activities to effectively protect the natural and human environment from the impacts of oil and gas development. This move would also be consistent with expected changes in the Energy Bill (section 4403) which will allow BLM and a State to consider the costs and benefits of creating consistent rules governing oil and gas production.

Rules for proper clean up and disposal of spills and leaks is essential, to protect the environment. I recommend an independent company, that is trained to do so, would be given this task. The cost attached to the producer's oil check. This rule will also help with proper maintenance of the lease and establishes a better work ethic. Having a good work ethic in the oilfield will in turn help prevent leaks, spills, and the need for costly cleanups.

All oil storage tanks need to be equipped with a vapor recovery unit. Neither the natural or human environment should be compromised by polluted air of any degree.

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Bury all electric cables and pipelines. No electric cable is allowed on top of the soil that's state law. Burying the pipe is a safety factor. Plastic pipe will burn. Steel pipe will only tolerate so much traffic before collars on the begin to pipe leak.

The Agency should consider whether to mandate that all future site-specific environmental assessments ("EA") be mailed directly to the landowner and any lessee of the property known to the Agency to provide a thirty-day comment period. The Council on Environmental Quality's ("CEQ") NEPA regulations provide that "public scrutiny [is] essential to implementing NEPA." 40 C.F.R. § 1500.1(b). The Department of Interior's NEPA regulations specifically require that the BIA "must notify the public of the availability of an environmental assessment and any associated finding of no significant impact once they have been completed." 43 C.F.R. § 46.305(c). The agency must make "a meaningful effort to provide information to the public affected by an agency's actions." *Dine Citizens Against Ruining Our Environment v. Klein*, 747 F. Supp. 2d 1234, 1262 (D. Colo. 2010). The limited notice currently provided to the landowners violates the spirit of the regulations which recommends, inter alia, publication in local newspapers, notice through local media and direct mailing to owners of nearby or affected property. 40 C.F.R. § 1506.6(b)(3).

The Agency should mandate that site-specific environmental impacts be considered prior to leasing, not solely in connection with Applications for Drilling Permits. Standard Osage oil and gas leases provide that the lessee "shall have the right to use so much of the surface land within the Osage Mineral Estate as may be reasonable for operations and marketing." The standard Osage leases further grant the right to "lay and maintain pipelines, electric lines, pull rods, and other appliances necessary for operations ... the right of way for ingress and egress ... and the right to use water for lease operations." Thus, the approval of a lease by the Superintendent virtually guarantees that there will be surface disturbance contrary to Agency's claims otherwise.

In *New Mexico ex rel. Richardson v. Bureau of Land Management*, 565 F.3d 683 (10th Cir. 2009), the Tenth Circuit held that issuing an oil and gas lease without an NSO (i.e., no surface occupancy) stipulation constitutes an "irretrievable commitment of resources" requiring site-specific analysis prior to issuance of the lease sold at auction. *Id.* at 717-718. In support of the ruling, the Court noted that the lease at issue was subject to a DOI regulation that permits the lessee the "right to use so much of the leased lands as necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to Stipulations attached to the lease ... [and other] reasonable measures. ..."*Id.* At 718. Accordingly, site-specific analysis cannot wait until the APD stage. *Id.*

we suggest the alternatives include:

- An alternative which restores the function of the Osage oil and gas permitting process operating fully within the scope of 25 CFR 226 and requires no changes in law or regulations.
- A "no action" alternative which ends the BIA's responsibility to administer the Osage mineral estate.
- An alternative which offers mitigation measures addressing reported environmental concerns and any existing environmental controversies.

Regarding restoration of the function of the function of the Osage oil and gas permitting process:

The Osage Agency must operate under existing law and regulations. We expect this will be become the "preferred alternative" (40 CFR §1502.14 €).

Regarding the "no action" alternative:

From the Osage Allotment Act of 1906:

"... And provided further, That no mining of or prospecting for any of said mineral or minerals shall be permitted on the homestead selections herein provided for without the written consent of the Secretary of the Interior."

Subsequent amendments (October 21, 1978) reserved the minerals in perpetuity and the Secretary is, therefore, obligated to manage the Osage mineral estate in perpetuity. The nonissuance of drilling permits under a NEPA "no action" alternative (40 CFR §1502.14(d)) requires repeal of this provision of the Osage Allotment Act of 1906. Management of the mineral estate would then be the business of the mineral owners ending the relevance of NEPA.

We recognize that this "no action" alternative is "not within the jurisdiction of the lead agency". Nevertheless, it is a reasonable alternative (40 CFR §1502.14 ©) and should be included.

Regarding alternatives incorporating additional mitigation measures:

The existing draft Environmental Impact Statement contains several provisions which seek to mitigate perceived environmental threats. In some cases the provisions appear to be adapted from Department of Interior experience on federal land. In other cases they may be an expression of local environmental concerns. Nevertheless, most of these provisions are clearly outside the existing authority of the BIA.

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The consideration of this alternative requires that any additional laws or regulations "not within the jurisdiction of the lead agency" be defined for future proposal and then follow federal administrative procedures. Given the uncertain outcome of such an undertaking, business as usual practices must be provided for and maintained.

We're concerned about safety, oil field pollution and property damages on land in oil and gas production in Osage County. Oil and gas exploration, production and operational standards within Osage County should mirror existing Oklahoma Corporation Commission (OCC) standards, at a minimum. For example, those standards should include requiring burying electric lines or putting them on poles. Stringing electric lines through trees or laying them on the ground is not acceptable. Flow lines should be buried. Exposed flow lines leak saltwater, crude, etc., onto the ground and into watersheds. Exposed electric lines and flow lines are items that create life threatening dangers to people, livestock and wildlife. Also, they present ongoing challenges in conducting prescribed burning of rangeland or other land use management practices. Additionally, there have been problems with the cleanup of oilfield sites and old equipment. Beyond looking at only those federal issues listed in the Planning Issue Statement, "air, visual resources, wildlife, water, and the natural environment," the BIA should consider adopting oil field practices, like those of the OCC. The BIA should enforce safety and environmental regulations to protect landowners with oil and gas production on their property, both past and present.

With respect to the "other reasonable courses of action" alternatives, the BIA should develop an alternative as described above which maximizes oil and gas development in accordance with the 1906 Act. This alternative must be the preferred alternative. This alternative should incorporate adequate mitigation measures to minimize the scope of any site-specific Environmental Assessment ("EA") required of an applicant for a lease or a permit. These mitigation measures should be the least restrictive possible measures that will ensure compliance with applicable federal law. To the extent feasible, they should account for potential impacts governed by federal laws including the Endangered Species Act, the National Historic Preservation Act, and the Migratory Bird Treaty Act. A mitigation measure should only apply under the circumstances necessitating the mitigation measure; applicants should not be required to obtain an exemption from the measure if it does not apply to the site at issue. This alternative should not contain any mitigation measure that is not necessary to ensure compliance with federal law. If an impact is not prohibited by federal law, no mitigation measure should be required to address that impact. The BIA and the OMC should work together to identify specific mitigation measures that are necessary to meet statutory requirements. Mitigation measures should only be applied to new permitted activities and workovers.

By including comprehensive mitigation measures, the preferred alternative should address a majority of the concerns about environmental impacts and streamline the process for an applicant by allowing the applicant to tier a site specific EA to the EIS and minimizing the extent of the site specific EA. The focus on this first (preferred) alternative must be on enabling applicants to quickly and efficiently complete the application process so that development can proceed in a timely manner. While taking into account environmental impacts to the extent required by federal law, this alternative should not be developed in the interest of landowners and the protection of surface rights, but rather, in the interest of headright owners and the maximization of oil and gas extraction. Notably, the preferred alternative need not be the environmentally preferable alternative. 43 C.F.R. § 420(d). It will be important moving forward with this process for the BIA to work closely with the OMC on developing this and other alternatives.

A second (non-preferred) alternative could contain increased protections for the surface of the Osage Mineral Estate such as the resource conservation measures that are rampant in the 2015 DEIS, but because this alternative would include restrictions on development that are not necessary for compliance with federal law, it would not comply with the BIA's federal trust responsibility or the 1906 Act and it should not be selected as the preferred alternative.

A third (non-preferred) alternative could contain fewer mitigation measures than the preferred alternative. By not including the mitigation measures of the preferred alternative, this third alternative would contain fewer protections for the environment but would result in the need for more extensive site specific EAs by individual permit applicants and therefore would not be in the best interest of the headright owners and should not be preferred.

We agree with Chairman Everett Waller and the Osage Minerals Council in that any measures within the EIS to address impacts cannot and must not violate the trust responsibility owed by the United States to promote the development of the Osage Minerals Estate. This matches the mission statement of the BIA, and must be considered first and foremost by BIA in relation to all aspects of the EIS.

Full application of the mitigation hierarchy should be at the heart of any meaningful alternative. As you know, both President Obama and Secretary Jewel have instructed federal agencies to engage in strategies to strengthen mitigation practices. Presidential Memorandum, "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment," November 30, 2015; Secretarial Order on Mitigation, No. 3330, Oct. 2013. As explained by the Department of Interior, in implementing the landscape-scale mitigation policy, the first step is to develop landscape-scale avoidance strategies and plans, which should be reflected in the NEP A documents. Implementing Mitigation at the Landscape-Scale, 600 Departmental Manual 6.4.B, 6.6.D, October 23, 2015. To that end, the BIA should engage in efforts to improve mitigation resilience, such as by "[f]ocusing development activities in ecologically disturbed areas when possible, and avoiding

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ecologically sensitive landscapes, culturally sensitive areas, sensitive viewsheds, and crucial wildlife corridors." 600 DM 6.6.F(6). Accordingly, elements that should be present in the EIS alternatives include (i) landscape-scale review and evaluation of cumulative impacts; (ii) avoidance of oil and gas development in sensitive environmental and cultural areas; (iii) minimization efforts to reduce impacts (such as co-location of facilities and limited leasing in impacted areas); and (iv) for impacts which cannot be avoided or further minimized, effective mitigation measures and offsets.

In previous comments, the Conservancy has also outlined a number of mitigation measures which need to be adopted to address these identified impacts. We appreciate that BIA has included a number of these measures in Alternative 2, as developed in the DEIS, and we generally support that alternative.

We strongly encourage BIA to continue to include in its DEIS and then to adopt in its final EIS and ROD as part of its final decision at least the following minimum operational improvements and best management practices:

- a. Full application of the mitigation hierarchy as outlined at the beginning of this letter, including the avoidance of sensitive areas.
 - b. Creation of buffer zones around sensitive areas and water sources.
 - c. Venting and flaring should be restricted, with venting of hydrogen sulfide at any level being prohibited. Any flaring should be done in a manner to eliminate the visibility of the flame and produced light using a closed-combustion chamber system. Current best industry standards for flares follow API guidelines and utilize "clean-burn variable tip flare" technology.
 - d. Co-location of well pads, roads, pipelines, facilities and other infrastructure based on a regional plan.
 - E. Stringent casing and cementing requirements for all well bores.
 - h. Installation of French drains along perimeters of existing unlined tank batteries to intercept and properly dispose of subsurface seepage of pit fluids until such time as plastic liners are installed.
 - I. Where feasible, use of submersible pumping units for all production wells.
 - M. Where feasible, burial of power lines.
 - N. Remediation of brine scarring.
 - O. Regular monitoring and inspection of drilling and production activities.
 - q. Utilization of BLM's gold book BMPs.
-

In addition to these specific mitigation measures, we believe that BIA could benefit from a review from STRONGER, a non-profit organization specializing in the review and improvement of existing oil and gas regulatory regimes throughout the U.S. We hope you will consider taking advantage of that resource.

Enhanced monitoring and enforcement is an essential component of the alternatives. Over the years, it has been difficult for BIA to provide sufficient field oversight to assure operator compliance with required mitigation measures. Accordingly, a realistic assessment of the risk of non-compliance with mitigation measures in each alternative will need to be included, together with measures for enhanced monitoring and enforcement. In developing measures (or an alternative) for enhanced monitoring and enforcement, we also ask that BIA consider delegating or sharing the enforcement/environmental protection role for the oil and gas activities with another state or federal agency, such as BLM. The BIA regulations clearly allow BIA to delegate responsibilities as pointed out in the definition of "Superintendent" - which expressly includes persons to whom the Superintendent delegates responsibilities under the regulations. 25 CFR 226.1. Even if the BIA does not delegate such authority, it can certainly augment its capabilities by sharing oversight and enforcement authorities with an appropriate agency. Precedent exists for these considerations. The separation of management responsibilities from oversight and enforcement was done recently with the creation of the Bureau of Safety and Environmental Enforcement and the Bureau of Ocean Energy Management as part of the reorganization of the Bureau of Ocean Energy Management, Regulation and Enforcement.

In any event, the BIA is obliged to develop an effective monitoring and enforcement program to ensure that operators fully comply with the mitigation measures that are ultimately developed. For all EISs, Council on Environmental Quality (CEQ) regulations and policy require that the agency develop both a monitoring and enforcement program to ensure that the mitigation commitments are complied with, which should be included in the NEPA documents and ultimately in the Record of Decision. 40 CFR 1505.2(c); Council on Environmental Quality, *Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact (Mitigation Guidance)*, January 14, 2011, pp. 9, 12. In addition

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to operators' monitoring and reports, the program should also include monitoring and reporting by the BIA, as well as the potential for monitoring and reporting by a state or other federal agency, the Osage Nation, surface owners, and/or other members of the public. The program could also include the delegation or sharing of enforcement authority with another state or federal agency as described above. Appropriate remedies and penalties should be part of any enforcement program, including the revocation, suspension or modification of a permit for noncompliance.

The EIS should include a specific commitment that it will be supplemented by new or more stringent measures ultimately adopted in the "Oklahoma, Kansas, and Texas EIS/Resource Management Plan" (OKT EIS). The Osage County EIS and the OKT EIS are being developed concurrently, though it is anticipated that the Osage County EIS will be completed prior to the OKT EIS. In that event, the BIA should commit to review and supplement the Osage County EIS with any new or more stringent measures which may be adopted in the OKT EIS. It is possible that the OKT EIS could take a more comprehensive look at certain mitigation measures for oil and gas activities, and after due consideration, could decide to adopt a program of imposing new or more stringent mitigation measures than had previously been adopted in the Osage County EIS. Under such circumstances, the development and adoption of new or more stringent mitigation measures may well qualify as "significant new circumstances or information" triggering the need to supplement the Osage County EIS. 40 CFR 1502.9(c)(1)(ii). In any event, as a matter of sound and consistent administration, the BIA should commit now in the Osage EIS to review any new or more stringent mitigation measures imposed on oil and gas leasing or permitting activities in the OKT EIS, to supplement the Osage County EIS with an evaluation of such measures, and most importantly, to include such measures in new and existing oil and gas leases and permits in Osage County.

The BIA must develop a preferred alternative based on the 1906 Act and the requirements it imposes on the Secretary of the Interior. The 1906 Act, as amended, provides that regulations governing Osage lands and leases of the Osage Mineral Estate must result in "the highest percentage of ultimate recovery of both oil and gas." This means that the preferred alternative must encompass provisions that will maximize the extraction of minerals from the Osage Mineral Estate for the benefit of the Osage Head Right Holders as the only beneficiaries of the Osage Minerals Estate.

The preferred alternative must address mitigation measures that can be taken to streamline the permitting process and minimize the need for impacts to be addressed on a site-specific basis. This is key to complying with the 1906 Act.

I supported Action Alternative 2 in the previous DEIS as a reasonable and preferred alternative.

For drilling and other oil and gas development outside the scope of the Workover PEA, the No Action Alternative would not provide a county-wide framework, including a county-specific list of RCMs that site-specific NEPA analyses could be tiered to. Instead, the BIA would need to approve drilling and other non-workover permits on a case-by-case basis; each drilling permit would require its own NEPA analysis. As a result, lessees would continue to face uncertainty and delays associated with determining the RCMs that would be applied to a given permit. The BIA would still ensure compliance with the regulations at 25 CFR, Part 226, and applicable laws regardless on a case-by-case basis. The No Action Alternative does not help anyone.

In addition, the No Action Alternative would not allow the BIA to take advantage of streamlined processes to comply with the ESA and Section 106 of the NHPA. For example, for lessees developing within the habitat of the American burying beetle (ABB), the BIA would need to consult separately with the US Fish and Wildlife Service (USFWS) under Section 7 of the ESA each time before approving a permit application rather than complying with one biological opinion issued for all oil and gas development activities in Osage County.

Similarly, the No Action Alternative would not allow for proactive application of measures to identify, preserve, and mitigate impacts on cultural resources in Osage County, in accordance with Section 106 of the NHPA. Rather, these measures would be developed on an individual basis during site-specific Section 106 consultation.

The No Action Alternative would not provide a county-wide framework that site-specific NEPA analyses could be tiered to. This could result in fragmented decision-making, which may increase impacts on public health and safety.

Of additional concern in the Draft EIS regardless of which alternative (1 or 2) is chosen include: The DEIS document nor the PEA EIS has updated definitions and best practices to reflect a number of advances in technologies and practices since the last document in 1979 was completed. As you are fully aware, the current regulations and long pending proposed rules do not include all the BLM Orders or requirements for using the BLM Gold Book BMP measures. Without updated regulations in order to achieve these RCMs, the BIA will need to significantly consider a plan for incorporating BLM and industry BMPs to assure compliance in permit applications. The BIA will need to consider how the enforcement and oversight of the proposed RCMs will be improved upon to achieve your stated objective in the EIS.

Table D-3 Alternative Proposals

Additionally, the EIS could better address advances in horizontal drilling, multistage hydraulic fracturing, pad drilling, improvements in well integrity, advances in reuse and recycling of produced and flow back water, as well as advances in safety and environmental protection that were not envisioned in 1979. Some advances were included in Alternative 2 such as the use of closed loop systems, road construction, and advances in land restoration.

Under no circumstances should any acreage in Osage County be excluded from development of its minerals.

I think that the EIS could go ahead and talk about what steps are required from start to finish; Form 139s, the beetle survey. I think you guys are already working on us not having to wait 45 days for the Fish & Wildlife to respond to a negative beetle survey. We know where to have the beetles come. So that's really good. In doing some other things in parallel, like going ahead and working on the drill permit while we're in the 30-day waiting period for the -- once the draft EIS -- I mean EA has been approved -- in this case once we have an EIS, we write an EA off of it, not waiting that full 30 days to go ahead and do the drill permit is a really good idea. Do some things in parallel.

I would love to see the EIS go ahead and take a stab at envisioning what the flow sheet is to accomplish this environment goal that you have and what can be done in parallel, because it would really speed the process up. It takes about five months to do one of these, and at the end of the day, from my perspective, the BMPs that get stapled to the drill permit are always the same, and we could have just stapled those on there in the very beginning.

The last thing I want to say is that as we develop new rules, they need to be more concise than the last one. There were too many generic words that had multiple meanings that could mean one thing to me and another thing to you. What is a creek and what is a pond and what is this and what is that. We need to have as much specificity as possible in the rules so that we know exactly what we're supposed to do.

What I do want to see is a preferred alternative that must encompass provisions that will maximize the extraction of minerals from the Osage Minerals Estate for the benefit of the Osage Head Right owners as the only beneficiary of this Osage Minerals Estate.

As the EIS process requires a statement of the range of issues of possible alternatives, the basic alternative must be the administration of an oil and gas permitting process, which is supported by and consistent with existing federal law and regulation. The alternatives should include permit processing improvements, allowing quick turnaround permit applications unless there are unique environmental issues. The alternatives should acknowledge contentious issues and the BIA's limitations in providing solutions.

If the BIA wishes to consider mitigation alternatives; such as esthetics, noise, which are not supported by existing laws and regulations, the proposed changes must be identified as such. The analysis of such alternatives must provide for the continuation of business as usual and the uncertainty of success.

The BIA should recognize the environmental benefits which resulted from the U.S. EPA administered Spill Prevention Control and Countermeasures Regulations and the Underground Injection Control Regulations. If there are failures or shortcomings in these areas, the EPA's response should be incorporated into the EIS. The BIA's plate is full. It can ill afford to redundantly embrace environmental measures administered by other agencies.

From a process perspective, we don't support outlining a variety of BMPs or RCMs which are then applied at the discretion of the Osage BIA Agency or the superintendent.

Without exactly defined process for applying rules and measures to manage oil and gas activities, the operating environment continues to be unstable and this practice makes profitable oil and gas operations difficult to achieve from a business standpoint. So a concern for us is that future implementation of RCMs and other measures included in the EIS will be at the discretion of the BIA Osage Agency or the superintendent without a specifically defined or documented procedure. But this lack of specific details on implementation would create an extremely subjective process which does not support the consistency and management required for effective implementation of the Osage Minerals Estate. Any action must be defined specifically and not left to later interpretation by the BIA.

Table D-4

Comments on the Purpose of and Need for the EIS

The basic premise of this entire exercise is without merit. Your literature says “the BIA determined that the 1979 EA is no longer valid.” This determination was simply declared without any testimony, findings nor documentation of how the determination was made. Jireh Resources LLC believes the 1979 EA should be still valid. There has to be some fundamental change in a business application for there to be a need for a change of regulations. There is no difference between the industry in 1979 and 2015 other than we are more efficient, more aware of environmental issues, more willing to work with surface owners and able to produce wells longer than ever thought possible in 1979.

The fundamental changes in operations that would require a revisit of the regulations simply has not taken place. While some have proposed the idea that horizontal wells have somehow changed the industry, the reality is that the same exact process is used in a horizontal well as a vertical well. Not only are the processes the same, but the horizontal boat has already sailed. Horizontal wells in Osage County have proven to be uneconomic and the industry has reverted to vertical wells for all of Osage County. We are unaware of any currently existing horizontal well being drilled, nor planning to be drilled in Osage County. That time has simply passed. The primary target of the few horizontal wells drilled in Osage County, the Mississippi Chat was proven not to be a source rock like the Bakken, Eagleford or other reservoirs which lend themselves to horizontal drilling.

Therefore, our first request is that the BIA reconsider its decision to throw out the 1979 EA. There is simply no known reason for a change in regulations. Oil and gas operations in Osage County are conducted today in essentially the same way they have been for over 100 years. Consistent and fair enforcement of the regulations that exist as a result of the 1979 EA will enhance the value of the mineral estate to its owners and have a clear history of the rules and how to follow them and encourage further exploration of the mineral estate of the Osage Nation, which is the fundamental purpose of the BIA as it relates to the Osage Nation. The BIA at its core is charged with and must work to enhance the value of the Osage mineral estate. To summarily dismiss the 1979 EA without appropriate feedback from those impacted by the change seems inconceivable to us as producers.

The United States is the trustee of the mineral estate and of the Osage headright owners. The EIS should acknowledge and reflect the fact that the trust obligation is a legal duty and that discharging that duty in the manner that best serves the interests of the trust beneficiaries should be the predominant consideration in administering the Osage mineral estate. As written, the DEIS does not do that.

We also believe the intent and final outcome of this EIS must be defined right up front, especially as it relates to the CFRs. There needs to be clarification on what the record of decision, or the ROD, will address as a result of the EIS and how this integrates with the existing regulations that are already in place.

Table D-5

Comments Regarding Government-to-Government Consultation

the Executive Branch, in fulfilling its duties to engage in a government-to-government relationship with the United States, has played a limited role as a "cooperating agency" in the current NEPA process. Our focus in that capacity has been on specific provisions of the Draft EIS that are within the jurisdiction of the Osage Nation Executive--primarily matters within the authorities of the Osage Nation Environmental and Natural Resources Department (ENR Department) and Osage Nation Historic Preservation Office (NHP Office).

OMC is the agency of the Osage Nation whose jurisdiction and constitutional responsibilities are most affected by BIA's decision to prepare an EIS for the management of the Osage mineral estate. Therefore, the BIA must look to the OMC for comments and guidance on the proposed alternative management strategies and "resource conservation measures" (RCMs) described in the Draft EIS--all of which directly or indirectly affect oil and gas leasing, management, and operations. Our comments relating to environmental and historic preservation matters should not be interpreted to override or limit the constitutional responsibilities of the OMC, or its views on the Draft EIS.

the OMC should be the voice on the sufficiency or accuracy of the Draft EIS with regard to the management of the Osage mineral estate.

The BIA must engage the OMC in government-to-government consultation throughout the NEPA process. Through Executive Order 13175, President Clinton mandated that federal agencies engage in "meaningful consultation" with Indian tribes when taking actions that will directly affect an Indian tribe. President Obama bolstered this Executive Order through Presidential Memorandum in 2009, declaring that his Administration is committed to regular and meaningful consultation and collaboration with tribal officials. Section 2.3 of the BIA NEPA Guidebook states that "[t]ribal governments and their delegated tribal programs should not only be consulted, but should be partners with the BIA in the NEPA process." The DOI Departmental Manual states that it is the policy of DOI to carry out its trust relationship with federally recognized Indian tribes and to consult with tribes on a government-to-government basis whenever DOI plans or actions have tribal implications.

Table D-5 Comments Regarding Government-to-Government Consultation

To date, the BIA has fallen short of its consultation requirements. The OMC requested in writing that this meeting be postponed in order to initiate consultation prior to any public meeting, but this request was denied. I am now restricted to a two-minute window to share the concerns and interests of the OMC like any other citizen. This is not government-to-government consultation. The BIA should have met with the OMC regarding scoping before meeting with the public. Despite this failure, the OMC intends to enter into an MOU with the BIA as a cooperating agency with respect to this NEPA process and the policies and procedures adopted by the Department and agencies to implement NEPA. Through this agreement and as a matter of law, the OMC expects the BIA to fulfill its trust obligations and its fiduciary role throughout the course of this NEPA process.

I'm going to ask this. That you consider as you call the Osage, you leave it blank, I would appreciate that at the end of this document I just read and handed it to us. You are laughing. You understand what I'm saying. You consider the Osage in that process. I know we're an infant group, but we want to be involved and have to shorten that to make it more robust, make it more faster literally. We cannot -- if I'm going to have to eat this thing, which I feel like I'm going to have to eat it, then let's talk about that discussion there and that process.

Table D-6 Cooperating Agency Requests

The Osage Producers Association encourages BIA to contact the Oklahoma Corporation Commission, inviting them to join as a participating agency. If the Osage Mineral Estate is to remain competitive with mineral resources in adjacent counties an understanding of the entirety of permitting process applied to every other Oklahoma county under direction of the OCC.

The Osage Producers Association encourages the BIA to contact the United States Geological Survey, inviting them to join as a participating agency. The USGS has an excellent and nearly 10 yearlong involvement with the reservoirs of Osage County. Additionally the USGS has recently studied the Ada Vamoosa aquifer, which is present in much of central Osage County.

The Osage Producers Association respectfully requests to be invited to participate in the Draft EIS process. In the past years two major documents have been published in the *Federal Register*, CFR and EIS, and both were determined unsuited for their objective. The OPA requested to participate in each process and were denied. The OPA is unique in its ability to provide understanding to the subsurface resources and operational realities on the surface.

The Osage Producers Association is in a unique position to forecast the future development of the oil and gas resources of Osage County and will endeavor to do so. If invited to participate as an "other interested person" in the development of the draft EIS we will provide forecasts as they become available. In accordance with 40 CFR 1501.7, please extend to the OPA an invitation to participate as an "other interested person" in the development of the draft EIS.

It is imperative that the BIA fulfill its trust responsibilities by engaging in proper and meaningful consultation with the OMC throughout the duration of this EIS process. On March 20, 2016, the OMC transmitted a letter to the BIA which enclosed a proposed Memorandum of Understanding (MOU) for purposes of becoming a cooperating agency in this process. The Regional Director responded by providing a revised version of the OMC's proposed MOU. The OMC expects the parties to reach a mutually agreed upon MOU and to become a cooperating agency for purposes of this EIS in the very near future.

Through the MOU and by virtue of its role as a cooperating agency and an affected federally recognized Indian tribe, the OMC expects to participate fully in all stages of the EIS process. This includes development and analysis of alternatives and design elements or mitigation measures. As a cooperating agency, the OMC may help to "develop alternatives" and "evaluate alternatives and estimate the effects of implementing each alternative." 43 C.F.R. § 46.230. The BIA must "collaborate, to the fullest extent possible" with the OMC throughout this EIS process. 43 C.F.R. § 46.230. Because of the dual authority of the federal government and the OMC over the Osage Mineral Estate, "the BIA's NEPA process should be coordinated with the tribal decision-making process." 59 IAM 3-H, § 2.3. Furthermore, "[t]ribal governments and their delegated tribal programs should not only be consulted, but should be partners with the BIA in the NEPA process, and invited to serve as cooperating agencies." 59 IAM 3-H, § 2.3 (emphasis added). As a partner in this process, the OMC's ideas and input must help shape the development of alternatives and issues to be addressed in the EIS and must be duly considered and taken into account in the BIA's decision-making process. The OMC expects the BIA to maintain an open exchange of information with the OMC from the close of the scoping comment period through the completion of the scoping process so that the parties can collaboratively define the alternatives to be considered. Such collaboration should endure throughout the course of the EIS process.

You stated earlier that you hoped the Osage Minerals Council will become a cooperating agency, yet when we submitted our memorandum of understanding, all references to trust responsibility and Osage Minerals Estate were marked out. I look forward to negotiating with you on a new memorandum of understanding. One of the things I don't want to see in the next draft is that Galen Crum is identified as Osage Minerals Council. Mr. Crum was appointed by the Osage Nation. Their constituency is

Table D-6
Cooperating Agency Requests

different than the Osage Minerals Council, but yet on page 4-21 and 4-78 Galen Crum is identified as an Osage Minerals councilperson.

We as the OPA are encouraged by the BIA expressing interest in working with, "others" to gather information and work to prepare a revised EIS. The Osage Producers' Association wishes to be a participant, and in your document it says the BIA will work with cooperating agencies and others. We consider ourselves others. We would be pleased to participate in any and all aspects. It's wonderful today to see my friend Neil Suneson with the Oklahoma Geological Survey here and to see that the OGS is considering executing a memorandum of understanding.

Table D-7
General Comments in Support of or Opposition to the Project

Our Ranching forefathers were in Osage County several years before Statehood in 1907. The ENVIRONMENT is what we all live in and must take care of for ourselves and future generations. No where should any industry just produce only for revenue and disregard damage to soils, waters , air, humans, livestock, wildlife and economic impacts.

We trust that your EIS will preserve and protect all the ENVIRONMENT and be enforceable. Our ranch has had many Oil & Gas issues over the many years but the right answer has always been what way is the best for soils, waters, air, humans, livestock, wildlife and impact to our economy. We still have H2S, salt water spills and oil company disregard for their lease junk surplus and possible water well contamination.

There is a built-in conflict in this whole process. It is in conflict with your very mission statement. Your mission statement is to promote oil and gas production in a manner that is efficient. You're not doing this. You have shut it down. To promote means to sell, to get other people to join you.

The BIA mission statement says to promote economic opportunity and to carry out the responsibility to promote and improve the trust assets. My constituents do not believe that this is what happened in the first draft EIS.

That was my biggest concern, you know, because a lot of the producers that come in here, all they talk about is expediting it, speeding the process up. That would be an excellent thing to do, you know, if it's already been done before, why do it again. I know I'm a landowner myself and the graveyard -- our family graveyard, it was vandalized, some of the pictures we had of my uncles were shot out, and I can see the importance of archeological studies like that, but also we have to think about who helps us in the county and that's the Osage producers. We need to do everything we can to help them because as far as I'm concerned it's going to be around forever.

We agree with Chairman Waller and the Minerals Council that any measures to address impacts cannot and must not violate the trust responsibility owed by the United States to promote the development of the Osage Minerals Estate. This must be considered first and foremost by BIA in relation to all aspects of the EIS.

Table D-8
Mineral Extraction (Oil and Gas)

I think one of the main interests that we have would be to see the EIS talk about the cost of site-specific analysis compared to the cost of drilling a vertical well, since really what we're mostly talking about are vertical wells, not horizontals. They're not the big, gigantic Pennsylvania horizontals that have 15 million gallons. When we frac a well here, if you ask Tri AM, who has done it for 40 years, it's going to be a 500-barrel frac, and that's about half the size of a normal swimming pool, 21,000 gallons. We're not talking about gigantic frac jobs. So I would just like to see the EIS process be real, be specific.

The OERB has spent -- has cleaned up over 900 sites in Osage County and spent over \$10 million doing that in the last seven years up here, and they are committed to continuing to do that.

**Table D-8
Mineral Extraction (Oil and Gas)**

The Agency should take a hard look at hydraulic fracturing impacts from oil and gas leasing and development in Osage County. The Agency should not rely on vague and undefined future mitigation attempts without ever providing the hard look analysis that NEPA demands. See *Morris*, 598 F.3d at 681. "[M]itigation measures, while necessary, are not alone sufficient to meet the [Agency's] NEPA obligations to determine the projected extent of the environmental harm to enumerated resources before a project is approved." *Northern Plains Resource Council v. Surface Transportation Board*, 668 F.3d 1067, 1085 (9th Cir. 2011) (emphasis in original). The Agency should conduct a meaningful look at the impact of fracking.

**Table D-9
Agriculture**

Panels around all pump jacks to protect livestock.

Also, the placing of erosion barriers around drilling sites for the same reason, to protect livestock.

**Table D-10
Air Quality and Climate**

Air quality and odor impacts from illegal/improper venting, open flaring/combustion and emissions of hydrogen sulfide, methane, sulfur dioxide, carbon monoxide, carbon dioxide and other gaseous emissions from wells, tank batteries, vehicles and other oil and gas infrastructure, and associated threats to public and wildlife health from such impacts.

The Agency must take a hard look at the air quality impacts from oil and gas leasing and development in Osage County. The EIS should actually analyze or assess the impacts of developing the proposed leases to a number of national ambient air quality standards ("NAAQS"). Moreover, the EIS should analyze the direct, indirect, and cumulative air quality impacts in the context of NAAQS. These NAAQS include the 1-hour nitrogen dioxide NAAQS (promulgated in 2010), the 1-hour sulfur dioxide NAAQS (also promulgated in 2010), the 8-hour ozone NAAQS (promulgated in 2008), the 24-hour PM2.5 NAAQS (promulgated in 2006), and the annual PM2.5 NAAQS (promulgated in 2012). Finally, the EIS should analyze and assess the potential impact of emissions on air quality. Simply disclosing the affected environment does not amount to an analysis or assessment of reasonably foreseeable impacts. The EIS should actually undertake the analysis.

The Agency should take a hard look at the climate change impacts from oil and gas leasing and development in Osage County. Where an agency action causes greenhouse gas pollution, NEPA mandates that agencies analyze and disclose the impacts of that pollution. As the Ninth Circuit has held:

[T]he fact that climate change is largely a global phenomenon that includes actions that are outside of [the agency's] control ... does not release the agency from the duty of assessing the effects of its actions on global warming within the context of other actions that also affect global warming.

Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin., 538 F.3d 1172, 1217 (9th Cir. 2008) (quotations and citations omitted). The need to evaluate such impacts is bolstered by the fact that "[t]he harms associated with climate change are serious and well recognized," and environmental changes caused by climate change "have already inflicted significant harms" to many resources around the globe. *Massachusetts v. EPA*, 549 U.S. 497, 521 (2007); see also *id.* at 525 (recognizing "the enormity of the potential consequences associated with manmade climate change.").

Chaparral Energy is currently undertaking a CO2 flooding project in the Burbank field, which likely results in the release of CO2 into the atmosphere. There should be analysis, in the EIS, of the growing impacts of this project, in connection with the other oil and gas related activities in Osage County.

Air quality and odor impacts from venting, flaring, fugitive methane leaks, emissions of hydrogen sulfide, methane, sulfur dioxide, carbon monoxide, carbon dioxide and other gaseous emissions from wells, tank batteries, vehicles and other oil and gas infrastructure, and associated threats to public and wildlife health from such impacts. By way of example, recent health incidents have raised public health concerns with respect to hydrogen sulfide due to venting and flaring.

j. Closed loop system to capture and reuse or re-inject all fugitive gases from oil and gas wells so that no such gases need be combusted.

Table D-10
Air Quality and Climate

Air quality and odor impacts from illegal/improper venting, open flaring/combustion and emissions of hydrogen sulfide, methane, sulfur dioxide, carbon monoxide, carbon dioxide and other gaseous emissions from wells, tank batteries, vehicles and other oil and gas infrastructure, and associated threats to public and wildlife health from such impacts.

Table D-11
Fish and Wildlife

Impacts from all phases of oil and gas development and operations to game, non-game, migratory birds and threatened and endangered species of wildlife.

Impacts from all phases of oil and gas development and operations to game, nongame, migratory birds and threatened and endangered species of wildlife and their habitats.

i. Netting over all pits and tanks to prevent landing and deaths of migratory and other birds.

Impacts from all phases of oil and gas development and operations to game, non-game, migratory birds and threatened and endangered species of wildlife.

Table D-12
Special Status Species

The genesis of this requirement relates to birds of prey eating Greater Prairie Chickens (GPC). The reason birds of prey have an advantage over GPC is someone in the federal government decided a long time ago that birds with longer wingspans are more important than birds with lesser wingspans. Thus birds of prey, with their usual long wingspan have seen exponential growth in their numbers due to this federal protection. It is not hard math, more hawks, more GPC it takes to feed them. Power lines do not harm GPC, the unrestrained growth in the numbers of raptors have hurt the population.

The US FWS has regulations that cover the American Burying Beetle. We are required to follow those rules. The damage to the rattlesnake master plant done by oil and gas operations, if in fact there is any damage, surely pales in comparison to the damage done by the massive burning of pastures every spring when hundreds of thousands of acres of Osage County is totally burned by ranchers.

It is also our understanding that the BIA proposes to shut down oil and gas operations approximately 325,000 acres in northwest Osage County to encourage the breeding of the Greater Prairie Chicken. We can only say this feels a lot more like an attack on the oil and gas business than helping the GPC. First of all, there is an open hunting season in several states for this bird. It is not on any protected or endangered list and it is not even documented oil and gas operations in Osage County keep the GPC from breeding. If we understand correctly the BIA proposes to shut down oil and gas traffic on certain highways and roads, but would allow all other traffic to continue unabated. The wind industry can install 350 foot tall spinning machines, ranchers can drive everywhere on their ranches and herds of wild mustangs can do irreparable harm to native grasses by overgrazing, but the BIA is nowhere to be found in its concern for the GPC. It is only against the mineral estate the BIA is charged with protecting that we see "hair on fire" type proposals that come out of the BIA.

The BIA has proposed additional limitations on oil and gas operations related to the Sprague's Pipit and the Whooping Crane. As you are well aware the US Fish and Wildlife Service says the breeding ground of the Sprague's Pipit is in several states north of Oklahoma, none of which even border Oklahoma. There is simply no logic for any restriction for a bird that has breeding grounds hundreds or thousands of miles from Oklahoma. Certain whales are endangered, but it would be illogical to restrict oil and gas operations because we don't have whales in Oklahoma, nor do we have Sprague's Pipit breeding grounds. Just saying something doesn't make it so.

As to the Whooping Crane, this migratory bird can cover the state of Oklahoma in a matter of hours. If it does elect to rest in Oklahoma, it will do so in the protected areas of the Great Salt Plains, not in the rocks of Osage County. Again, a nice sounding thought until one realizes how far it is from the Great Salt Plains to Osage County and how the topography of Osage County is nothing any Whooping Crane would have any interest in visiting.

Illegal taking of endangered American Burying Beetles (ABB) by combustion of H₂S gas as well as from drilling pads, roads, power lines and pipelines.

Table D-12
Special Status Species

A Native American man stood and spoke. He couldn't believe a bug had stopped drilling. My neighbor, also Native American, land owner and a shareholder, remarked he remembered when "we as a people respected all life, even a bug." Keep the Burying Beetle Study in place.

The Endangered Species Act and the BIA's obligations under it are identical in any alternative which will be considered with the exception of the "no action" alternative described above. (Section 7 consultations would be moot in the "no action" alternative.)

Improper and preventable takings of endangered American Burying Beetles by flaring and by combustion of hydrogen sulfide as well as from drilling pads, roads, power lines and pipelines.

Impacts to native grassland bird species of concern, especially birds such as greater prairie-chicken, Sprague's pipit, and upland sandpiper due to fragmented landscapes, vertical objects, noise, drilling disturbances, and changes in vegetation.

p. Specific additional measures to address impacts to native grassland bird species of concern, especially birds such as greater prairie-chicken, Sprague's pipit, and upland sandpiper:

i) Avoid development in intact, unfragmented native prairie areas. Native grassland birds are sensitive to disturbance from roads, infrastructure, human dwellings, etc. See Oklahoma Greater Prairie Chicken Spatial Planning Tool at: <http://www.wildlifedepartment.com/grpcdevelopmentplanning.htm>

ii) Reduce or eliminate "vertical fragmentation" from man-made structures (power lines, tank batteries, pumpjacks, etc.).

iii) Install high-quality mufflers on pumpjacks and compressors that are powered by internal combustion engines, and/or shield such equipment and loud electric motors.

iv) Avoid vehicle traffic on roads and other disturbances within several hundred yards of booming grounds (leks) during the breeding months of March through May, in the morning from two hours prior to sunrise until three hours following sunrise.

v) Minimize drilling disturbance as much as possible. Reduce drilling pad size and avoid drilling on steep slopes whenever possible. Stockpile topsoil for future restoration. Minimize the impact of the initial drilling access road as much as possible, and engineer roads to minimize long-term erosion and maintenance Issues.

vi) Re-seed disturbed sites with native or non-invasive plants.

vii) Consolidate facilities and roads and locate them at the edge of open prairie and off of prairie ridgelines and hilltops.

The EIS and alternatives should include data and mitigation measures from the Biological Assessment and Biological Opinion. In order to rigorously evaluate the environmental consequences of the proposed oil and gas development program on special status species, the EIS should include data being developed in the Biological Assessment and Biological Opinion. The Biological Assessment and Biological Opinion are key data sources for developing mitigation measures for special status species and on which the public has the right to comment. By publishing drafts of the Biological Assessment and Biological Opinion for public comment, BIA will fulfill its obligation that, "to the fullest extent possible," it "shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys required by ... the Endangered Species Act of 1973." 40 CFR 1502.25(a).

Illegal taking of endangered American Burying Beetles (ABB) by combustion of H₂S gas as well as from drilling pads, roads, power lines and pipelines.

The BIA is in direct violation of Secretarial Order 3206, enclosed, American Indian Tribal Rights Federal Tribal Trust Responsibilities and the Endangered Species Act because the Minerals Estate and the oil and gas industry that develops it are impairing a disproportionate burden for the conservation of enlisted species.

The BIA must carry out its Endangered Species Act obligation by presenting to the U.S. Fish & Wildlife Service a biological assessment related to the American burying beetle in the beginning of the ESA Section 7 consultation.

Table D-13
Public Health and Safety

Additionally, it should be clear that the surface is in significantly better condition today than it was a generation ago. The Oklahoma Energy Resource Board (OERB), thru voluntary contributions of oil and gas producers and royalty owners, has done extensive work in Osage County. Thru November of 2015 OERB has cleaned up 839 different sites at a cost of approximately \$4,000,000. That work is ongoing and would have been substantially more complete had it not taken the BIA several years to approve the first site.

Incidentally, we as producers would be grateful for any assistance we can get from the BIA related to the ranchers destroying our facilities with these massive wildfires. We are damaged almost every spring by the fires set by ranchers, often without notice which sweep over our facilities causing all sorts of problems. We believe the BIA should consider regulations to restrict grass fires to the extent they damage oil and gas operations.

Lined bottom and sides around tank batteries, to prevent leaking of contaminants to surrounding areas.

Increase the distance on wells and tank batteries from homes, ponds, and streams. This will help keep our children and our water safer, also helping to eliminate potential dangerous hazards.

The Agency should take a hard look at human health impacts from oil and gas leasing and development in Osage County. The Agency should consider scientific and medical data, specifically local medical data, to determine the effects of past and future oil and gas activities on the health and welfare on citizens of Osage County. In connection with the human health impacts, the Agency should examine the impact of salt water disposal wells on earthquakes in Osage County. The Agency should determine whether to impose limits on the use of salt water disposal wells in Osage County. Further, the Agency should analyze whether continued leasing and drilling should proceed in light of the danger that disposal of saltwater in the Arbuckle Formation will create the risk of additional earthquakes.

Table D-14
Topography, Geology, Paleontology, and Soils

It is totally unclear what the BIA knows about seismicity. As a producing community we would be thrilled if you spent time on understanding oil and gas operations in order to make commonsense rules that enhance the mineral estate. To claim you have seismicity expertise is beyond belief. How could your consultation help producers produce more oil.

Contamination, sterilization, and erosion/loss of soil and rangeland from oil, gas and saltwater leaks and spills and associated reduction in range fertility and livestock raising/production economics.

All roads to well sites should be graveled and maintained, to protect the soil from erosion.

Contamination and sterilization of soil and rangeland from oil, gas and saltwater leaks and spills and associated reduction in range fertility and livestock raising/production.

Contamination, sterilization, and erosion/loss of soil and rangeland from oil, gas and saltwater leaks and spills and associated reduction in range fertility and livestock raising/production economics.

Additionally, were recent maps of faults and areas where the propensity is high for induced seismicity activity due to water injection included in the EIS? Was the highly acclaimed October 1, 2015 IOGCC/GWPC document on induced seismicity used in developing this EIS? Were new state rules on induced seismicity considered; particularly in that rules have not been updated by BLM? The statement made in the draft that in reviewing and approving injection well conversion permits, the BIA will consult with Department of Interior Indian Affairs, Department of Energy and Mineral Development to identify requirements or restrictions to address potential seismicity impacts or other issues. This proposed process is not close to being adequate, and merely "kicks the can down the road" .

Table D-15
Vegetation, Wetlands, and Noxious Weeds

I agree all locations need to be restored with good soil and reseeded.

Table D-16
Visual Resources

Surface owners are in general not agreeable. As noted they bought their surface at a discount and now they want operators to make outrageous expenditures to make facilities pretty. In general tanks, pumping units, flow lines, etc. will never be considered pretty. There is no requirement in our lease to make locations pretty or blend into the natural environment. This is another example of regulatory overreach by the BIA to assuage environmentalists to the detriment of its core mission, to enhance the value of the mineral estate. Every dollar that goes into "pretty" takes a dollar away from drilling a new well that could enhance the value of the minerals to the Osage Tribe.

Damage to visual and aesthetic resources of the landscape from temporary and permanent oil and gas infrastructure, most notably above-ground pumping units, tank batteries, and overhead power lines.

Damage to visual and aesthetic resources of the landscape from temporary and permanent oil and gas infrastructure, most notably above-ground pumping units, tank batteries, and overhead power lines.

Table D-17
Socioeconomics and Environmental Justice

Fundamentally, it is critical for the BIA to understand that Osage county is a unique production area that is substantially different than most other producing areas in Oklahoma and other production fields across the country. Osage production is very shallow, low pressure and low volume in nature. The current producing well averages 0.71 bbls/d. When new vertical wells are drilled their initial production is 10-50 bbls per day and they quickly decline from there. Therefore the economics of these wells are substantially different, very much lower in terms of cost, pressures, revenues, etc. than most wells drilled in other basins. The message is these wells are very cost sensitive. BIA regulations from other areas that add \$50,000 – \$ 100,000 to a \$10,000,000 well have little or no impact on its return. BIA regulations that add \$50,000 to a \$250,000 well makes it uneconomic to drill at any crude price. Oil and gas operators are economically driven. What is the purpose of drilling a well if it is uneconomic to produce? Has the BIA fulfilled its core mission if by its regulations it reduces drilling in Osage County?

Impacts from all phases of oil and gas development and operations to the economics of cattle production, bison production, and BLM Wild Horse Refuges.

Drastic reduction in property values to scarred and damaged land.

The economic harm and hardship to the agricultural industry in Osage County due to degradation of lands and soils, air pollution, saltwater contaminations to soil and surface waters and freshwater aquifers, harm to livestock, reduced property values, etc., from oil and gas activities is significant.

Ten mile per hour speed limits on private lands. Roads near homes and work areas kept watered to prevent dust during times of heavy traffic.

When wells and oilfields are near those with special needs (handicap, mentally impaired) all care needs to be exercised at any cost to oil producers.

Communicate with the land owner about the placement of roads, especially when multiple locations are to be drilled, to keep property devaluation to a minimum.

We strongly advocate that the BIA adhere to the mission of promoting economic opportunity while protecting and improving our trust asset of the Osage Minerals Estate. To this end, we believe there must be a strong consideration of the economic and financial impact of any action taken by the BIA related to the revised EIS document, especially relating to impact on oil and gas production as well as the overall industry in Osage County.

We also raise the issue of economic impacts that result from inadequate environmental protections. We appreciate BIA's specific intention to review the socioeconomic impacts of oil and gas development. As you review the impacts to natural resources outlined below, your evaluation will also need to include the economic costs that have resulted and continue to result from each of those impacts - including time, medical costs, harm to bison and other livestock, reduction in range fertility and livestock production, pollution of freshwater aquifers and loss of that resource for human and economic development, reduced property values, potential lost revenues from tourism, etc.

Impacts from all phases of oil and gas development and operations to the economics of cattle production, bison production, and BLM Wild Horse Refuges.

Drastic reduction in property values to scarred and damaged land.

Table D-17
Socioeconomics and Environmental Justice

If you are going to be doing an environmental impact statement study, whatever, did you also do an economic impact study to see how that's going to affect this county, because obviously everything that's been happening all this time has had a huge impact on our economy here, but I've never seen one, so I was just wondering if that was going to be built into the process somehow or that's just not part of the requirements or whatever. So that's a concern to me because the economic part of it seems to me to be the first thing that you would want to do, so I'm concerned about that.

From 2008 through 2012 an average of 225 wells per year were drilled in Osage County, sixteen of which, on average, were horizontal wells. Starting in 2011, that number dropped by 32 percent. In 2012 drilling dropped another 14 percent and in 2013 drilling dropped 45 percent, and I'm just talking about number of wells drilled and completed. By July 2014 it dropped another 32 percent. During the September 2014 Osage Oil & Gas Summit it was revealed that permitting and drilling had dropped to zero. No wells were being drilled at all, no permits were being approved.

I put a pencil to the lost investment opportunity since July 2014, although a study needs to be done back to 2011 because we've been precipitously dropping ever since then. This is the barest minimum case, it does not include the value of natural gas and its components or production from horizontal wells, so we're just talking vertical wells here, a very conservative look -- look back at what it's cost the Osage Minerals Estate. In Mike Black's own words when he presented in a public forum, and I quote, "On average every year 200 vertical wells are drilled and completed per year in Osage County at an average cost of \$250,000." I think that's pretty conservative, too. That's \$50 million missed investment annually since July 2014. Considering only vertical wells with a very conservative initial production of 15 barrels per day and first annual production of 5,000 barrels cumulative for first year, this is one million new barrels of oil that were not drilled for and produced. Multiply those barrels by the monthly price of Oklahoma sweet crude, which you can find on Coffeyville Resources website, and the minimum loss from July 2014 through March 2016 is a staggering \$94 million. Lost royalty, \$19 million. This, again, is a very conservative look back. It doesn't include horizontal wells, which produce -- have the capability of producing 50 times more barrels than a vertical well and it doesn't also include the value of natural gas.

So the first thing this economic impact statement needs to do is get professionals and go back and look at the impact your actions are causing.

We have not talked about the gas royalty loss, but rough estimates are starting back 25 years ago to now there has probably been over -- I'll be glad to quote this and take it out, \$100 million of royalty lost to the Osage shareholders.

In closing, I will say there's nothing here for the BIA to be proud of. There's nothing here to be proud about ruining incomes, families, livelihoods and ruining this county. The economy of this county has tanked. Yes, the oil and gas prices have gone down, but this county, get this clear, this county got hit with two barrels; one, oil and gas prices went down, and the other aspect was the total, gross, moronic mismanagement of the BIA.

So like a lot of us here in the room, producers and shareholders, we have been financially hit hard by all this regulation and not just the regulation, just the cloud that that -- we have that over us. Even if it's not in place yet, just the fear that it's coming has run out -- it's harmed our ability, like Bob Jackman said, for us to bring in outside money, OPM, Other People's Money, which a lot of us small independents, with several exceptions in the room, but guys like me and Bob, you know, we don't drill wells hands up with our own money. We have skin in the game, but we have to bring in, you know, outside financing.

Table D-18
Water Resources

There is nothing additive to production about having to obtain a permit in order to be able to cross a stream. The practical application of this RCM is always going to cause disputes between owners and operators. The definition of what is a stream is always going to be an issue. If you were familiar with the topography of most of Osage county, you would know it is extremely rocky on the surface. In most places you can hardly walk without stepping on or around rocks. The result is when it rains, for a few minutes every low spot becomes a stream. Thirty minutes later the same spot is dry, so what is a stream? Streams are crossed every day by ranchers, regulators, hunters, bird watchers and the public in general. It is punitive and unfair to ask the operator of an oil well to get a permit when no one else is required to get a permit to perform the same action.

Installing culverts at stream crossing has the same problem. What is a stream, how big a culvert, what is its relation to production and what kind does it need to be? While there may well be common sense answers to these questions, we are deeply concerned the BIA will apply processes from other areas that do not fit the economic reality of the production in Osage County. It is simply not realistic to install culverts at every stream crossing. The general public has been crossing streams without culverts for hundreds of years. We see no reason to add a vague and unneeded regulation to oil and gas operations not required from the general public.

Table D-18
Water Resources

When requesting a permit for work within a well bore, we see no reason to test nearby water wells. There is nothing going on that is not already contained in the wellbore. When new drilling is taking place, casing is set to a depth to protect all known fresh water zones. Testing is an incremental expense that does not add anything to the process, nor does it do anything to insure no fresh water zones are contaminated. The assumption from the BIA seems to be the oil industry is guilty and the industry has to prove it is innocent.

It is our understanding that the BIA proposes to prohibit oil and gas activity within 200 feet of an “occasional stream or place that holds water after a rain.” As noted earlier, the rocky surface of Osage County prevents very much water from soaking into the ground. So there would be innumerable areas that hold water for a short period of time after a rain that might meet this definition. This restriction is just not practical to even measure, delineate nor to regulate. For how long of a rain, 30 minutes or three days, how deep a stream or pool, for how long, after 20 minutes or two days. Who can be there to measure every place? While this might sound like a reasonable process to those living within the Beltway, on the ground it would just be an impossible regulation to even define, much less understand and or enforce. Again, this proposed regulation could do nothing to help exploit the mineral estate of the Osage Nation, nor would it provide any environmental benefit unless shutting down the production of oil and gas is considered an environmental benefit, as some in the BIA must think is your mission.

Impacts to ground and surface water, including riparian and other areas of concern, from spills, leaks and migration of oil, gas, saltwater and other contaminants from wells, faulty casing, tank batteries and other infrastructure; this should include a comprehensive evaluation of groundwater contamination from all existing wells, both active, temporarily abandoned and plugged.

Lined pits at the time of drilling so there is no contamination of water and soil.

All salt water disposal tanks should be equipped with automatic shut downs if pressure is lost or an overflow takes places. This will keep ponds, streams, and other bodies of water protected.

The Agency should take a hard look at water resource impacts from oil and gas leasing. In the 2014 Leasing EA, the Agency admits that “[b]rine infiltration from water flood injection used in oil recovery has contaminated the water-bearing strata and is a water quality problem in Osage County.” See Leasing EA, Section 4.3. The Agency should examine the impact of future drilling on groundwater and surface water resources. The Agency should also consider the effect on water quantity, including the estimated amount of water foreseeably needed for future drilling. The Agency should also analyze how the groundwater drawdown from developing these oil wells will impact the land, wildlife, livestock, or human communities in Osage County, or how these impacts are further compounded in a drought-stricken southwest. The agency should also discuss alternatives, such as the use of nitrogen fracking.

Impacts to ground and surface water, including riparian and other areas of concern, from spill s, leaks and migration of oil, gas, saltwater and other contaminants from wells, faulty casing, tank batteries and other infrastructure, including access roads. Significant intrusions of produced saltwater into freshwater aquifers have occurred throughout Osage County, rendering this valuable resource unusable for human and economic use.

f. Baseline testing of proximate groundwater wells.

g. Installation of plastic liners at drilling pits and tank battery pits holding hydrocarbons, produced water, and saltwater.

k. Reuse and reduction of all frac and produced water to reduce surface and ground water needed for drilling and frac-ing of wells.

Impacts to ground and surface water, including riparian and other areas of concern, from spills, leaks and migration of oil, gas, saltwater and other contaminants from wells, faulty casing, tank batteries and other infrastructure; this should include a comprehensive evaluation of groundwater contamination from all existing wells, both active, temporarily abandoned and plugged.

The requirement for baseline and follow-up sampling of drinking water wells near proposed oil and gas wells is an excellent ReM and a good justification for Alternative 2, as it could also protect lessees from liability for groundwater contamination, if the contamination were shown to predate the well. While this measure could slightly increase costs and alter siting, design, and timing of development, it would not decrease the level of oil and gas development in the planning area and would reduce risk and uncertainty.

Table D-19
Traffic and Transportation

As producers we tend to not drive cross country. Staying on existing roads helps preserve our equipment and vehicles. It seems superfluous to tell us to drive on roads.

The roads to producing locations are roads built by the producers, necessary to be able to produce our wells. For the BIA and surface owners to dictate the condition of the road seems like the entities getting free access to a road controlling the condition of the road. The roads were not there before they were created by the producer. If the owner or BIA would like to drive on the roads without charge, the producers have no problem with that free access. However for the free user of the roads to be able to dictate road conditions to the creator and primary user of the road seems a little upside down. We keep the roads in reasonable condition for our use. It seems this should be good enough for your free used of the road.

Table D-20
Noise

Noise is a fact of life for oil operations. However most, if not all operators use mufflers or other noise dampening devices on their gas engines when the motors are in close proximity to any occupied dwelling. Of course these restrictors hurt horse power and result in higher costs and lower returns for the Osage Nation. We do not believe the BIA has any rights to monitor or regulate noise.

Table D-21
Landowner Concerns and Private Property Rights

Additionally, every surface owner in Osage County knew when they bought their land that they had no mineral rights, and that they were able to buy their land for a price per acre below lands that include mineral rights. It is also well known in Oklahoma that mineral rights are superior to surface rights. We have been drilling wells in Oklahoma for over 100 years. The hierarchy of these rights are well known to all who deal in land, real estate and minerals in Oklahoma. For surface owners to now claim that mineral owners and producers have any special obligations to them is simply incorrect. Again, the primary mission of the BIA is to preserve and enhance the mineral estate for the benefit of the Osage Nation.

For nearly 100 years these surface estates have been impacted by oil and gas development pursuant to leases of the mineral estate by the Osage Nation to third party oil and gas companies. The range of impacts from this development includes physical impacts to land caused by drilling pads, roads, power lines and pipelines; pollution of surface and subsurface land as well as surface and ground water from oil, gas and

saltwater leaks and spills; pollution of air from hydrogen sulfide, methane, sulfur dioxide and other gaseous emissions, with hydrogen sulfide emissions in recent years damaging the health of the surface landowners and their employees; damage to wildlife, both game and non-game; damage to livestock; and reduction of property values.

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