

Osage Minerals Council

Osage Nation

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Good Morning and thank you Mr. Chairman and distinguished Committee members for the opportunity to share with you the appropriation priorities of the Osage Mineral Council.

My name is Everett Waller. I am the Chairman of the Osage Minerals Council (OMC). The OMC is the tribal governmental body recognized under the Act of June 28, 1906, 34 Stat. 539, as amended (the "1906 Act") and by the Osage Nation Constitution to administer, develop, and protect the Osage Mineral Estate.

For those who may be unfamiliar with the Osage Mineral Estate, I will provide a brief history of the unique and complex history between the Osage and the United States. Oil was first discovered in recoverable quantities below the Osage Reservation in the 1890s. As a result of that discovery, the Osage Mineral Estate was reserved in trust by the United States for the benefit of the 2,229 Osage tribal members when the Osage Reservation was allotted in 1906 under the Osage Allotment Act of 1906. The 1906 Osage Allotment Act established the right of each of the 2,229 tribal members to receive one headright share (1/2,229) of future income from the royalties collected from the production of oil, gas, and other minerals from the Osage Mineral Estate.

The Osage Mineral Estate has been under continuous development since 1896, making it one of the oldest oil fields in the United States. Despite its long history of development, the Osage Mineral Estate still contains ample proven reserves and was estimated by the Office of the Inspector General in 2015 to generate \$13.6 billion in royalties for the headright owners between Fiscal Years 2012 and 2027.

Importantly, the 1906 Osage Allotment Act created unique and distinct legal requirements for leasing the Osage Mineral Estate and for the respective duties of the United States and the Osage Tribal Council in the development of the Osage Mineral Estate. As a result, leasing, production, and development of the Osage Mineral Estate has always been governed by unique and separate laws from the rest of Indian Country. For example, the Osage Mineral Estate has been specifically excluded from the Indian Mineral Leasing Act, and no other general mineral leasing acts or oil and gas regulations govern the Osage Mineral Estate. Instead, the Secretary of the Interior has promulgated Osage-specific regulations and the local Bureau of Indian Affairs (BIA) office manages the entirety of the Osage mineral leasing program for the

federal government. The Bureau of Land Management (BLM) and the Office of Natural Resources Revenue have no role on the Osage Reservation.

Today, the United States continues to hold the Osage Mineral Estate in trust pursuant to the 1906 Act, as amended. Congress has added to the United States general trust responsibility to the Osage Mineral Estate by directing the Secretary to offer mineral leases “as may be deemed for the best interest of the Osage Tribe of Indians ...” and by requiring the Secretary to ensure that the regulations governing leasing of the Osage Mineral Estate include provisions to ensure “that the highest percentage of ultimate recovery of both oil and gas [is] secured.” 45 Stat. 1478, 1479 (1929)

Unfortunately, and similar to other energy producing tribes, development of the Osage Mineral Estate has been obstructed by the BIA Osage Agency’s lack of sufficient staff, expertise, and resources to effectively manage and oversee energy development. This has prevented the OMC from fully utilizing its resources and has directly limited the revenue received by Osage headright owners. For example, the OMC estimates that it takes BIA Osage Agency, on average, more than one year to approve a simple workover permit, which permits maintenance and/or remedial operations in an existing oil or gas well, and longer still for new well permits. This is in large part due to agency understaffing and the delays associated with complying with federal hurdles like the National Environmental Policy Act and the Endangered Species Act, to the great detriment of the Osage people.

That the BIA is the sole federal agency charged with the management of the Osage Mineral Estate is an especially important detail given the sparse nationwide budget for the BIA. The Osage Mineral Estate does not receive any benefit from the BLM’s or ONNR’s comparatively massive annual budgets. Despite the dramatic need for increased BIA resources to manage oil and gas development to benefit many reservations and tribal members across Indian Country, the President’s fiscal year 2017 budget instead boosts the oil and gas budget for the BLM by \$27.6 million to a total of \$186.6 million, while the BIA budget for oil and gas development remains flat at a paltry \$5.9 million for the entirety of Indian Country. With such little funding it is no surprise that the Government Accountability Office recently found that BIA’s management has “hindered Indian energy development” and “needs sweeping changes.”¹

The OMC asks that the Subcommittee take action to help tribal nations by increasing the BIA’s budget for conventional energy and compliance. Energy development on Indian reservations provides benefits far beyond what are obtained when similar resources are developed on federal lands. Developing Indian energy resources provides needed economic development, jobs, and infrastructure growth on Indian reservations.

Further, I respectfully request that the Subcommittee provide direct funding to the OMC so that the OMC can ensure the successful future of the Osage people by building infrastructure and hiring personnel to improve and increase the amount of drilling and production in Osage County, studying the environmental impacts of its drilling program, and expanding tribal self-governance programs to manage the Osage Mineral Estate.

¹ U.S. Government Accountability Office, Indian Energy Development: Poor Management by BIA Has Hindered

The OMC's energy development is a major economic engine for northeastern Oklahoma. Each year, Osage oil and gas production results in tens of millions of dollars in economic activity on the Osage's reservation, in nearby towns, and throughout the region. The mining industry and its support services employ many tribal members and help to support tribal and state governmental programs. Currently, the Osage Mineral Estate produces, on average, 13,500 barrels of oil per day and the OMC is attempting to open up additional acres of mineral leases dedicated to exploration. These are exactly the kinds of investments Congress should be making. Increased energy production on Indian lands provides badly needed jobs and revenue for tribal members. Facilitating Indian energy and economic development is exactly what is needed to lift many tribes out of ongoing dependence on federal budgets.

Currently, the OMC's only source of revenue is an annual drawdown from the mineral royalties trust fund that would otherwise be distributed to the Osage headright owners. Frustratingly, every year since 1921, the State of Oklahoma has assessed and collected a five percent (5%) gross production tax on the Osage Royalty Interest and in many years this tax has generated in excess of five million dollars to the State with no benefit returned to the Osage Mineral Estate. As you are likely aware, Oklahoma's tax on the Osage Royalty Interest is unheard of in Indian Country, outside of Oklahoma.

The OMC needs additional funds to be able to successfully manage the Osage Mineral Estate. As the lessor of the Osage Mineral Estate, the OMC enters into leases worth billions of dollars without an expert's assistance or advisement. We are unable to employ necessary staff to advise the OMC in our management of the Osage Mineral Estate. We respectfully request the following specific funding to improve the management of the Osage Mineral Estate for the benefit of the Osage people:

- **\$650,000** to employ experienced technical staff such as a petroleum technical advisors, geomatics engineers or geologists to advise the OMC before entering into mineral leasing agreements and to create a long-term economic development plan;
- **\$500,000** to employ an accountant or auditor to monitor lessee payments and fines for compliance with lease terms;
- **\$350,000** to hire professionals and consultants to develop a Reservation-wide energy management analysis and remediation program to consider and address all of the impacts of this energy development to our people, lands, air, water, roads, law enforcement, traffic and health care systems;
- **\$500,000** to create a digital records management and modeling program so the OMC can inventory and monitor well production, environmental hazards, and lease productivity; and,
- **\$2,000,000** to the Osage Agency to plug abandoned wells.

The OMC desperately needs the funding to employ technical staff and to hire professionals and consultants to develop a Reservation-wide energy management and

environmental analysis. The BIA has failed to comply with NEPA for years,² which has exposed the United States, the OMC, and the OMC's lessees to ongoing litigation and new development and production of the Osage Mineral Estate has come to a screeching stop. With this funding, the OMC could properly study the environmental impacts of energy development and develop remediation programs to mitigate any impacts.

The need to properly plug abandoned wells is a good example of the shortfall in funding we have received to manage the Osage Mineral Estate over the last 100 years and the impacts this shortfall has had on our community. The BIA has identified roughly 1,400 wells for plugging. Each well can cost between \$10,000 to over \$100,000 to properly plug and abandon and repairing an improperly plugged well costs \$50,000 on average. Improperly plugged and unplugged wells pose an obvious safety hazard and this problem must be addressed. By plugging wells correctly, future environmental issues and liability related to fluid or gas leakage can be avoided.

In addition to the danger posed by unplugged or improperly plugged wells, the funding increases we request are needed to better manage the Osage Mineral Estate. The funding requested would enable the OMC to provide the stable infrastructure necessary to promote long-term energy and business investment while protecting the environment, resulting in new jobs and increased revenues for tribal members. Further, in order to meet its trust obligations to all Indian tribes, the United States must provide adequate funding to the BIA for conventional energy development.

Thank you for the opportunity to provide the testimony of the Osage Minerals Council and for your consideration of these important issues.

² Office of the Inspector General, BIA Needs Sweeping Changes to Manage the Osage Nation's Energy Resources, CR-EV-BIA-0002-2013 at 14-15 (Oct. 2014).