

U.S. DEPARTMENT OF INTERIOR
OSAGE OIL & GAS REGULATIONS
TRIBAL CONSULTATION MEETING I

9:30 A.M.

PAWHUSKA BUSINESS DEVELOPMENT CENTER
1225 VIRGINIA SHORT STREET/BAY B
PAWHUSKA, OKLAHOMA 74056

OCTOBER 27, 2016

Transcribed by: LINDA FISHER, CSR-RPR

1 EDDIE STREATER: Let's go ahead and get
2 started. We would like to welcome our guests from all
3 parts of the Department of Interior. Many of you know
4 each other.

5 Charles and I go back over a quarter of a century
6 working together and against each other. We have a great
7 relationship. So on behalf of the Osage Nation, welcome
8 all the guests.

9 And I want to recognize, of course, our Minerals
10 Council. We have all of -- I'm not going to go through
11 every name because you all know who they are, and our two
12 Osage Congress members, and our attorney general and all
13 the officials of the Osage Nation, and all their -- and
14 their attorney Mr. Fredericks and Rebecca.

15 And Paul Revard is a producer. And his father,
16 George, was on our Tribal Council. And I went to high
17 school with Paul. And he's a little older than me. He
18 looks younger, but he's older.

19 And our speaker of our Osage Congress, Angela Pratt,
20 is walking in. And so like we always do, we are going to
21 turn it over to the Lord here, and there's a lot of
22 history here, a lot of, oh, you could say directions,
23 we're coming together, we're coming apart. You know, it's
24 for our people and our next generations to come.

25 So Brother Everett, I want to call on you not just

1 as Chairman of the Minerals Council but as one of our
2 religious and cultural leaders. And then if you would
3 turn over to Kristen Kokinos. She's going to say you've
4 got to use this microphone.

5 (Prayer led by Chairman Everett Waller.)

6 KRISTEN KOKINOS: This morning we have a
7 court reporter here to transcribe the meeting. Before I
8 turn it over to the regional director for some opening
9 remarks, I just wanted to point out that we have our court
10 reporter here.

11 So it's important that even though we want to have
12 open discussion, that one person speaks at a time so that
13 she's able to record what everyone is saying. After Eddie
14 gives opening remarks, we'll go around and do
15 introductions and I'll turn it over to Eddie.

16 EDDIE STREATER: Good morning, everyone. I
17 do appreciate everyone coming today. Chief Standing Bear,
18 thank you for attending and providing the area we're in
19 today. Chairman Waller, good to see you.

20 I think today we're going to -- everyone may not
21 know what we're kicking off today. And I just want to go
22 through that a little bit. This is a predraft meeting to
23 see about the possibility of revising 226.

24 There's certain segments of it that are dated. And
25 we all know that, having sat here, that we need to take a

1 look at to get a product that we can move into the next
2 century and the century beyond. So that's really why
3 we're here today.

4 And I know it's kind of a hard deal to give up your
5 day. And I really appreciate that. Because we need to
6 know what the Tribe's and the Minerals Council, the path
7 forward. And that's why we're here.

8 Self-determination. We want the Tribe's input on
9 this. We want it to be meaningful. And hopefully, after
10 today, we'll set another day after we set forth the four
11 corners of the direction we want to go and then move at
12 that pace.

13 So with that, thank you all again. Drive safely
14 going home. Hopefully, the fog will dissipate a little
15 bit. And we'll turn it over to Kristen for introductions.
16 And then we'll go into how to -- a brief introduction of
17 the consultation process and what we really need, the
18 topics that are put forth.

19 KRISTEN KOKINOS: So my name is Kristen
20 Kokinos. I'm an attorney-advisor for the Office of the
21 Solicitor in Washington, D.C.

22 EDDIE STREATER: Eddie Streater, Regional
23 Director, BIA, Eastern Oklahoma Region.

24 RICHARD WINLOCK: Richard Winlock, Osage
25 Agency.

1 KUGEE SUPERNAW: Kugee Supernaw with Osage
2 Congress.

3 REBECCA SHER: I'm an attorney for the
4 Osage Minerals Council.

5 TALEE REDCORN: My name is Talee Redcorn of
6 Pawhuska Village.

7 ANGELA PRATT: Good morning. My name is
8 Angela Pratt. I'm the speaker of the office.

9 PAUL REVARD: My name is Paul Revard. I am
10 a member of the Osage Tribe of Indians, headright owner,
11 and an oil and gas producer within Osage County, Oklahoma.
12 I'm here at the request of the Minerals Council to advise
13 and consult with them concerning these regulations.

14 TOM FREDERICKS: I'm Tom Fredericks. I'm
15 an attorney with Fredericks, Peebles and Morgan. I'm
16 legal counsel for the Osage Minerals Council.

17 STEPHANIE ERWIN: I'm Stephanie Erwin,
18 Osage Minerals Council.

19 YVETTE SMITH: Good afternoon. Yvette
20 Smith, Indian Tribal Liaison at the Office of Natural
21 Resources.

22 ANDREW YATES: Minerals Council member.

23 GALEN CRUM: Galen Crum, Osage Minerals
24 Council.

25 HOLLI WELLS: I'm the attorney general for

1 the Osage Nation.

2 CLINT PATTERSON: Clint Patterson, first
3 assistant attorney general for the Osage Nation.

4 MARIA WHITEHORN: Maria Whitehorn, Osage
5 Nation Congress.

6 ROBIN PHILLIPS: Robin Phillips,
7 superintendent, Osage agency.

8 SHELBY HANCHERA: Shelby Hanchera,
9 environmental protection specialist at the Osage
10 Agency.

11 MITCH MOUTON: I'm Mitch Mouton with the
12 Office of Natural Resources Revenue.

13 EVERETT WALLER: Minerals Council Chairman.

14 KATHRYN RED CORN: Kathyn Red Corn, Osage
15 Minerals Council.

16 CYNTHIA BOONE: Cynthia Boone, Osage
17 Minerals Council.

18 CHIEF STANDING BEAR: Geoffrey Standing
19 Bear, Principal Chief.

20 LIZ APPEL: Liz Appel. I am with the
21 Office of Regulatory Affairs, and the Office of the
22 Assistant Secretary for Indian Affairs NGC.

23 CHARLES BABST: I'm Charles Babst. I'm a
24 senior attorney with the Tulsa Field Solicitor's Office.

25 KRISTEN KOKINOS: So before we get started,

1 I just want everyone to know that the meeting will be in
2 an informal tone. So if anyone needs to take breaks or
3 anything like that, feel free to come and go at your
4 leisure.

5 So as Eddie said, we're here today in tribal
6 consultation because the BIA determined that a review of
7 the regulations in Part 226 is appropriate. And we want
8 to consider whether, and to what extent certain provisions
9 in those regulations should be revised in an effort to
10 strengthen BIA's administration of the Osage Mineral
11 Estate.

12 As many of you probably know, in May 2015, BIA
13 published what's called the Osage Final Rule that was the
14 product of the negotiated rulemaking that went on during
15 2012 and 2013 with BIA, the Nation, and Minerals Council.
16 Due to subsequent litigation, that rule never went into
17 effect. And in November of last year, the BIA took a
18 voluntary remand of that rule.

19 I want to make sure that everyone understands that
20 this consultation process is completely separate and apart
21 from the prior negotiated rulemaking process. This is not
22 negotiated rulemaking.

23 This is government-to-government tribal
24 consultation. It's not a reopening of the prior
25 negotiated rulemaking. If a determination is made that we

1 want to move forward and revise the regulations, that
2 would be attendant to normal agency rulemaking processes.

3 Does anyone have any questions on that point?

4 TALEE REDCORN: And appreciate you coming
5 forward. I think that's in the vein that we envision with
6 the Osage Minerals Council as representatives of the Osage
7 headright owners that we be in negotiation with the United
8 States.

9 That's what we talked about with our attorneys. The
10 thing is, I appreciate you're saying that the original
11 process of negotiated rulemaking is no longer in the
12 works. Is that what I understand?

13 KRISTEN KOKINOS: That's correct. The
14 original rulemaking process was completed. The consensus
15 report from that process has been issued. It culminated
16 in the Final Rule. But that rule never went into effect.
17 But this is completely separate from that.

18 TALEE REDCORN: Okay. Thank you.

19 TOM FREDERICKS: We have been involved in
20 the standing controversy. And this whole idea of
21 consultation is coming in to question. The Army, the
22 Department of Interior, and the Justice Department are
23 reviewing how consultation should be.

24 And NCAI and some of the tribes are saying they want
25 to go back to the indigenous people's rights that have

1 been recognized by the U.S. And have the prior informed
2 consent with consultation. Because consultation is not a
3 binding legal obligation.

4 And you say, Well, we met with them on November 8th
5 and it was good. And that's all they have to say, and
6 that's the end of the consultation.

7 We would like to have it be an enforceable law in
8 the courtroom or even have prior informed consent which is
9 the standard of indigenous people's rights.

10 CHIEF STANDING BEAR: Echoing Mr.
11 Fredericks' statements on behalf of his client, I also, on
12 behalf of the Osage Nation, although I -- we appreciate
13 all of you as individuals from the Government have great
14 concerns about this term government-to-government
15 relationship or consultation.

16 And the latest example, as I stated to the
17 Department of Interior officials, is HR 812 being enacted
18 by the United States Congress and signed by President
19 Obama without any input from myself, the Minerals Council,
20 our Osage Congress.

21 I know Governor Anoatubby spoke with me of the
22 Chickasaw and expressed the same disappointment. This 812
23 creates a position as under Secretary of the Interior.
24 And then, in my view, if I have the chance to comment,
25 ignores the 1994 Indian Trust Settlement Act and all the

1 litigation and problems that are evident in the
2 Congressional record.

3 And then when we tried back then, because some of us
4 were there, to keep all of the BIA away from our headright
5 money and other trust funds, and created the Office of
6 Special Trustee, which is now overseen by an Osage member,
7 Vince Logan, we were trying to keep moving it away, keep
8 moving it away.

9 And now they're trying to put, they, the Congress,
10 the Department of Interior, and the President's office are
11 all putting them back together closer and closer. That
12 tells me that "consultation" is a real arbitrary term.
13 And this government-to-government relationship exists
14 apparently at the whim of the Government.

15 It's not an equal relationship. I express this
16 again for the record to the United States of America. And
17 echoing Mr. Fredericks, you're going to have to show us
18 how this is going to be binding in some way because the
19 history, even recently, has shown it's just a charade.

20 And so like you said, Eddie, we're all -- all,
21 including you, are very busy. And if this is just all a
22 waste of time, let's just go ahead and discuss that first.
23 Thank you.

24 PAUL REVARD: I think it might be the right
25 time to suggest that if there were going to be these

1 regulations that affect our mineral estate, it's so
2 important to protect the mineral estate. One of the major
3 affected parties are not here at this meeting, the people
4 that are going to be ruled by these regulations. And that
5 would be the Osage County producers.

6 All this language in these regulations is basically
7 regulating how they are to operate within the mineral
8 estate. I feel like they should be represented in such an
9 important meeting concerning this. And I am an Osage
10 County producer but I'm not here today in that capacity.

11 I'm here but for the Minerals Council just to --
12 basically, because I do have some experience in this area.
13 I feel like if there's going to be regulations that are
14 going to dictate how the Osage County oil and gas
15 operators are going to conduct their operation, I think
16 they should have a seat at the table.

17 KRISTEN KOKINOS: If I could just speak to
18 what Mr. Revard just said before we -- as far as the
19 Minerals Council, I understand that you're here today for
20 the Council and not as a producer. The consultation we're
21 having right now is a pre-draft consultation just to make
22 a determination as to whether there's a consensus about
23 revising the regulations as a whole.

24 Even though this process will be carried out as
25 Agency rulemaking, all of the producers and other

1 interested parties will have the opportunity to be
2 involved through public comment were a proposed rule to be
3 put out. So the producers certainly will not be removed
4 from the table. This process is just the tribal
5 consultation with the tribal parties. Thank you.

6 KUGEE SUPERNAW: The Congress is here as an
7 observer. The Minerals Council, I read up a little on
8 this consultation process to be ready for this but
9 apparently I read the wrong thing. In the consultation
10 process, if the Tribe, in this case, Minerals Council,
11 made a recommendation and the BIA didn't adopt it, they
12 had to come back with a reason why they didn't adopt those
13 recommendations.

14 What have we got here today? I mean, if they make
15 recommendations here today, is there any requirement or
16 any follow-up or anything or are we just here truly to
17 just observe what's going on?

18 KRISTEN KOKINOS: No. The purpose of
19 meaningful consultation under the Bureau's consultation
20 policy is just that. It's to be meaningful consultation.
21 We're here especially pre-draft because we want the
22 Tribe's input.

23 And in the event that there's consensus that we
24 should move forward with revising the regulations, the
25 plan then is for us to go back with some of the input we

1 receive today on, you know, topics that are discussed
2 about certain provisions or regulations in general, come
3 up with a draft that would then be circulated to the
4 parties that are here for their review and comment.

5 And then after we provided that draft, we would hold
6 an additional consultation session to discuss in-depth any
7 comments, concerns from the Tribe regarding those
8 regulations. As far as how the tribal consultation policy
9 works, maybe Liz, you could speak a bit more to that.

10 TOM FREDERICKS: Rulemaking, too, when you
11 get into the rulemaking, the last time we were relegated
12 to making a comment rather than any kind of meaningful
13 consultation. They just told us to make a comment. We
14 were treated like the public. And we want -- we feel like
15 as a Nation and as Minerals Council, we should have more
16 say than the public.

17 KRISTEN KOKINOS: And that's why we would
18 conduct another consultation after this one once there was
19 a draft, a discussion draft, so that the parties could
20 have some substantive discussion about potential
21 revisions.

22 LIZ APPEL: So thank you. And so
23 basically, this is -- this is our typical process for
24 rulemaking. We have -- well, this is actually beyond.
25 But we do usually have tribal consultation before a

1 proposed rule is published when possible with timing
2 considerations.

3 So with the consultation today, which is
4 government-to-government, this is, from what I understand,
5 even a more preliminary consultation session because we're
6 talking about simply whether to revise 226; and if so,
7 some of the main provisions that need to be revised.

8 Following that, then there will be a preparation
9 assuming there's a consensus to move forward with revising
10 the rule. There would be preparation of a draft based on
11 the input that you all provide today and then another
12 consultation session to discuss that draft.

13 And then we would go to publication of a proposed
14 rule in the Federal Register. And then at that point the
15 draft, the proposed rule, becomes public and it becomes
16 part of the public rulemaking process.

17 So once that proposed rule is published, typically,
18 there's a 60-day public comment period. And during that
19 60 days, anyone from the public can write in comments on
20 the proposed rule.

21 In the meantime, we usually have a separate
22 consultation session with the affected tribes. So outside
23 of the normal public, while it's during the public comment
24 period, we have a separate consultation session with the
25 Tribe to -- to hear any concerns especially from the

1 affected tribes.

2 Following the closure of the public comment period,
3 and consultation period which generally are just concerns,
4 then the BIA prepares the final rule and then publishes
5 the final rule in the Federal Register. And typically,
6 after a 30-day delay, that final rule, then becomes
7 effective.

8 CHIEF STANDING BEAR: Thank you, Liz.
9 Maybe we're on the wrong track completely. Now, let me --
10 let me ask you a question, those of you in the Government
11 that know more about other tribes than I do.

12 I visited with some other tribes in this position I
13 have and saw -- let me just go to Jicarilla. I asked
14 them: Are you self-governing? They said, Well, partly,
15 not partly.

16 I said, Let me get to the point. You have lots of
17 natural gas and some oil. And I talked about regulations.
18 What they told me I thought was a great idea. I don't
19 know if, you know, if it's the way I took it but I'll tell
20 you how I understood it.

21 I would like for you to confirm it or clear it up.
22 They tell me at Jicarilla, their Chairman, the counsel,
23 the BIA person that was superintendent, that they have
24 worked out with the Bureau of Indian Affairs all their
25 regulations are in their tribal code. And they have

1 worked with BIA to get approval of their tribal code
2 provisions that are determined to be trust matters.

3 But that way, it's reversed. They determine what is
4 management, and they don't need BIA approval on those.
5 What is trust, BIA goes ahead and approves it. So if
6 there is any conflict between any of the -- what's in part
7 -- Title 25 of the Federal Regs, their tribal code
8 governs.

9 And they said that's sovereignty. So you can't be
10 letting them make a rule for you because that's them
11 telling you how you're going to be. You've got to get out
12 of that. You've got to start thinking, it's in our laws
13 and then you go tell them to be sure to approve anything
14 that they think they can show as trust.

15 Now, this is not under self-governance. This is on
16 talking to the BIA and secretary. So I like that. I
17 would rather go that way. I don't think you should be
18 making any rules for us at all.

19 EDDIE STREATER: Chief, that's really the
20 onus from this began from the OMC with regards to
21 rulemaking. It was in the tribal trust litigation. That
22 was one of the things that were greed to that the U.S.
23 Government would enter into a revision of 226. And this
24 is kind of a continuation of it.

25 CHIEF STANDING BEAR: Well, okay. Well,

1 Eddie, I respect your following that agreement. But
2 remember, the world changes, as we all know. You were
3 down there at Wewoka.

4 You probably don't go back as far back as I do when
5 Chief Milam was down there at Seminole. If we were still
6 operating under those rules, Seminole still wouldn't be
7 open, shut down for years. So they changed and those are
8 traditional Indians there. Hard to change.

9 So all the parties that were on our end that were on
10 that agreement are right here. We've got representatives,
11 Minerals Council, Congress, Chief's office. We all agreed
12 to that agreement.

13 Now you all are over there. Don't get hung up on
14 that piece of concrete that's just a monument to problems
15 that existed in the past. We're moving forward. So when
16 you say that agreement, you're -- I'm not listening to you
17 anymore.

18 We're talking about now in the future. You're
19 talking about the past. Okay? So let's change that
20 agreement. But I don't want you guys making any more
21 rules for us. That's just from my part.

22 LIZ APPEL: Is there legal framework that
23 we should talk about why we have Part 226.

24 KRISTEN KOKINOS: We can. Under the 1906
25 Act, the Act states that the leasing of the Osage lands

1 will take place subject to the rules and regulations
2 prescribed by the Secretary of the Interior. So subject
3 to that authority, that's when 25 Part 226 was
4 promulgated.

5 CHIEF STANDING BEAR: And that's what
6 Jicarilla said. That's why they went to you to get those
7 provisions of their code approved.

8 Rules and regulations. You can now respect us and
9 our rules and regulations, and you should sign off
10 wherever you think it's trust. If there's a conflict, our
11 rules control. If Jicarilla can do it, why can't we?

12 EDDIE STREATER: Well, they -- we can
13 certainly take a look at that, Chief. And that's what
14 we're here today for is to see, you know, feel everyone
15 out on the direction they want to go.

16 We would have to see within the legal framework if
17 we can adopt how they're doing business in Jicarilla.
18 Obviously, we do have some differences here at the Osage.
19 BLM is not involved, and ONRR, up to this point, is not
20 involved, which the rest of the Nation is.

21 An that's what kind of -- you know, you go back to
22 the uniqueness of Osage. And that is one of the main
23 deals.

24 TOM FREDERICKS: I would just like to add
25 to what Chief Standing Bear is saying. Eddie, I'm an old

1 solicitor. And we did a lot of work on regulations. But
2 here we're involved with 177 which says that only Congress
3 can allow Indian property to be alienated. So they
4 developed the 1906 Act which is an act that authorizes
5 leasing of Osage minerals.

6 And in that Act it says that it would be under such
7 regulations that the secretary may determine. So that
8 what you're talking about is the Tribe making regulations
9 and then they still have to sign off on it because
10 otherwise, it's not an enforceable lease. That's the way
11 it is.

12 KRISTEN KOKINOS: So on that note,
13 certainly things that we can take into consideration. We
14 would have to go back and review what the framework is at
15 Jicarilla as Eddie mentioned.

16 CHIEF STANDING BEAR: Southern Utes had
17 another approach as well. And you know, we -- we want to
18 look at other options because this has been a problem for
19 a long time.

20 So why are we stuck on it when other people are
21 looking at other solutions outside of this very narrow
22 framework inside of a little book. Well, now it's
23 digital, you know. So why don't we look at Southern Utes?
24 Why don't we look at Jicarilla.

25 Maybe Senator Barrasso; he is head of the Indian

1 committee. He told me you need to look at what they're
2 doing up there in Montana. They have -- they have
3 headright shares, kind of a different deal, he said.
4 There's not one model that you're stuck to.

5 So just to come here -- we appreciate it -- and talk
6 about this one little segment of the universe is -- I
7 don't know. You don't have my interest in it anymore. I
8 mean, I'm just not interested.

9 It's still a rule from some outsiders and some
10 people that pass through our Agency. This is our
11 property. I'm a headright owner. And this is our people.
12 You guys are just coming through.

13 I think we need to be making the rules then you
14 exercise your trust responsibility and say that's a trust
15 matter, this paragraph, let's talk about it. And then we
16 negotiate that paragraph. You sign off, and we're good.

17 And whatever we do, our law controls. And we put
18 that under the Minerals Council.

19 CHARLES BABST: We did that, Chief. We did
20 that. And we got sued on it. And we set that aside.

21 CHIEF STANDING BEAR: No.

22 CHARLES BABST: And now we're starting
23 over. And if there's -- if there's a different plan, I
24 think we're ready to listen.

25 CHIEF STANDING BEAR: Thank you, Charles.

1 But I didn't see it in our code.

2 CHARLES BABST: Chief, you sued us. You
3 won. Part of the settlement was we agreed to do what we
4 did. And if there's a new plan, we're listening. But
5 there's going to be a book. There's always a book, Chief.
6 And you know that.

7 CHIEF STANDING BEAR: Thank you, Charles.

8 CHARLES BABST: There's always a book,
9 whether you're a Christian, or you're a Hindu, or you're a
10 Muslim or you're a Jew, there's always a book. And we've
11 got to have a book.

12 KRISTEN KOKINOS: We certainly value your
13 input. We can look at the constructs that are in place
14 with other tribes. As Eddie mentioned, Osage is a little
15 bit different particularly because the regulations that
16 govern here are not BLM regulations that -- the same as
17 everywhere else pretty much.

18 It's certainly something we can look at. But the
19 first thing we really need to do today is talk about
20 whether revision is needed.

21 I know in recent meetings we've had with the
22 Minerals Council, the Council has expressed concern over
23 potential revision of the regulations because without
24 revision, there are certain changes or improvements at the
25 Agency that would be difficult or impossible to implement.

1 As you may know, the last substantive revision in these
2 regulations took place in 1974. And a lot has changed
3 since then. And even in 1974 there were provisions that
4 went unchanged. And those maybe now have been unchanged
5 since the 1950s.

6 In addition, in 2014, the Office of the Inspector
7 General issued a report that was pretty critical of the
8 regulations in Part 226, noting that they were vague and
9 inadequate. And also stating that they really need to be
10 updated so they mirror the regulations that are applicable
11 to the rest of Indian country. So on that note, I would
12 like to get your input on what you think about the need
13 for revision.

14 CHIEF STANDING BEAR: I think the Bureau of
15 Indian Affairs needs severe and major revision. And your
16 rules go along with that. Thank you.

17 TALEE REDCORN: I'm Talee Redcorn. I'm on
18 the Osage Minerals Council. And the reason I voted that
19 we -- one of the reasons of many is our ability to
20 determine value of all our agreements we make with
21 whomever.

22 And the feedback I was getting, and continue to get
23 up to that point is well, you can always go up. And my
24 feeling is we can go down, too. And we've done that in
25 1949 when we had a referendum vote. They dropped the

1 royalties in the Burbank unit to 1/8th.

2 Now, I think that if we didn't have that, we would
3 be out of an opportunity of 3,100 barrels per day today,
4 because the CO2 process out there is really hauling in
5 some oil.

6 Now, we've got Osages like Mr. Revard here. We're
7 just not sitting here. There's a lot of Osages that are
8 out there in the oilfield right now and they work out
9 there. And they make their money out there. And they --
10 I've got some lessees that not only work the oil lease,
11 they also work the agricultural lease.

12 So they're -- and when we do -- we have to have the
13 ability to exercise our sovereignty to determine value on
14 our assets. And I felt like this has taken that ability
15 away. Now, I do know through a lot of Federal regulations
16 -- I work in tribal areas on environmental and natural
17 resources in the '90s, so I understand that there's a lot
18 of areas that are covered in the Clean Air Act, Clean
19 Water Act that have tribal rule, tribal authority in those
20 things, natural resource rules.

21 So I think we need to -- I would like to capture
22 those to move forward to let the Osages determine value.
23 But also move toward maintaining. I appreciate Chairman's
24 comments or someone else's comments, or our attorney on
25 what's going on in North Dakota. And we had discussion on

1 our minerals estates, our Minerals Council. Maybe we need
2 to look into what they're saying.

3 And one out of four barrels we're producing is by
4 renewable means. That's through our CO2 capture process.
5 We think, as Osages, we can do -- we need a chance.

6 We want our chance to do it, to be able to develop
7 our resource through our laws, everything that's been
8 given and granted to us.

9 I don't think it's been given. I mean, have a
10 different viewpoint. I listen to our Chairman lead our
11 meetings. We have a different viewpoint of how we want
12 the Osages and our property ran. And we want to do it
13 ourselves.

14 We have Congress here. We have our Executive office
15 here. We have our Minerals. And like I said, we have a
16 lot of folks, like Mr. Revard, who are members of the
17 Tribe, own shares, and are out there moving them, moving
18 product for everybody. I think a lot of those things were
19 not included.

20 This is my chair speaking. It might be different
21 from someone else. But the majority, I believe, felt this
22 way; that's why we rejected it. And I would like to see
23 additional or looking into valuation.

24 As our chief said, the trust, where does that come
25 in as far as follow-up on how our leases are going to be

1 handled. And so I think there's room for discussion. So
2 I'm enjoying the conversation. I'm hoping that we can, as
3 the Osages and the United States, come together in
4 agreement here. Because I think it will benefit us both.

5 Because I see a different tide coming. I see a lot
6 of activity coming just from these people, the Dakota
7 people up north. And they're saying they're standing
8 their ground. They're saying no, we need to change the
9 way we do business.

10 And I think we need to listen as a responsible
11 entity as people who are developing leases. It's going to
12 be a challenge. But I think it's time to start today. We
13 owe it to our young people.

14 And this young lady, she was only 18 years old.
15 Well, now I'm hearing it from all our Osage children.
16 Let's redo. Let's think about how we develop our
17 resources. You know, they're not into this. And I don't
18 understand it.

19 But they're young and they're vibrant and they're,
20 you know, I think we're the type of people that produce
21 one out of four barrels with renewable means. And we're
22 the people to be able to launch into this direction.

23 And I would encourage our tribe, let's move forward
24 with it. I think we've got a great opportunity. And I
25 would like to see this coming back and then give us the

1 leverage as a Nation to be able to move forward in that
2 direction.

3 REBECCA SHER: Something that I would like
4 to note: I noticed that you did send out a list of
5 possible discussion topics for updating the regulations
6 that the United States would suggest.

7 And to the extent that this group does reach a
8 consensus to move forward with the revising of the
9 regulations, we would want to also suggest further topics
10 for revision, and also to note that we don't want to see
11 the May 2015 final rule just republished in the Federal
12 Register.

13 KRISTEN KOKINOS: Right. And that's why I
14 wanted to take care at the beginning to note that this is
15 separate. It's not just a republishing what was already
16 taken back. This is a different process where we're
17 starting over.

18 REBECCA SHER: And to that point, I think
19 we all know that the negotiated rulemaking process did
20 just culminate in those regulations. And I do appreciate
21 that. But I think we have learned a lot about how those
22 rules would impact this county. And so want to ensure
23 that we move forward in a smart manner.

24 KRISTEN KOKINOS: Sure. And also a note on
25 that as well. We included a copy of the remanded

1 regulations in the consultation packet purely as a
2 starting point potentially for discussion or just
3 reference with other topics that may be relevant to the
4 discussion today and things like that, not because as a
5 starting point for it.

6 CHIEF STANDING BEAR: But, Kristen, I would
7 like to just go right to that, if I might. Go ahead,
8 Paul.

9 PAUL REVARD: Well, if we're going to use
10 something for a reference, --

11 EVERETT WALLER: Mr. Revard, let the Chief
12 speak.

13 CHIEF STANDING BEAR: I will defer to my
14 elders.

15 PAUL REVARD: Thank you, Chief. Rather
16 than take the volume of a set of regulations that failed,
17 why don't we start out with the existing.

18 KRISTEN KOKINOS: Those are in the packet
19 as well.

20 PAUL REVARD: I know they're in the packet.
21 But if we're going to take something and modify it, rather
22 than take your-all's failed proposal, why don't we start
23 with ours that we've already got and improve on it and go
24 from there and go up. Thank you, Chief.

25 CHIEF STANDING BEAR: Just for discussion

1 purposes on issues only, will you look at what you
2 attached. I think we should be very careful. For
3 example, Section 226.21, Procedure for Settlement of
4 Damages Claimed, subsection f.

5 This talks, as most of us know, about the
6 arbitration provisions. In there it talks about each
7 party shall have 90 days from the decision in which to
8 file an action in a court of competent jurisdiction.

9 Now, we are way past those stages. The competent
10 jurisdiction on matters having to do with Osage property
11 is the Osage Nation court. So that needs to be
12 recognized. This isn't 1984 where we have the CFR courts.
13 This is 2016.

14 So when you do that, you talk like that, it's, to
15 me, it just seems like you're not respecting our systems.
16 And then before Mr. Babst takes over, Section 226.24,
17 Lessees Use of Water, as you may or may not know, we have
18 substantial activity going on with our water rights.

19 Even today I think at 2:30 we have attorneys -- I
20 think there was 17 of them on our phone conference last
21 time, probably about the same amount. We are fully
22 engaged in a battle which we have not publicized.

23 So when you talk about lessees use of water, what
24 gets me is that it seems like you haven't read the
25 U.S.G.S. report. Maybe you have. But you need to at

1 least say, well, another branch of the Department of
2 Interior, United States Geological Survey, worked with the
3 Osage Nation. We spent how much, Former Speaker, about
4 two million --

5 MARIA WHITEHORN: We're pushing two million
6 now.

7 CHIEF STANDING BEAR: -- of our own money
8 working with them on a partnership to produce our reports
9 on our water. Now, they're not vague at all. They're
10 saying this is Osage water all the way through.

11 So what you've done in this rule which we're not
12 even calling a rule, it is an example, you say lessee or
13 his contractor or their contractor, it should say, "may
14 use water from reservoirs, formed by the impoundment of
15 water from such streams and natural water courses."

16 On one hand, you know, these water law attorneys --
17 and I'm not one of them -- will say, well, that's good to
18 show that there's Federal control, there's tribal control,
19 there's activity. But you're really "getting down in the
20 weeds," as they say, and starting to talk about how our
21 water is going to be used. You don't have that right at
22 all. Zero. That's our decision.

23 EDDIE STREATER: Chief, that provision was
24 not changed from the prior, the current 226. That was not
25 changed. And we can -- I would like to discuss that with

1 you off -- off campus on that. Okay?

2 CHIEF STANDING BEAR: It's almost out of my
3 hands. We are fully engaged. I'm just saying I have to
4 show this to the team today. We're going to be bringing
5 in everything. And welcome to that world.

6 EDDIE STREATER: Yeah. In your
7 consultation, I'm sure the state will be making an attack
8 on the water rights.

9 CHIEF STANDING BEAR: For the record, we
10 appreciate the solicitor's letters to Attorney General
11 Pruitt last time although we're not referring to that
12 anymore from what Kristen said. But I would like to see
13 that continued assertion of our rights.

14 But be careful about this old language. This is
15 modern times. And looking back, still, it's like that
16 settlement agreement. That's old stuff. We've got to get
17 with what we're doing now.

18 KRISTEN KOKINOS: And that's why we're
19 here. Right now what's in force are the old regs from
20 essentially, for the most part, 1974 or earlier.

21 CHIEF STANDING BEAR: I just need to put
22 those two on these into the record.

23 KRISTEN KOKINOS: Certainly.

24 CHARLES BABST: A lot of -- some of the
25 language you just quoted is actually from the statute.

1 And if you look at, for example, the surface damages is
2 part of the regulation, that was lifted almost in whole
3 cloth from the statute itself.

4 CHIEF STANDING BEAR: And that's good,
5 Charles, and you're right. These regs refer to the 1929
6 Act and other amendments, the 1906.

7 If we're going to work together on something, which
8 we obviously have to, because of the trust responsibility,
9 and all that which is involved, then we need to go ahead
10 and identify from our end what parts of Federal law need
11 to be changed to give us the freedom to control our own
12 destiny.

13 That amendment, that 1929 Act needs -- and 1912 act
14 too while we're at it. I'm not going to get into all
15 that. But those laws need to be fixed.

16 CHARLES BABST: Well, that's exactly what
17 happened and what you guys successfully did with respect
18 to the Constitution was you went to Congress and you got a
19 statute that authorized subsequent activity.

20 Now, I understand that we can disagree or maybe we
21 agree on at what point you have to go to the Congress and
22 at what point you shouldn't have to go to the Congress.
23 I'm just talking about the world in which we live.

24 Everybody here knows that I'm pretty simple. So I
25 just want to understand that it sounds like everyone

1 around this table is not satisfied with continuing on in
2 perpetuity with the 226 regs as they currently exist.
3 Now, I think that's a threshold question that sort of
4 needs to be asked.

5 I mean, -- the 226 regs as they are currently
6 written are in effect and have the full force of Federal
7 law. But it doesn't sound like anybody is satisfied with
8 that. And we -- everyone may have different reasons for
9 that.

10 But that's the threshold question is do we want to
11 leave things the way they are and go forward with 226
12 until we're all dry bones and other people are dealing
13 with it? Or do we want to move forward on the development
14 of a different course of action.

15 And so it sounds like the answer to the threshold
16 question is yes. After that point, divergent paths
17 appear.

18 GALEN CRUM: I was on the -- within the
19 Minerals Council side of the negotiated rulemaking
20 process. And we didn't attack any of the larger questions
21 that the Chief is talking about in terms of
22 self-governance and that sort of thing.

23 We were pretty narrow. We had a recent settlement.
24 And within the 10-year process of litigating that, there
25 was numerous, numerous problems found with the way the

1 Osage Agency was operating. And I think that the Federal
2 Government realized that at the end there was many things
3 that was wrong.

4 So we, more or less, attacked it in terms of
5 valuation first off. In terms of -- well, we also
6 attacked it with just cleaning up the language. We still
7 had Chief being, you know, a chief, and a Tribal council
8 being the governing body within it.

9 There were lots of little nuts and bolts things that
10 needed to be replaced. But mainly what we attacked it on
11 was the terms of getting the full value of Osage oil and
12 gas.

13 And within the litigation, 10-year litigation
14 process, we -- we found out that -- or we knew when we
15 started this, many of the things, that the Osages are
16 being required by regulations to accept less than market
17 value for our oil.

18 The HPP process was thrown out. It was not fair.
19 It was not -- it was not going to work. And so right now
20 today, this last month, the difference between the average
21 price of oil paid to the Osage, and what we were forced to
22 accept by the HPP process, highest posted price, -- I
23 should give you that acronym -- is \$2 a barrel cheaper
24 than the average, over \$2 a barrel cheaper.

25 So we're the only, to my knowledge, we're the only

1 Indian tribe in America -- I talked to my colleagues --
2 valuation talk is that is required to accept the bottom of
3 the market price. We're required to accept that. If our
4 -- if our producers do not negotiate a better price than
5 that, we are forced to accept the bottom of the market.

6 Prior to the HPP process going in, the Osages were
7 the top of the market. And it got changed like five times
8 I believe during the course of the history. It started
9 off with whatever price was sold anywhere in the
10 Mid-Continent for -- sold or offered was the Osages
11 royalty price point.

12 Then it shrunk down to Texas and Kansas and
13 Oklahoma, I believe. And then eventually it got down to
14 Oklahoma at the end. So we went from that, from whatever
15 the highest price was paid during that month in the Osage
16 to this HPP deal that put us in the bottom.

17 That's the reason Chief Tillman and the 3rd Council
18 filed the lawsuit. It was because we suddenly lost the
19 ability to price our oil at the top of the market.

20 EVERETT WALLER: That wasn't the only reason
21 but that was one of them.

22 GALEN CRUM: Yes. But that's how it got the
23 name HPP lawsuit. Yeah, there was other things. But you
24 know, there's lots of other things uncovered.

25 So we started off on that point. We wanted to get

1 the full value of our royalty oil. The gas has almost no
2 regulation. We don't get to set what the price is. We
3 don't get to set how much is given away in the purchase
4 contract process with the producers; they can give away
5 three-quarters of it. And the Osages only get royalty on
6 that quarter that the producers get to keep.

7 We didn't feel that was right that we don't get to
8 set some standards by which our oil is measured, and where
9 it's measured, and then what the value of it is, fair
10 market value for the area.

11 So we put that in the new regs. And then there's
12 just lots of things that were just nuts and bolts things
13 that had to be fixed as we went through.

14 Somebody talked about the Office of Inspector
15 General's report. Out of the 31 deficiencies that was
16 found, prior to them ever coming in, us looking at the
17 process, us looking at what went on, I think we identified
18 and dealt with them in the regulations the things that
19 could be dealt with, for 26 of them. 26 of the 31 we
20 fixed in this document that got rejected.

21 So my saying is that we have to fix what is in place
22 right now. We have to do something with it. Now, whether
23 we do it with the Chief's recommendation, it sounds
24 wonderful. If we can get that around to where we were
25 doing it with our own regulation and our own

1 self-determination, I'm all for that.

2 But I'm also all for getting back this couple, \$3
3 million a year we're losing right now today in royalty
4 value that we're not now getting for our oil and gas.
5 That's what those improvements would have meant to us.

6 And the process got corrupted by people saying, Oh,
7 nobody gets, for instance, NYMEX. Nobody gets that.

8 Well, that's not true. Anybody who looks at their
9 sale records and looks at the monthly NYMEX record will
10 show that just like when we did the process and we did the
11 charts on it, about 45 percent of it was being sold at
12 higher than NYMEX monthly average.

13 Right now I believe it's even greater because the
14 guys have done a better job. And when I say "guys," the
15 producers, of marketing their oil after they found out how
16 this HPP system was ripping them off as well as the Osage.
17 They're doing a better job than marginal.

18 But again, this last reporting month of August, the
19 difference between the average price sold of oil in the
20 Osage and what the HPP or the NYMEX monthly would have
21 been was \$.32 a barrel. \$.32.

22 So it shows that NYMEX is a deal that's not only not
23 the top of the market, the only achievable, it's not only
24 achievable but it's really not even the top like it used
25 to be; not anywhere near the top. It's just the upper

1 level. It's just above average of what the oil is being
2 sold right now today in the Osage. And it's continued
3 every month.

4 I went back to 2008 and checked the records that
5 whole time. And that's what we see that's been going on.
6 Sometimes it's even worse. So we can't go forward, in my
7 opinion, with what the 226 says today. It has to be
8 fixed. It has to be modernized, if nothing else.

9 Whether we do it with innovative techniques such as
10 putting it through our Congress, I guess, to make
11 regulation into it. Or if we do it through the process
12 that you've outlined within the existing world we live in.

13 Many of those -- those changes that we made in there
14 were taking power away from the superintendent, making
15 them come to us before they did things, you know, such as
16 -- such as terminating leases for lack of production. We
17 had to know what was going on with everything.

18 So, you know, we -- we did six months, we did two
19 years of work in six or eight months because we met every
20 month because we wanted to get through and get it out
21 there. If we're going to look at every rule and go
22 through it one at a time, it's going to take forever.
23 But I think if you go through and look at the body of it,
24 there's very little -- very little things that the Osages
25 should be opposed to if they really look at the case.

1 Even the one that my colleague mentioned within the
2 valuation part. That was the Osages that put the 18
3 percent in. It had been 16-2/3s. In the process, the
4 part that you could make special exceptions was drop down.

5 I don't think that was really the intention of the
6 Osages necessarily. We did it -- we said that, you know,
7 this is the way we want it to read. But I'm not sure we
8 caught it.

9 The BIA actually told us at the time and said, Are
10 you sure you want to lock this down at 18 or 20 percent.
11 And the Osage contingency said yes. So it was us that did
12 it. And but it would not have affected the Chaparral, the
13 CO2 that's going on, just the future.

14 Because the law says you can't change the existing
15 contract for -- well, you can change things but there's
16 only five things you can change. And one of them is the
17 royalty rate. You can't change that.

18 So that was always going to be 12-1/2 percent no
19 matter what was said going forward on the 18. We would
20 not have been able to do, during this time frame, we would
21 not have been able to do new ones that way. But it didn't
22 affect the old ones.

23 And I'm for changing that. I think that there's a
24 very good point that we can put that back in which will
25 make that deal if we want. But the Government did not

1 come in and tell us we had to do that. That came from the
2 Osages as part of a clear record. And we stuck with it.
3 So that's a long way to say yes, we need to revisit these
4 rules and change them in some fashion.

5 MITCH MOUTON: So in the interest -- in the
6 interest of moving things forward, I have a question. And
7 the question is: Is there anyone sitting around this
8 table right now that does not agree that where things sit
9 presently is not acceptable? Is there anybody who wants
10 to sit pat on the current regs as they stand now?

11 So given that I don't see anybody who takes that
12 position, I propose that we all agree, that we agree
13 collectively, that we need to move forward correcting
14 these regs. Now, I don't know where we need to start.

15 But we -- I don't think any of us have any issues
16 with moving forward with changing where things stand now.
17 So I propose we move to the next step and figure out where
18 do we want to start with the changes. And let's begin
19 that discussion.

20 STEPHANIE ERWIN: I would like to see us
21 develop, and keep our resources that actually belong to
22 the Tribe. So I have a question right here. And it was
23 always my understanding that the water was attached to the
24 trust. And that was opened by Vanessa Rycoch (phonetic).

25 Now, I don't know exactly where she got it from or

1 whatever. Maybe that was just her opinion. But I would
2 like to have that clarified. Because she's the one that
3 said it was attached to the trust.

4 EDDIE STREATER: And we have never backed
5 away from that position. The state does disagree with
6 that.

7 STEPHANIE ERWIN: Well, I know they do.
8 But she told them they wouldn't even sit down and discuss
9 it with them.

10 EDDIE STREATER: No, that's --

11 STEPHANIE ERWIN: It was attached to the
12 trust. And they weren't going to discuss it period, sit
13 down.

14 EDDIE STREATER: That's still our position.

15 STEPHANIE ERWIN: Okay. But I just wanted
16 to make it understood that we are, the Osage Minerals
17 Council, the annuitants, we need to develop and keep our
18 resources for our annuitants. Thank you.

19 MARIA WHITEHORN: Mr. Mouton, I agree that
20 it's time to move forward. But what I see as a -- what I
21 see as a big obstacle as I'm looking at your timeline,
22 your tentative timeline that you have here, I realize you
23 might be a month behind on that.

24 But what I do see is the Nation, in my opinion,
25 Minerals Council, Chief's Office and Congress, I think it

1 would be very beneficial to move forward in this process
2 if we could come to certain agreements ourselves. I think
3 that trying to step into this without a plan formulated at
4 the Nation level, and then just get pulled along by the
5 Federal Government when we aren't settled on where we're
6 going with this. Because a lot of things have been thrown
7 out on the floor.

8 To me, it isn't, at this point, the Federal
9 Government's business until we settle it between
10 ourselves. I think that's a beneficial place to start
11 just with some dialogue between our own Government to see
12 how we want to shape our code for protection of the
13 mineral estate. I think there's huge issues that we need
14 to discuss about enforcement and jurisdiction.

15 To me, that is one of the main problems that ended
16 us up into the highest posted price is there was a very
17 poor job done in the enforcement of the current regs on
18 the book. And I'm not saying I'm in love with the current
19 regs, but if we're not going to enforce a new set of regs,
20 if we're not in agreement, and we don't like what we have
21 as a product moving forward, I don't see -- I see this as
22 being partially a futile exercise.

23 I realize that collections, and what were being paid
24 for our mineral is huge. It's paramount. And I don't
25 believe that that's fair. But I don't think that this is

1 going to be a successful venture -- and I'm not trying to
2 doom it -- until we, as a Nation, decide what direction
3 we're going.

4 So my suggestion is instead of getting pulled along
5 in the draft of the Federal Government by their timeline,
6 that we come to the table as Osage people and try to
7 figure out what our stance is collectively if we can do
8 that, and then engage in the process with the Federal
9 Government. So that's just my suggestion on that.

10 CHIEF STANDING BEAR: I would agree with
11 Congresswoman Whitehorn. But at the same time, I think
12 Mr. Babst and I have been doing this kind of work for
13 other tribes for a long time. You can't lose your
14 momentum.

15 So if we're structured to continue discussion, and
16 you guys' budgets are set up that way for travel and all
17 that, perhaps we can do a parallel path. Continue on
18 whatever your plan was and expand it, and to defer to us
19 as we do what Maria Whitehorn is saying, and everyone is
20 saying, that let's not just discard the momentum that you
21 -- that we're engaged in.

22 And I need to say one other thing relating a little
23 bit off the subject maybe that we've got about 20 more of
24 those breakfast rolls. And, you know, some -- they're
25 going to get cold. And you know, those are for you to

1 eat. So you should eat them, please.

2 CHARLES BABST: Following up on Chief
3 Standing Bear's suggestion, what I think is again I think
4 the threshold question is that nobody here is satisfied
5 with 226 as it presently exists. And our mandate when
6 they sent us down here was to talk about what parts of 226
7 in the short term can be amended or modified or changed in
8 a way that would remedy the problems that you guys
9 identified in the previous process.

10 But if the Osage Nation and the Osage Minerals
11 Council is serious, and I take Chief Standing Bear and
12 Chairman Waller at their word, that if they're serious
13 about a fundamental transformation of the way the United
14 States and the Osage Nation do business at Osage, that's
15 going to --

16 Norman Schwarzkopf said amateurs think strategy.
17 Professionals think speed and logistics. I can tell you
18 from experience that the speed and logistics of what Chief
19 Standing Bear is talking about is going to require in my
20 view, new Federal legislation from the Congress. I
21 honestly believe that. And you can raise kids in less
22 time.

23 KRISTEN KOKINOS: Especially with the
24 change in administration.

25 CHARLES BABST: Yeah. I mean, I am

1 personally aware of draft Indian country legislation that
2 has been bouncing around the halls of Washington, D.C.
3 for 15 years. And it has never even gotten to the point
4 where it's had a vote. Okay?

5 And none of us here at this table have the ability
6 or the authorization to talk to the United States Congress
7 about that. You guys do. And so what -- what I think
8 Chief Standing Bear is talking about, and I certainly
9 would agree with it, is with a parallel path, we've got
10 things in 226 that need to be changed, that need to be
11 changed in the short term.

12 CHIEF STANDING BEAR: And Charles, there's
13 a third road which is pending whatever Congressional at
14 the U.S. level changes. My observation at Jicarilla is
15 they, too, had legislation that's been on the book for
16 decades.

17 They found a way to work with the Bureau by waiving,
18 the Bureau waived, they tell me at least, certain
19 provisions of their regulations so they could defer to the
20 Tribal code provided BIA approved that Tribal code. So it
21 was a joint effort.

22 And so the code of the Jicarilla was BIA approved.
23 So that was a middle ground. And that's what I was
24 wanting to explore.

25 CHARLES BABST: I understand. And thank

1 you for that clarification. Obviously, we don't have
2 those facts yet. I mean, you brought this to our
3 attention.

4 CHIEF STANDING BEAR: I was relying upon
5 what they were telling me.

6 CHARLES BABST: Sure.

7 CHIEF STANDING BEAR: And, you know, I take
8 it for what they said. But there were no lawyers in the
9 room.

10 CHARLES BABST: Well, there was one.

11 CHIEF STANDING BEAR: Yeah, but I wasn't
12 sitting there as a lawyer. I was listening to what they
13 told me.

14 CHARLES BABST: Okay. And so what I think,
15 and I don't think we have any objection to this, is we're
16 going to have to go back and investigate. I hate to use
17 the word "allegation" because that sounds bad, lawyer to
18 lawyer joke.

19 Investigate what you've brought up and what you
20 suggested and find out how that -- first of all, how was
21 it done, how could we do it here, and move forward on that
22 while at the same -- and investigating that while at the
23 same time also working on, in the short term, those parts
24 of 226 that we all know need to be changed.

25 CHIEF STANDING BEAR: And, Charles, I think

1 it's been touched on across the table. We'll figure it
2 out ourselves. I know Galen said something I was just
3 talking to him about over there by the rolls -- the
4 breakfast rolls that are growing colder -- that really, at
5 the one spot, I would envision the Congress and myself
6 passing a statutory framework that does not give details
7 at all. And then as the Minerals Council's authority can
8 be exercised through regulation. They handle all that.
9 And then the Congress and the Chief's Office stay out of
10 it.

11 But it's a framework that we would, among ourselves,
12 negotiate like the Congress would do, pass a law, Minerals
13 Council just like BIA writes its own regulations and
14 carries it out. Now, that's just from my spot. We can
15 figure that out.

16 CHARLES BABST: Okay. It in the meantime,
17 the question that we need answered and I don't think
18 anybody here is saying no to that. I think we're saying
19 very interesting proposal. We'd like to learn more about
20 it just like anyone else would.

21 In the meantime, we'd like to work, we'd like to
22 move forward with the momentum we have to amend 226 and
23 fix some of the problems that you just talked about in the
24 short term. Because I mean, you've got a political
25 process you've got to go through as well.

1 CHIEF STANDING BEAR: Right. I agree.

2 KRISTEN KOKINOS: So do we. But as Galen
3 pointed out, in the meantime, while all of those wheels
4 have to turn, right now they're on highest posted price.
5 And there are other issues as well that cause issues for
6 implementing ONRR which would make huge differences, all
7 kinds of, all kinds of other, other items that can be
8 addressed and fixed and improved while the other --

9 EDDIE STREATER: And I will say -- I hate
10 to, Chief, to go back to the negotiated rulemaking, -- the
11 U.S. Government within that process, very few things
12 within the negotiated rules are driven by the Government.
13 Very, very few.

14 The main one for us at Osage was the implementation
15 of ONRR. For us that's tantamount. We have to have that
16 in place. The rest of Indian country is using that for
17 their accounting. And we need it here.

18 CHIEF STANDING BEAR: Over at Farmington,
19 New Mexico, there is a pilot office. Actually, Ms. Oberly
20 was running it for a while. But I was observing. And it
21 was a combination -- I'm oversimplifying this but it was a
22 combination of ONRR, BIM, and BIA.

23 And as I was further investigating that phenomenon,
24 it involves questions of Washington, D.C. about a proposed
25 Denver office that would be a combined -- Mr. Fredericks

1 probably knows more about it than I do -- ONRR, BLM, BIA,
2 which would require the regulations of all agencies to be
3 interchangeable. And I'm not going to get into all the
4 details that I was told.

5 But if that kind of activity is going on, we need to
6 know because there are some very, very strong opinions
7 about ONRR amongst some of our producers. I think Mr.
8 Revard wants to address that. So we just need to know
9 what you know will be changing in the future.

10 EDDIE STREATER: With regards to the
11 service center, Chief, it is up, it is funded. Now, it
12 will be at Lakewood. Lakewood, Colorado, is where it will
13 be located at.

14 They don't actually have a lease in place yet.
15 They're working with GSA to do that. And as you said, it
16 will be a joint effort between ONRR, BLM, BIA, and some
17 other Federal entities. However, it is more of a
18 technical assistance type.

19 They will come in, like, let's say, the Dakotas --
20 they were overwhelmed when the Bakken came in. Now, that
21 would allow them to put together a strike team to move up
22 there and to process things in a real timely manner,
23 things of that nature. That's what that's going to be
24 used for.

25 PAUL REVARD: With that, I'm not real

1 familiar with it but I've talked to people who are using
2 that system right now. And it's my understanding that it
3 is really difficult to use.

4 One objection was that you can't access the program
5 except from, I think seven in the morning to seven in the
6 evening.

7 EDDIE STREATER: I don't believe that's a
8 true representation.

9 PAUL REVARD: Is that true or not?

10 YVETTE SMITH: I believe there's access.

11 PAUL REVARD: 24/7?

12 YVETTE SMITH: I believe so. And I can
13 double-check on that.

14 PAUL REVARD: I'm told that there's not.
15 And a lot of our operators here in Osage County, they're
16 small operators. Some of them are pumpers. And they work
17 seven days a week. They get up at daylight. They don't
18 get home until after supper.

19 And the only time they have to do their paperwork is
20 on holidays, weekends, you know, where their daily rounds
21 might be shortened a little bit on weekends. But usually,
22 late in the evening is when they get caught up.

23 It's also my understanding I've been told that the
24 ONRR system is set up on a per well basis. Osage County
25 is unique that we collect, and we've worked hard at it, on

1 a lease basis. We may have one or two wells on a lease or
2 we may have 16 wells.

3 EDDIE STREATER: And that's recognized.

4 PAUL REVARD: I don't know if the system
5 you're referring to has been modified to accommodate that.

6 EDDIE STREATER: We recognize the
7 differences and we're working through those.

8 PAUL REVARD: There is a need for a change
9 in the way we report. We report our oil on a white piece
10 of paper. We report our gas on a green piece of paper.
11 Our consolidated on a blue piece of paper. And we've got
12 to rely on the mail.

13 We ought to be able to input data into some type of
14 database that can be sent digitally to the main database
15 and they just import it like an Excel worksheet into an
16 Access program.

17 EDDIE STREATER: That is the system --

18 MITCH MOUTON: That is the system that not
19 only every oil producer in the United States uses but
20 every oil producer in Indian country uses except here in
21 Osage. This is the only place where they don't report
22 that way.

23 PAUL REVARD: I just hear horror stories
24 about how difficult it is to utilize that system. Maybe
25 there needs to be some improvements in it.

1 TALEE REDCORN: In the last five years, I
2 was on the Department of Energy grant for enhanced oil
3 recovery. One of the terms we used was "shock" when you
4 do a recovery, water flow or water cut or chemical shock
5 as you move forward through these oil reserves.

6 And I want to use that analogy in this situation. I
7 didn't -- I didn't act or vote capriciously. I felt like
8 hearing all the people in the field which like, again, I
9 say, we're a different breed, crew here in Osage County.

10 We've got Osage Tribal members in the oilfield.
11 We've got them actively participating. So we have to take
12 care of our county. And what I felt like was we had a
13 shock situation coming through.

14 When you have a water flow that's this, and then all
15 of a sudden it's different. And that enhances the
16 recovery in an oilfield. But when we had this shock of
17 regulations coming and the change in the way we do
18 business, I think it really disrupted the flow of our
19 business here.

20 So I'm for doing better at getting more value for
21 our shareholders. But I don't want to shock the system to
22 get there. I think it would be best if we take these step
23 by step and see so we don't interrupt my 20 percent or
24 3/16ths or 1/8th or whatever we're making deals with.

25 I think we've even got higher royalties down by

1 Skiatook. They continue to get the most of their recovery
2 and we keep these folks in the oilfield working.

3 So again, I just want to make sure that we have an
4 even flow from start to finish when we do a change. And I
5 felt like we're bringing in something that's real -- it's
6 a tidal -- it's a tsunami that's coming into us
7 economically that's going to be hard to stop the damage.
8 So that's kind of an analogy.

9 REBECCA SHER: To speak to points that
10 Talee has brought up, when the new rule was introduced on
11 May 2015, it was a shock heard from a lot of producers
12 about the inability to comply in time with the rule. And
13 that's something that I think the BLM actually has done
14 really well in their revisions with the new 43 CFR, that
15 they're introducing thresholds for requirements.

16 Some of the producers -- I don't have the data right
17 in front of me. But they have got four different levels
18 of thresholds for when you have to come into compliance
19 with the rules. And that extends it up to three or four
20 years I believe. And I think implementing some of those
21 procedures and, you know, extending the time frame for
22 compliance would really benefit the smaller Osage
23 producers.

24 EDDIE STREATER: And you know, I think you
25 just hit the nail on the head what this consultation is

1 about. And we talked about that in the other rules too.

2 KUGEE SUPERNAW: Chief has got to worry
3 about the breakfast rolls. You know, what I'm hearing is
4 there's a lot of long-term solutions but we're just -- I'm
5 just an observer, and haven't been involved in this. But
6 you know, if you're in a hurry and trying to save time and
7 not take a bath, you at least wash the stink spots. Can
8 anybody tell me in here what are the stink spots, or is it
9 just dirty all over?

10 TOM FREDERICKS: Osage is one of the
11 longest producing counties in America. And I think one of
12 the things that I think we need to take into account when
13 we're looking at new regulations because the producers are
14 talking to us, they kept telling us we can't afford these
15 regulations. We can't afford this. We can't afford that.

16 And I think what Rebecca is saying is that might be
17 a way for a well, we've got four barrel wells here, four
18 barrels a day and they produce water so we've got to look
19 at these stripper wells, marginal wells.

20 And so we need the collective group here regulated
21 in a way that makes it work for the Osage. Because if you
22 get to where you're regulating a 400-barrel-a-day well,
23 they can take a lot of costs. But not a 4-barrel-a-day
24 well.

25 So we need to -- besides that, we don't have much

1 electronic data on the production, where the wells are.
2 And all that information needs to be digitized so we can
3 turn on a map and we can see all the wells in Osage light
4 up where they're at. It's capable -- you know, IHS could
5 do that in a relatively short period of time.

6 And on the one-stop shop, I talked to them and they
7 said they're willing to come to Osage and get -- run a
8 full court press. They even mentioned bringing 14 people
9 here to help. So that's what we need to do. Let's get
10 people here to help us fix it.

11 GALEN CRUM: Yeah, when we were looking at how
12 to implement the new rule, one of the things that -- one
13 of the things I kept asking is how are we going to --
14 let's talk about implementing this stuff. Because
15 especially perhaps on the gas if the infrastructure came
16 in.

17 You're going to have to start measuring the gas
18 properly. You're going to have to build a different
19 structure to measure the gas. Right now a lot of people
20 don't have it.

21 And the problem that we had, this is in the
22 improvement, was until the new rule was finalized, they
23 weren't willing to talk about how they're going to do it.
24 It was a crazy system to talk to the Chief's point that
25 sometimes the system gets in your way the way we're doing

1 it.

2 And I think that the Osage would be a place that
3 would be amiable to the idea that we just pointed out
4 there that the lesser producers have a longer time in.
5 Because I think Mitch can probably give you the exact
6 numbers. But on some of those things, I will give you
7 some general.

8 The 80 percent or better of oil is produced by 20
9 percent perhaps of the producers. And somewhere like
10 that, right? And most guys already have most of
11 everything we asked for that were nuts and bolts things
12 within that rule already doing it.

13 So all they have to do is start -- is just continue
14 doing what they're doing and report it differently and
15 abide by different rules. So it's that other 20 percent
16 of the oil that's then produced by the other 80 percent of
17 the producers, the small guys like Paul.

18 So it would be -- it would be easy for us to capture
19 nearly everything almost immediately in terms of both
20 measurement, and the new regs, and that sort of thing and
21 then phase it in. And I was a proponent of something like
22 that at the beginning. We just couldn't get there with
23 our discussions about how to go about doing that.

24 And the one-stop shop deal is -- I think it's
25 interesting to note that a couple of three years ago, I

1 was in a conference with many of the folks from Southern
2 Utes. And they were working on trying to get that stuff
3 in there at that time and some others were. And they were
4 talking to me about here.

5 We already have a one-stop shop. Their problems
6 came from having BLM, BIA, and ONRR being separate areas,
7 separate ideas, and separate bureaucracy where they
8 couldn't get it together to do it. Mainly, they could
9 work pretty good with ONRR but there's a built-in tension
10 between BLM and BIA that I can see through our processes
11 that we don't have to deal with here.

12 The guys from Southern Utes were saying, Man, we've
13 worked for years to get where you're at in terms of being
14 able to deal with a centralized agency to get everything
15 done. So we're ahead of the game if we do it right.
16 We've already got what they have been trying to
17 accomplish.

18 But we have to do it, you know, right, and make it
19 be responsive to what we need and have the ability to do
20 these things, you know. When we started the process,
21 Osage wasn't even close to having a computer system that
22 could actually tell you what was being produced and who
23 wasn't turning in production reports and all that other
24 kind of thing. It was just way behind.

25 There have been improvements in it the meantime.

1 But there's still a world of way to go. And as far as the
2 ONRR thing, I did go to Colorado. Went through the
3 process myself.

4 And I don't know about the -- on the weekends
5 because I didn't try to do one from home. But the actual
6 entering of the production reports will be an improvement
7 once you get to it.

8 It's kind of like I went through in my former life
9 doing fire reports. Used to do them by hand, and I
10 thought I was really sharp. Well, when they first made me
11 do them on computer, I just about had a fit, my gosh, I
12 can't do this. But after I got -- I learned the system,
13 it was way faster, way faster. And I thought I was some
14 kind of report writer, you know.

15 But it's -- you know, you'll love it. And I've had
16 many producers, small guys, guys no bigger than Paul that
17 come to me and say, Why on earth am I having to make a
18 paper deal and mail it off when I've already got it on my
19 computer, you know. So it may be -- it may be a little
20 catch-up for some of the group, smaller guys, but I think
21 it's doable and responsive to their needs. It could be
22 rolled out.

23 KRISTEN KOKINOS: And that's exactly what
24 we want to do. I mean, that's our goal. We understand
25 that when you've got regulations that really have existed

1 in the same format since the 70s, that, of course, there
2 are lots of things that have to be changed and updated.

3 How that ends up being implemented, because there
4 are so many things that need to be changed and updated,
5 that's pretty important. And we adopt that. We want to
6 make sure it can be done and it's done properly.

7 TALEE REDCORN: Back when I was on the
8 Minerals Council Number 1 from 2006 to '10, we brought in
9 a group called Clearinghouse Group out of Houston. And we
10 were considering looking at different ways we could lease.

11 And one of the things they had just completed was a
12 big lease sale in Louisiana where we -- they kind of broke
13 the mold on how we do business here. There were large
14 chunks of properties going for auctions. And so we were
15 considering that.

16 So going forward, I would like to see that it be
17 Osage Tribe through their sovereignty decide if they would
18 like to explore this avenue where we do block leases that
19 are bigger than what we do today and have a heavy -- and
20 at that time, we were required to maybe even have an
21 auction in Houston.

22 And all the information would be available online
23 and see if we can compete on a bigger scale to get more
24 revenue from our lease sale.

25 So going forward, I would like to see if that's

1 possible again using Osage Nation as our -- to be able to
2 decide that, if they want to go forward. Huge block
3 leases like we see in Louisiana, huge block leases like we
4 see in the Gulf Coast, and then get more and more players
5 involved in the leasing process, not just our local folks.
6 So kind of think even bigger on leasing, how we're going
7 to handle our leases.

8 CHIEF STANDING BEAR: Excuse me, but I have
9 a Title XI Elder Program that I need to be at at 1:30.
10 Chairman Waller and I are of the same mind. And so he
11 would honor me if he would speak for me today, this
12 afternoon on anything. We're thinking the same way. So
13 may I be excused?

14 KRISTEN KOKINOS: I would like to move
15 forward and maybe start addressing some of the broader
16 issues that we know with the current regs unless anyone
17 has any additional comments they would like to make just
18 generally.

19 CHARLES BABST: Well, I really enjoyed the
20 breakfast things.

21 CYNTHIA BOONE: This is Cynthia Boone. One
22 of the things that I was looking forward to in terms of
23 the negotiated rule process was upgrading the old regs.
24 By history, it's been our mom and pop organizations that
25 have kept us going.

1 We have had the bigger companies come in, the
2 Encanas, the Devons; they're gone. I have been talking to
3 some of my smaller oil producers who have told me that if
4 these regs were to have gone through, that it would just
5 shut them down. They would have no reason to be here.

6 There's no incentive for people to come here. And
7 what I'm hoping is in this whole process is that we'll
8 have a way that we can market and develop what we have
9 here, our greatest asset, our oil. Thank you.

10 REBECCA SHER: To that point, I think that
11 something that came up in our lawsuit challenging these
12 regs again was the economic or missing economic analysis
13 of the impact on small businesses and small producers. I
14 know that is not something that, you know, we can demand
15 that the United States do.

16 But I do think that to the extent that you can have
17 one of those done, that would help maybe small producers
18 understand the extent of what, you know, improving these
19 regulations will cost them, you know, and with data
20 supporting, that could go pretty far.

21 KRISTEN KOKINOS: Certainly. And moving
22 forward with revising the regulations, there would be a
23 regulatory economic analysis conducted.

24 KRISTEN KOKINOS: I know Galen already hit
25 on this a little bit. But one of the biggest issues with

1 the regulations as they currently exist is the valuation
2 based on highest posted price. It's highly manipulable
3 and so there's a lot of issues with that.

4 Mitch can actually speak a little more on some of
5 the issues that ONRR has seen and renewing the highest
6 posted prices.

7 MITCH MOUTON: Okay. So first, I want to
8 talk about that discussion, that is, the pricing
9 discussion that we had before the Minerals Council, the
10 Federal Government and so on and so forth.

11 So I made myself a little note here. As has been
12 mentioned, the current regs have not been updated since
13 1974. And lots of changes have happened in the oil
14 business since 1974.

15 We all have agreed here this morning that these regs
16 need to be brought up to date. So I want to talk a little
17 bit about our discussions that we had about pricing.
18 Current regulations offer a value of not less than the
19 highest posted price by a major purchaser in Osage County
20 Oklahoma.

21 In the proposed regulation, that's the one that
22 failed to be finalized, we had changed that to the average
23 of NYMEX daily price reported at Cushing, Oklahoma, for
24 the month in which the oil was sold. That change was
25 proposed to address declining price issues in Osage

1 County.

2 As Galen had mentioned, the price of oil in Osage
3 County was actually selling for less money than the wider
4 market areas in Oklahoma and around. Okay?

5 You guys have gotten to the point where your prices
6 were at the bottom. And not anywhere near what they
7 should have been. They were far below.

8 So that was a problem as Galen had mentioned. The
9 previous Minerals Council, which some of you were on, that
10 was a problem. And so that was one of the things that we
11 tried to address. So what we came up with was NYMEX.

12 Now, you may ask the question: Why NYMEX? So
13 here's my explanation. During that process, in fact, the
14 subcommittee process, we actually looked at several
15 pricing benchmarks, several options for how to bear the
16 price of oil.

17 The one we knew that did not work was the one we're
18 presently using which is highest posted price in Osage
19 County. There's reasons for that. Okay? One, Osage
20 County is a small area for pricing oil trades. Okay?
21 It's just one single county in Oklahoma.

22 So there were four issues that we wanted to address
23 when we looked at these various pricing mechanisms. One
24 was whatever benchmark that they used for the price of oil
25 had to be appropriately applied in Osage County. In other

1 words, you couldn't take Alaska North Slope. It doesn't
2 work for Osage County, Oklahoma. So the benchmark needs
3 to be appropriately applied for Oklahoma.

4 Two, it had to be an accurate reflection of prices
5 in the Oklahoma oil market which we had established that
6 highest posted price in Osage County was not an accurate
7 reflection of the broader Oklahoma market.

8 Number three, it had to be something that was widely
9 published meaning you didn't have to go run down to the
10 agency to find out what the price was. You could look it
11 up online at your local daily publication. It had to be
12 widely published.

13 And number four, it had to be independent, meaning,
14 there wasn't a way for somebody to manipulate that. Some
15 large producer can manipulate that if it's just Osage
16 County. The biggest buyer in Osage County can set your
17 price. We didn't want that. So they wanted it
18 independent.

19 So we began looking at all these various indexes
20 that we could use. And in the end, to make a long story
21 short, the only one that met all four of those criteria
22 was NYMEX. In fact, NYMEX is used in probably 90 percent
23 of all the oil trades that happen across the United
24 States. And it's priced at Cushing which just so happens
25 to be very close to Osage County. And it's -- it was the

1 price that was the best.

2 So we ran some analyses on that to see the price
3 correlation between NYMEX prices and prices in Osage
4 County. And as Galen mentioned before, there's like a 99
5 percent correlation. When NYMEX moves up, highest posted
6 prices moved up.

7 The highest posted prices were dragging way behind
8 it but it moved the exact same direction. So we decided
9 NYMEX was the appropriate benchmark to use for pricing oil
10 in Osage County. It's the only benchmark that met all
11 four of our criteria. There were other benchmarks, but
12 they didn't meet at least one of the four criteria that we
13 have.

14 PAUL REVARD: As an Osage County producer,
15 when I put on a new lease, you know, like, I select
16 between several different purchasers. We're fortunate
17 that we do have several. We've got Sunoco that's close to
18 us, you know, just right here in Tulsa. And Coffeyville
19 isn't far.

20 When we select a purchaser, there is really very
21 little, maybe nickels and dimes difference between one
22 offer and the other one. I don't know that they're all in
23 collusion to set the price, but we don't get NYMEX. We
24 certainly can't pay our royalty based on the price we
25 don't get.

1 That's like -- has the same effect of raising our
2 royalty significantly. I mean, it would be the same
3 thing, for us to have to pay you or pay the royalty to our
4 prime, our mineral estate a higher rate than we're
5 actually getting.

6 So my question to you is: How do I, as a producer,
7 get NYMEX? All I get to do is either call Sun or
8 Coffeyville, or one of the other companies and I get what
9 they give me. If one is a nickel higher, but further
10 away, you're less likely to be able to come get my oil in
11 the short notice.

12 So I would like to keep somebody close by preferably
13 because I would be first on their list for them to come
14 get my oil. But how do I get NYMEX prices?

15 EDDIE STREATER: If I could ask counsel,
16 Mr. Waller, Mr. Revard, are you speaking for the Minerals
17 Council, or are you speaking for the producers? We're
18 here in a tribal consultation. So I guess we need to kind
19 of know what side we're on here.

20 PAUL REVARD: From the shareholder. I'm
21 speaking as a shareholder.

22 TALEE REDCORN: I'm going to interject and
23 say in our last Minerals Council, we voted to have Mr.
24 Revard here. So we want him to be able to listen and
25 provide consultation to Osage Minerals Council. And we do

1 have a past resolution to do that.

2 CHARLES BABST: Fair enough. Let me just
3 make this statement. Where's the money going to come
4 from? It ain't coming from us.

5 TOM FREDERICKS: Well, I think his point is
6 not so much you can't have an arbitrary standard that
7 unless it flows to the producer. It seems like the
8 producer has got to be paid. If he's going to pay his
9 royalty, he should be paid what he got in the marketplace.

10 CHARLES BABST: That's not what we settled
11 for in the lawsuit. And you weren't there.

12 TOM FREDERICKS: It seems crazy not to have
13 that.

14 GALEN CRUM: Traditionally, we have, for a
15 hundred years, had a price that did not necessarily mean
16 that everybody could get. In the past, before HPP was put
17 in, as I said before, it was the highest anybody got
18 anywhere.

19 One of the problems with that was that there was no
20 market share that was involved in figuring it any way.
21 The case was brought by the producers about this and then
22 it went to the -- IBIA court. And they come back with
23 this HPP price. And then almost immediately, a year or
24 so, the Osages saw that they were getting cooked and sued
25 on it. Is that more or less right?

1 EVERETT WALLER: That's correct.

2 GALEN CRUM: Even under the HPP system,
3 even though it's the bottom, there is a presumption that
4 if you're not getting that at least, Osages get that. So
5 there's no point though that producers ever in Osage are
6 guaranteed that they would only have to pay royalty on
7 what they received. It's never been that way.

8 Even today it's not that way. And one thing that I
9 would like to point out that I think it gets caught up in
10 our discussions sometimes when we talk to producers, and
11 try to talk about what they're getting. I'm talking about
12 NYMEX. We need to make sure that we're saying that the
13 NYMEX monthly average.

14 KRISTEN KOKINOS: It's NYMEX calendar month
15 average price.

16 GALEN CRUM: Right. And that makes a
17 difference on whether you're getting it that day or not.
18 And it makes a simpler system, for one thing, because you
19 have it out in front. That's a whole different direction.

20 But Paul, there are a lot of people. And we need to
21 get this word out there. There are a lot of people that
22 are selling their oil on a contract basis. As we look at
23 the sales right, a lot of people are selling it on a
24 contract basis where they're selling it for the same price
25 for all month.

1 And those are the guys I look at to close this when
2 I got through there. Because a guy can sell on a high day
3 and be right up there with the NYMEX monthly average
4 because the monthly average goes up and down. So if you
5 sell it at a high point even if you're pricing well below
6 NYMEX, you could still hit it.

7 But if we look at those records -- and I would be
8 willing to share those -- as a matter of fact, I think we
9 should share it with everybody. Because the producers,
10 the way it's working right now the HPP being the
11 (indiscernible) for the market, you're our sales
12 representative for our oil. You're negotiating deals that
13 we are not a part of.

14 PAUL REVARD: We get what they give us. We
15 don't have any say-so about it.

16 GALEN CRUM: Well, apparently some people
17 do. Because even small operators are selling it for
18 higher.

19 PAUL REVARD: I would change tomorrow.

20 GALEN CRUM: Well, that's happened. I'll
21 tell an anecdotal story to let you know. And this has
22 happened to me a couple of times.

23 But this was a pretty big outfit. They weren't like
24 you. A guy wrote us a letter during this process telling
25 us, the sales guy from a company, a longtime Osage

1 company, operated outside of Osage too, but a long time
2 Osage company. Said we can't get NYMEX, absolutely cannot
3 and was -- in the letter telling us how dumb we were for
4 putting that in there.

5 So I called him up. And I -- he was going to do it
6 when I did that graph stuff during the process, we did --
7 we took the data and we made up some graphs to show oil is
8 being sold \$4 above and how much, you know, there's five
9 or six of those companies that are selling above. He
10 happened to be one of them. But his was never above
11 NYMEX. But it was above highest posted.

12 And I said, It looks like you're selling your oil
13 for about \$1.60 if I recall above highest posted. We
14 don't know what -- we don't know what their deal is. You
15 guys make the deal, we just see the result.

16 So he said, Well, yeah; it's a little more
17 complicated. But yeah, that's what I get. I said, Do you
18 really think you're getting top price? Now, remember,
19 these prices are done in the dark.

20 When Paul is operating, he don't get to know what
21 anybody else sold theirs for. In the old days, he got to
22 know because he got to know -- somebody about how much to
23 pay royalty. But the deals are done in the dark now.

24 This guy says, Yes, I'm getting the highest. I know
25 my guy. He would never cheat me -- that wasn't the word

1 he used -- and I know that I'm getting the highest.

2 And I said, Right now today, the average price paid
3 was \$2.40 I think at that time above the highest posted.
4 He was getting \$1.60. So he was getting a dollar -- his
5 guy that promised him he was -- in the same company that
6 was selling those other guys three or four dollars higher,
7 looked him in the eye and promised him that he was getting
8 the highest.

9 I checked. As I say, I check these things all the
10 time. Very shortly, what he was reporting was NYMEX and
11 above. That guy went back and said, You lied to me,
12 you've been cheating me, you've been cheating the Osages
13 along with me. I doubt if he said that, but that was the
14 case.

15 And now those guys are selling higher. And so when
16 this system, the highest posted system, as Mitch pointed
17 out, depressed the whole price all over Osage as compared
18 to the surrounding area, they took that, those purchasers
19 took that power and they cheated all of us.

20 And the manipulation that that price even showed up
21 during the last -- toward the end of the last of this
22 process when they -- when they thought the rule was going
23 into effect, it suddenly went from \$2 a barrel less to
24 under a dollar a barrel less.

25 When these guys -- if you go back and look, when

1 these guys announced that they weren't going to have the
2 rule, it started creeping back up to where it's now back
3 up to above \$2. Those purchasers are using this system to
4 cheat all of us, you and the Osages.

5 PAUL REVARD: May I say again, our Minerals
6 Council, if I'm not mistaken, does our Minerals Council
7 still have the right to take its production in kind?

8 GALEN CRUM: Yes.

9 PAUL REVARD: Well, that's a significant
10 amount of work. That gives -- the Minerals Council has a
11 lot more leverage, I think, with the purchasers because
12 just like what you're referring to, you're referring to a
13 larger purchaser who had some stroke.

14 But little guys like me, I could threaten Conoco or
15 Sunoco or any of them, and they really don't care if they
16 miss out an extra ten barrels a day. But the Minerals
17 Council could exercise its right to take production in
18 kind and negotiate a better deal for the oil. And then
19 that would drag little guys like me back up to match the
20 Minerals Council's price that they were able to get if you
21 all -- Has the Minerals Council considered marketing its
22 own oil?

23 EVERETT WALLER: We're not agreeing to
24 discuss that. You've got to remember, you're here on
25 our--

1 PAUL REVARD: Right. I know.

2 GALEN CRUM: I would suggest, I can -- I
3 can show you some small guys. I don't know why they did
4 it, but they did it. We're not involved. But I don't
5 know how many barrels, how many times you sell oil a
6 month. I've checked yours. Sometimes you sell at the
7 average price and above.

8 PAUL REVARD: I wouldn't know.

9 GALEN CRUM: By accident perhaps but it
10 does work out that way. But there's a guy that I can show
11 you that only sells the oil maybe four times during the
12 month, and they're always above.

13 And I don't know why he's so smart, you know, how he
14 got the deal done. I can only guess. But I know he did
15 it. So he's always above NYMEX average. And some of the
16 other are selling exactly Osage NYMEX average, so you know
17 that's a deal they negotiated. I mean, it will come out
18 exactly.

19 TALEE REDCORN: Thank you for everyone for
20 your comments. I wanted to point out that during the time
21 that we were discussing the negotiated regulations, this
22 was kind of a hard train to kind of pull to a stop. And I
23 counted up three Council members approved it and 13 voted
24 against it while this thing was rolling out.

25 So we were talking about the people that were on the

1 Second Minerals Council, and people that were on the Third
2 Minerals Council and counted them all up when we were
3 doing this.

4 So my first question -- I've got two more -- is, you
5 know, if we're talking about Tribal sovereignty and the
6 recognition of our ability to make these decisions, I
7 question why this thing continued to roll against
8 resolutions that were passed. And I think there were
9 three that voted to stop this thing.

10 The second thing is when our attorneys went to --
11 went to work, we had an economic assessment from Dr.
12 Evans. And Dr. Evans was able to demonstrate the negative
13 impact economically in the state regarding the direction
14 that these decisions and how that would impose on the
15 economy as a whole.

16 So it brings to my question is we need the
17 Department of Interior to move forward with this. And we
18 appreciate the effort. But I would like to see if that --
19 if we could have that extra layer of an economic analysis,
20 again going back to the shock factor, that we don't shock
21 our community and our entities around that are trying to
22 maintain their work, their work flow, get their work done
23 and get the royalties to our shareholders.

24 The third thing is I was told -- I'm hearing 20
25 percent. I think it's a little bit higher on our small

1 producers. I'm thinking it's up to 50 and more percent.
2 We're talking the small guys. That's my general running
3 knowledge of what's going on in Osage County.

4 We've got tons of folks like Mr. Revard out there.
5 And just going on stories, I mean, I've heard story after
6 story after story on our small producers. And one, I,
7 just as an example, I coached his son. And we had a
8 soccer team.

9 And I convinced him, Man, hey, Osage County is the
10 place to be. But he laid out the impact of this, and how,
11 and his wording says that I will give the Osage Tribe an X
12 amount of money over what I'll get in Pawnee or I'll get
13 in Kay County, which he was operating in Tulsa County
14 which he was operating, just for the privilege of being
15 here in Osage County.

16 He said, Thank you very much. And he left. And I'm
17 just using one example. It was a close friend of mine.
18 But the economic impact, I can't say enough what it did to
19 our small community that don't have the leverage as Mr.
20 Paul Revard is saying.

21 And so I would like to see if we do roll out, that
22 that economic assessment be completed that we don't just
23 grab a value or grab a methodology and roll with it and
24 then hopefully we can absorb it.

25 And again, I don't think it's 20. I think it's

1 higher, a lot higher on our small type producers like this
2 gentleman here. So my feeling in this chair is I'm for
3 better value. But we've got to do it smartly.

4 We've got to do it with an economic analysis. And
5 that's what I would ask that we do to complete that. We
6 look forward to getting that kind of feedback from folks
7 that are experts in this field.

8 So we don't -- and if we don't ensure growth in our
9 end, we watch this thing go forward in my last two years,
10 two and a half years on the Minerals Council. I'm seeing
11 things go downward, seeing our payment going low. And
12 then, of course, when we discuss among ourselves, it's
13 always someone feels this way and someone feels that way.

14 But I think on the whole, we're getting regulations
15 that keep us Osages and our communities going and vibrant
16 really taking a hit. And I'm feeling it.

17 I could talk to people that I see in the Tribe that
18 are working for the Tribe that used to be working in
19 construction, used to be working in the oilfield, they're
20 all pulled back in Osage County and working and doing
21 other things.

22 I saw one producer working maintenance at the
23 casino, saw his name tag. I said, Oh, my gosh, you know.
24 I'm just seeing it over and over and over. Now, we can
25 talk about the price of oil. And how that -- and I agree

1 with you.

2 But if we could somehow tie the economy with the
3 direction we're going with the decisions we're making, I
4 would like to see that. That way, you know, we're not
5 heavily impacting our community with something they just
6 cannot absorb.

7 EDDIE STREATER: With regards to the
8 economic analysis as we discussed, as we discussed with
9 Rebecca a few moments ago, that will be undertaken. And
10 that will be part of the record.

11 With regards to the impact the regulations have had
12 on the county, we have met. The negotiated rule was never
13 in place. We have always been operating under the old
14 226. I can't speak to any more than that on how it's
15 impacted the economy here within the county.

16 We have never operated within the negotiated rule.
17 It has always been the rules the way they have been since
18 the last revisioning in '74. And that's why we're here
19 today looking forward to how to implement some rules that
20 we know need to be changed.

21 We can talk about no impact. We're going to have
22 some impact. Hopefully, we will minimize that impact. So
23 we just can't go forward with a set of rules that have
24 been in place for 50 some-odd years. It's not the
25 industry now.

1 And the impact may be a little bit on the producers
2 with regard to reporting this. It's asinine to be doing
3 it that way. And that's what we need to address and make
4 it easier in the long run.

5 GALEN CRUM: I would like to make one
6 comment along those lines. You're right. We never got
7 that in place. But we also had other -- other issues
8 going on with the environmental stuff, you know, with the
9 lawsuits and all that.

10 I would -- I would propose that probably the
11 greatest holdback to any industry, oil industry or
12 anything else, is lack of understanding of what is going
13 to be going forward with it. Confusion on what the rules
14 are.

15 You know, it's been my experience that no matter
16 what the rules are that you put out, you know, in any
17 industry, pretty soon people learn how to work within
18 them, around them, whatever, and they can go forward. But
19 uncertainty about what it is, I think, probably has
20 affected the Osage.

21 So if we didn't put anything in the (indiscernible),
22 we did put in some stuff on the environment that I'm not
23 arguing that we didn't need to do. We're now working on
24 that as a Council with you to fix those problems.

25 But the uncertainty that's still hanging around is

1 going to be a drag on the Osage. And I think probably
2 greater -- this is my opinion -- I think probably greater
3 than the implementation of the vast majority of the rules
4 that were in the rule.

5 Eventually, people will know how to do it. When
6 they don't know what it means, you know.

7 For instance, if you come down here with valid
8 security measures, valves and meters and stuff, the second
9 they talked about that, suddenly, the propaganda was that
10 you're going to have to change 15 valves on a -- and
11 that's just not the case.

12 You know, we need to talk sensibly about what the
13 costs are going to be, what the needs for them are, and
14 then -- and then have some uncertainty or take away the
15 uncertainty of what goes forward. That's what held us
16 back up and above 20-some-dollar oil for a while and now
17 we're in the 40s when we were a hundred. That's
18 everyplace.

19 But the problem was it was a greater impact on
20 Osage. I will say that. But I believe it came not from
21 the regulations, because they were in place, but the
22 uncertainty about what was going to be, you know,
23 implemented.

24 KRISTEN KOKINOS: We've got to remove some
25 of that uncertainty and also just simplify the processes

1 of all of them to extent that's possible. Obviously, when
2 people know what's expected, it's easier to buy and so
3 that allows people to move forward in an easier manner.

4 I would like to inquire to Mr. Revard or anyone else
5 that you've spoken a lot about the NYMEX calendar month
6 price. We need to find an appropriate benchmark, you
7 know, highest posted price. It needs to be independent.
8 It needs to be objective.

9 I mean, are there other pricing benchmarks aside
10 from that?

11 STEPHANIE ERWIN: Do you think the BIA can
12 develop regs to enhance our resources, our recovery,
13 instead of putting themselves first?

14 EDDIE STREATER: Well, Stephanie, we --
15 obviously want to develop. If we go forward, we want to
16 develop the regulations in conjunction with the Minerals
17 Council. Our duty is to administer and over production,
18 not so much develop the estate. That's the Minerals
19 Council's purview there.

20 STEPHANIE ERWIN: Well, everything I've
21 seen in the last two years since I've been on the Minerals
22 Council, everything has been pro BIA. You all have done
23 whatever you can do to protect yourself from liability. I
24 understand that why you're doing it.

25 But in return, our minerals estate has dwindled.

1 And we need to turn that around because that is also your
2 job.

3 EDDIE STREATER: We are bound as the rest
4 of the Federal Government by certain laws. We need to be.
5 That law does not bind the Osage Mineral Estate. It binds
6 us, the United States Government. And that's a
7 distinction apart from 226 and any regulations therein.

8 STEPHANIE ERWIN: But it's also your job to
9 enhance our recovery to get as much as we can out of the
10 minerals estate. Do you have any plans for that, strategy
11 for that?

12 EDDIE STREATER: There again, our feelings
13 are that's the Minerals Council purview how you're going
14 to move forward. I think we will bring that up with the
15 leasing, things of that nature.

16 TALEE REDCORN: Just a quick comment. I
17 remember, I think it was Paul a couple of years ago, some
18 other operators, just stuff that came out, got some
19 feedback when we went to Hominy. Just don't even have the
20 number of valves that was needed to get everybody in
21 compliance. Little things like that. It's kind of a
22 shock thing in your community and it's hard to -- hard for
23 us to ignore.

24 EDDIE STREATER: Yeah. And those are
25 things that we recognize just as a -- the reporting with

1 ONRR. There's things that have to be done. But with
2 regards to the valves, we had public meetings that were
3 not part of the negotiated rulemaking process, but
4 actually part of the implementation of the rules.

5 And in those meetings, we had certain individuals
6 that had a vested interest in selling valves get up and
7 start this ground swell of how many, you couldn't get
8 them, "but let me hand my cards out to you" type of
9 activity. And Richard can speak to that.

10 RICHARD WINLOCK: Yeah. At that meeting,
11 we actually advised all the producers that they did not
12 have to replace all their valves. If they could some way
13 or another seal those valves, that was acceptable. They
14 did not have to buy all new valves.

15 EDDIE STREATER: And as Galen said, it goes
16 back to the uncertainty, and some of that being fueled by
17 the some who benefit from that uncertainty. But we can do
18 a better job of getting that out there. We can do that.

19 REBECCA SHER: As stated in the regulations
20 as well, it's something that they can provide a different
21 type of seal for to show that it hasn't been opened or
22 tampered with. It doesn't necessarily have to be a
23 specific type of seal.

24 PAUL REVARD: The valves, even though they
25 were expensive to replace -- I replaced all mine -- some

1 of we had to dig out of scrap piles because the supply
2 stores didn't have any new ones in stock. They got some
3 old ones and sandblasted them and made them useable.

4 But I thought it was a little bit ridiculous to have
5 us put the sealed valves on the bottom of all the tanks.
6 You didn't require any locking mechanism for the fee pad
7 on top of the tank. And they called it a fee pad for a
8 reason.

9 That's where if you're going to steal oil, that's
10 the easiest way to get it. That's the biggest opening.
11 You don't have to open the valve, you just lift the lid,
12 drop your vacuum hose in there, pull out what you want,
13 and take off with it.

14 So what was -- I never understood what the point was
15 to have the sealed valves along the bottoms of the tank
16 and across where they connected to each other if you
17 weren't going to have one on the fee pad. Thank you.

18 EDDIE STREATER: Let's go ahead and break,
19 then, for lunch.

20 (Whereupon, there was a recess taken.)

21 EDDIE STREATER: We're going to go ahead
22 and get started again. Talee had the floor but we'll give
23 it to him when he comes back.

24 So until Talee gets back, does anyone have anything
25 that they would like to discuss with regards to the

1 valuation, we can go forward on the valuation part or we
2 can move on to the next section. Or if the Minerals
3 Council wants to try anything outside of that, we can talk
4 about it.

5 CYNTHIA BOONE: I just want to know, later on
6 you said that you were going to be doing an economic
7 impact study. Will that include looking at the
8 production?

9 KRISTEN KOKINOS: Yes.

10 EDDIE STREATER: Current and past, yes.

11 CYNTHIA BOONE: That's what I was
12 interested in, yes. Thank you.

13 KRISTEN KOKINOS: Any other comments on oil
14 and gas valuation? Or would you like to move on to the
15 next possible topic?

16 GALEN CRUM: We didn't say anything about
17 gas.

18 EDDIE STREATER: Well, and that's -- yeah,
19 we can certainly visit about that.

20 GALEN CRUM: My experience is this is
21 complicated both in what, how to do it right, and the
22 changes that would, you know, need to be made to get it
23 right.

24 CHARLES BABST: Galen, I think it's hard to
25 figure out what's right.

1 GALEN CRUM: Yes, yes. That's true. That
2 too because historically, what we have now is the
3 producers are making gas contracts, sales contracts with
4 people to sell the gas that they produce.

5 Very few of them are actually primarily gas
6 producers. So oftentimes, what the -- what comes down is
7 that they have to find a marketer, get rid of the gas and
8 produce oil. And so they're -- and we are not involved in
9 those purchase contracts.

10 The BIA gets to see them, but as far as I know, none
11 of them was ever turned down because it was bad for the
12 Osages. I haven't been able to find one that was.
13 Perhaps historically.

14 So what we have is a limited number of purchasers
15 that are -- and their area. They're spread out in area.
16 So they're kind of taking advantage of the situation, in
17 my opinion, in what they're doing. But as far as the
18 Osages are concerned, the BIA has very little regulation
19 on how the gas is to be measured first off.

20 There's no benchmarks. In oil we have a benchmark
21 of HPP on how to be valued. There's no benchmark being
22 used across the board on what our royalty gas should be
23 valued. And I want to stress this every time I'm talking
24 here is that I'm talking about royalty amounts. Same way
25 with oil.

1 You know, what they sell their oil for is really not
2 our -- I mean, we have to be concerned with it but it's
3 not our place to tell them what to sell it for. What we,
4 the Minerals Council, the Osages, the BIA should be
5 worried about is what the value is for the royalty.

6 And right now we -- we have contracts that give away
7 as much as 70 percent even of the gas never gets paid for
8 got to the producers or to the Osages, of course, because
9 we just get a percentage, whatever the percentage is of
10 the sales proceeds that the -- that the producers get.

11 So if it's given away beforehand, I think given
12 away, they have made a contract that nobody gets paid for
13 that; the pipeline just acquires it. And so we're -- it's
14 a smaller part of our total income picture. And it's --
15 for most people, it's a smaller part.

16 For most producers, it's a smaller part of their
17 income picture. So they're not as concerned about it as
18 what they are about the oil sometimes which leads to them
19 not, you know, perhaps fighting aggressively to get a top
20 price and to get a price measurement.

21 They're happy to get it done in an official way and
22 be able to produce their oil. They may not be happy with
23 the deal that's been offered to them but, you know, they
24 feel like they need to produce. So to Chuck's statement,
25 yeah, it's hard to know what to do.

1 But the position that was taken by the Second
2 Minerals Council that went in to try to solve the problem
3 is that we felt that the Osages should get paid for a
4 hundred percent of the gas that we don't give any away on
5 it, that the gas would be measured at or near the
6 wellhead, and then tested for MMBtu value.

7 And then the MMBtu value would be applied to the
8 price that is published by ONRR every month as the OK --
9 or the Oklahoma Double 1 price. That was the position
10 that was taken within the rulemaking.

11 There's other ideas that's been thrown out, you
12 know, redoing contracts and all that kind of stuff. It's
13 starting to get better contracts. But what we saw in the
14 deal as the committee, was that it would take for, you
15 know, a long time for attrition to do away with those
16 contracts, and for us to start giving away our oil.

17 So by doing the keep whole method, you measure the
18 full MMBtu value, you measure that at or near the wellhead
19 so none of it is taken off beforehand. They could still,
20 of course, use it on lease. That was still left in there.
21 But anything after it left the lease -- like in the
22 current rule has to be paid for by whatever the standard
23 royalty was for that lease.

24 Like I said earlier, doing it that way would require
25 some infrastructure for some of our smaller outfits. The

1 bigger ones already know. They're measured, they can tell
2 you in Dallas or someplace, wherever their headquarters
3 is, which is what that gas is producing, how much it's
4 doing and whatever.

5 But others of it don't even really have a
6 measurement at the wellhead of any sort to be able to pay
7 it. And previous regulations did not actually spell out
8 in any way that you're supposed to set up a proper
9 metering device to do it. It just says meter it -- what
10 was the term -- preferably by the -- now I've lost my term
11 -- by pressure differential, pressure differential method
12 which is, you know, anything from a drum to a meter, you
13 know, proper meter.

14 So there was nothing told them, you know, how many
15 feet does it have to be from the last obstruction, how
16 many, you know, for this diameter of pipe. Even to say
17 that the diameter pipe is true and not just some pipe off
18 the yard.

19 There is nothing within the regulations that spells
20 out how to do that currently. So we looked at going to
21 industry standard doing that. And what we did was it was
22 brought up to us about BLM zone -- or on shore order -- I
23 get confused -- 5 or 6, whichever one is for gas. One of
24 them is -- it's 5? For 5. And that they had all of that
25 in there.

1 They had this industry standard plus they had some
2 mechanisms for determining the kind of -- what consisted
3 as a serious violation or less serious violation. And
4 then there was also stuff in there about less than a
5 hundred MCF.

6 All that stuff we thought would be, you know,
7 probably helpful to put in. So and we didn't want to
8 reinvent the wheel. And we figured the Government would
9 be more adept at enforcing it if they had a model on how
10 it was being enforced otherwise.

11 CHARLES BABST: Let me ask you just a
12 factual question because I remember when you talked about
13 this, I just want to make sure I understand. You're
14 talking about the discussion that I recall was that folks,
15 you know, producers were in a position where they were
16 essentially required to take whatever price the pipeline
17 company would agree to pay them or flare the gas and pay a
18 royalty without getting any sales at all.

19 GALEN CRUM: Well, yeah, there is that, but
20 of course EPA is going to step in at some point.

21 CHARLES BABST: Right. But I mean, flaring
22 still does take place.

23 EDDIE STREATER: And with regards to this,
24 as Galen said, this is a really complex issue on gas
25 valuation how you get paid. And I think you will see that

1 in private industry as well as Government. I mentioned
2 ONRR; they don't have this locked down either.

3 You've got a bunch of costs in these gas contracts
4 that can drive down where I've seen in Pennsylvania, for
5 example in the news here shortly, that individuals are on
6 the negative side. They say they owe, the mineral estate
7 actually owes the way that they have done the
8 transportation costs, the treatment costs.

9 They have hit it with all these tariffs until it's
10 valued to nothing or less than nothing. And that's
11 definitely something that we have to address.

12 GALEN CRUM: And that's the testimony we
13 got from Mitch and from his senior counterpart, Paul Tyler
14 there that a huge percentage of the enforcement problems
15 they have on gas production and gas collection is within
16 those charges.

17 Are they real? Are they made up? Are they actual?
18 And so they, you know, BLM and them end up in enforcement
19 problems all over trying to see whether those downstream
20 charges are real.

21 That was another reason we went with simple. We
22 thought what's the simplest way we can get the most value
23 out of it. And that's one of the ways that we felt that
24 we would. And with that keep whole and measure it and one
25 price.

1 So we were trying to -- no offense to the BIA -- but
2 looking at their ability to run things in the past, we did
3 not want to make it more complicated than what we had to
4 to make it work. And we felt that we reached something
5 there.

6 Now, is that a perfect method? Is it, you know, I'm
7 not here to say that. I'm just trying to explain what --
8 what the new rules said and what the old rules said. That
9 was my whole point of speaking here. And that there was
10 definite reasons why we selected the way that we did on
11 that.

12 And one of them is that we would immediately -- and
13 this is not necessarily good news for the producers -- but
14 we would -- the Osages would immediately be able to start
15 getting paid for the full amount of the gas at a
16 reasonable valuation and a reasonable price.

17 EDDIE STREATER: If I may, Talee had the
18 floor at the end of lunch.

19 STEPHANIE ERWIN: Why did you let him
20 (indicating) talk?

21 EDDIE STREATER: Well, Talee wasn't in
22 here.

23 TALEE REDCORN: Talee Redcorn, is the
24 discussion on gas? Is that --

25 EDDIE STREATER: Well, you had something

1 right before lunch. It's whatever.

2 MICHEL MOUTON: It was on valuation. Go
3 ahead.

4 TALEE REDCORN: Well, okay. This is on
5 gas. I spent several years as a research engineer with
6 ConocoPhillips.

7 One of the things we did was to do a total
8 assessment on any kind of process out there was handling,
9 how are you going to handle the gas, the off gas, et
10 cetera. So we did a lot of research on that end.

11 So coming into the Minerals Council, my experience
12 has been is that we have had a set standard or a set
13 method or way to value after that. But I think it didn't
14 allow enough flexibility because we do have the issue of
15 liquids in the gas.

16 And we have the big issue of quality of gas. Or we
17 might have an issue with a contract and how those
18 different types of components in the gas stream could be
19 sold. And I think if -- I would like to see, going
20 forward, taking a little more time to discuss these issues
21 with experts. And maybe even have an economic, you know,
22 determination with our gas sales.

23 We just don't do it one way. We might be cutting
24 ourselves short. And maybe another way we want to handle
25 it. And one of the big ideas that's come lately is the

1 treatment of the liquids, peel off liquids and those
2 things will be a lot more valuable than if you burn it in
3 your Btu value and you sell it at your sale point.

4 So issues like that, I would like for the Tribe
5 through their sovereignty to have that flexibility to be
6 able to determine how we're going to value our asset. I
7 think this is just one of the issues that we can, going
8 forward, we can grow.

9 You know, I'm really interested in getting the best
10 of the folks that are dealing with gas sales have our
11 ability to communicate with those kind of consultants and
12 then come forward with a solid plan which I think is
13 growing. But I'd like to be able to jump into that aspect
14 as well.

15 Going backwards, looking at the way the Bureau
16 handles the oil side, it's fantastic. I mean, we've done
17 some research back 2006 to '10. I think on the field
18 side, you know, our guys are really good at handling
19 accountability for the oil sales.

20 And but I think when it comes to gas, I think
21 there's room to grow on all sides. And I think even at
22 that time we had an approval from the Bureau to see if we
23 could grow in that aspect. So I would just like to
24 continue that effort if we could somehow grow even better
25 with our gas to ensure that we're getting the utmost.

1 But also we participate in the sale point wherever
2 we want not so much as we're told we're going to sell at
3 this location at this with this methodology. Is there
4 something forward or backwards or maybe even getting more
5 involved in where you sell not only at the sale point but
6 in the network, you know.

7 And of course, there's a contract that come into
8 mind which that's been brought up. And we've looked at a
9 lot of contracts. We have a gas consultant. So the
10 contracts that we're looking at, we're not doing well, and
11 perfect contracts. I think we need to get better.

12 But I just want a little bit of flexibility that we
13 could grow with this using our Tribal authority to do
14 that. Thank you.

15 STEPHANIE ERWIN: Okay. I'll make this
16 short and sweet. My name is Stephanie Erwin, the Osage
17 Minerals Council.

18 Most of the gas buyers here in Osage County; there's
19 Kinder Morgan, a/k/a Scissortail, I would seem to think
20 and I would say, that they're allegedly price controlling,
21 price fixing.

22 Because they buy the bigger part, if not all the gas
23 in Osage County. I mean, and they tell those guys that
24 we're only going to buy 50 percent of your gas, and they
25 take 100 percent of it. We're only getting royalty on 50

1 percent. So somebody somewhere is getting ripped off.

2 And it's us.

3 Now, If the oil man wants to get ripped off, which
4 I'm sure he doesn't, but somebody somewhere has got to fix
5 that problem and that needs to be in the regs, how to make
6 them accountable for the gas. Thank you.

7 PAUL REVARD: The gas systems in Osage
8 County, like Councilwoman Erwin just mentioned, there is
9 one really large one. And that would be -- it is really
10 the old Phillips system that went through several name
11 changes and ownership changes.

12 So they're kind of unique. They are the biggest
13 gathering system up here. But a lot of our systems in
14 Osage County are real small gathering systems.

15 For instance, in the southeastern part of the
16 county, there's one called Keystone. It's owned by a guy
17 up in Drumright, Oklahoma, Rick Sellers. And if you -- if
18 one of our operators wants to put on a well, he's
19 presented a gas contract.

20 And it basically is taking a (indiscernible)
21 contract. There is no negotiation. And just like
22 Councilman Crum mentioned, these producers, for one thing,
23 they don't have the 100,000 plus a day wells. Maybe their
24 wells will come in that big but like Mr. Crum said, most
25 of them are just casinghead gas that's associated with the

1 removal of the oil.

2 And the reason why he said that you wanted to get
3 rid of that gas is so that if you're holding back pressure
4 on it. For instance, if you just shut it in and didn't
5 vent it or didn't sell it, or shut it in, that prevents
6 from getting fluid at the wellbore. So they would
7 probably have the oil.

8 But each one of these little systems, whether it's
9 Keystone in the southeast or the Old Gene plant in the
10 northeast, I think Scott Duscharm used to own that. I
11 don't think he still does.

12 They have, supposedly, they're not making a lot of
13 money off of this gas. But that's just what they tell
14 you. In fact, Keystone is actually making a comment that
15 they lose money on their Osage accounting system that
16 they're operating just because it's already in place, that
17 they're actually losing money.

18 But it's a take it or leave it. There is no
19 negotiating. And Councilwoman Erwin is correct. These --
20 these 60/40, 70/30 contracts that the producer gets, the
21 take it or leave it, the part that the purchaser gets, say
22 the 60/40, the purchaser gets 40, the producer gets 60,
23 the purchaser is not paid a dime of royalty on the 40
24 percent. They manipulate the contract, the wording of the
25 contract such that that 40 percent is some kind of

1 recoupment of costs, transportation, dehydration, things
2 like that.

3 But so it's a -- it's a (indiscernible) market. It
4 would be nice if there would be a way that we could
5 consolidate all the systems and have the mineral estate
6 own it, maybe help the brothers from the Osage Nation,
7 maybe the Chief Standing Bear could look into that.

8 That would be the ideal situation is for the mineral
9 estate to take complete ownership of the -- of all the
10 systems. And lastly, if -- you know, as of the way things
11 are, if Councilman Crum wanted to receive royalty based on
12 the prices that the producers do not receive just like the
13 oil in (indiscernible), it's not fair for the producers to
14 have to pay, or have to pay a higher royalty than what the
15 producers receive.

16 It's just not fair. And it would just be one more
17 reason and that's what, you know, the Minerals Council is
18 responsible for the development of this mineral state, and
19 this is not something that's going to bring more producers
20 in for exploration. This is just one more thing that
21 might drive our producers out of the county.

22 EDDIE STREATER: I guess I have a question.
23 Are you saying when you referred to that, is it the keep
24 whole method is what you're referring to, the keep whole
25 method if you went to the 100 percent? Is that what

1 you're referring to?

2 KRISTEN KOKINOS: Is the problem that
3 you're addressing more with the method, the contract, or
4 the use of the pricing index?

5 PAUL REVARD: Well, it would be nice if the
6 producers had other options except for one single
7 purchaser.

8 EDDIE STREATER: Well, and in regulation,
9 and this -- this really goes to a legal question. But the
10 U.S. Government's ability to enter into third-party
11 contracts is probably -- we don't have that ability to do
12 or to influence that contract.

13 But we, you know, there's got to be somewhere in
14 here on the gas valuation where we can get where it
15 doesn't hurt the producers so much and yet still captures
16 value for the minerals estates. Make no mistake, this is
17 a tough -- this is tough.

18 PAUL REVARD: With no competition, unlike
19 the oil purchasers, the oil purchasers can have different
20 purchasers they can select.

21 CHARLES BABST: You can put it in a truck.

22 PAUL REVARD: But the gas purchasers, it's
23 take it or leave it. Even if there's another system five
24 miles up the road, that's too far to try to sell 25 MCF a
25 day. Okay? And another comment that I'd like to make

1 from what Councilman Crum had mentioned is the measuring.

2 And I know that it was brought up as a suggestion in
3 the last regulation proposed to meter at the well, each
4 well. It's just not economical. You cannot justify the
5 expense of a meter at each well.

6 Because some of these wells, an operator may have a
7 field of 14 wells. And one may make 7 MCF a day, one may
8 make three, one may make 15.

9 You can't go put a meter on each one of those,
10 especially the 3 and 4 and 5 MCFs. It's just not
11 economical. It would take you 50 years to pay off the
12 cost of the meter. So it's -- it's just -- it's a
13 problem.

14 GALEN CRUM: And that's the reason we put
15 in there "at or near the wellhead." Because we recognize
16 that you're going to need to, on these smaller deals, to
17 consolidate.

18 It's just what leads -- the line we tried to draw in
19 the regulations before it left lease. So even then,
20 beyond that, there's the ability to have consolidated
21 leases where you consolidate other leases. And then it
22 can be when it left the consolidated leases.

23 And what I was going to bring up is exactly what
24 Eddie brought up. We explored the idea of how can we, the
25 Osages, back from the Osage, you know, perspective, how

1 can we improve this.

2 And one of the first things we tried to find out is
3 if we could change those contracts. And all we got is
4 just what you said. We have no ability to do that, we
5 have no ability to enter into it. There doesn't seem to
6 be an ability for a wilful -- a willingness to interfere
7 with it before they're signed.

8 They come across the desk and they're passed on
9 through. Now, I'm not -- I'm not saying -- I figure, at
10 least, that that is partly because they don't have any
11 real authority to interfere in third-party contracts.

12 We don't interfere with the oil in third-party
13 contracts. And they probably didn't feel they really had
14 the ability to do that.

15 It's something I asked in the last consultation
16 meeting was this exact same question. And the answer we
17 got then was that. So then that leaves us if we're going
18 to solve the problem, it's not going to be with forcing
19 our producers to sign contracts that are amiable to the
20 Osages.

21 You know, I mean, and their purchasers that are
22 buying it. We just don't have that ability to get in
23 there perhaps unless we say that all contracts have to say
24 this.

25 CHARLES BABST: I have a historical

1 question. I know I look like I'm as old as dirt but I'm
2 not. How long has this been a problem and what was done
3 historically? Because we've always had associated gas.

4 GALEN CRUM: I asked this question in the
5 past, how come we never -- you know, the reason that, like
6 Talee says, we do a pretty good job of measuring oil, is
7 because at some point in the past the superintendent says
8 we're going to use API.

9 CHARLES BABST: I know, but did they just
10 vent it or flare it or is that what historically --

11 GALEN CRUM: When I was a kid growing up,
12 you could drive around the country and it looked like
13 Christmastime.

14 CHARLES BABST: Yeah. That's what I
15 suspected.

16 TALEE REDCORN: We had one lease just
17 recently, and Ms. Phillips pointed it out to us. You
18 know, they did it this certain way. And they were using
19 -- they leased the full gas in eight other locations. And
20 we had to bring it under compliance.

21 And so that's just kind of indicative of how the
22 industry ran. So we had to kind of backtrack and kind of
23 fix the problem. I -- I'm in a, you know, what Paul is
24 saying is we might grab the producer and the producer
25 might grab us, and we're going to get in this tug of war.

1 But somewhere the supplier, anytime we faux pas, the
2 producers, royalty owner, the supplier, these guys that
3 are purchasing gets it. They get the bulk of the value of
4 that gas.

5 So if we don't -- you know, if we're back and forth
6 with these guys all the time and you guys are back and
7 forth with the producers -- he's a royalty owner, I'm
8 sorry, that's his title today.

9 But, you know, we're eliminating that big, and I'm
10 talking as Robin pointed out in many contracts we're
11 seeing, 70 percent of these guys are grabbing value. So
12 they're just sitting back and watching this.

13 PAUL REVARD: The purchasers.

14 CHARLES BABST: Exactly. But if you can't
15 get them to run a line to your production, --

16 TALEE REDCORN: I'm hoping that we can have
17 some flexibility where we can approach purchasers and we
18 can maybe talk to the Tribe as a development entity and
19 say what are our avenues to sell this gas. And I would
20 like some flexibility in the regulations as these people
21 grow and mature.

22 EDDIE STREATER: There again, that's not a
23 regulatory function when you go out. There's nothing
24 keeping the Tribe from doing that right now, the Minerals
25 Council reaching out and attempting to do some

1 infrastructure.

2 There's nothing that we can do regulatory wise that
3 will establish an infrastructure in Osage County. We just
4 have to get a price point that we can live with.

5 TALEE REDCORN: If we don't enter into this
6 kind of discussion, hopefully, we can. We can bring some
7 folks in to say, Are we leaving something on the table.
8 And if they say, No, you can't even go in that direction,
9 that really cuts us off.

10 EDDIE STREATER: I'm not saying you can't.

11 TALEE REDCORN: I appreciate what you're
12 saying.

13 EDDIE STREATER: I'm not saying you can't
14 go in that direction. I'm just saying I don't know how
15 regulatory wise within 226 that we can do that. Rebecca.

16 GALEN CRUM: I was still going. Let me
17 finish that thought because there was a place I was going
18 with it.

19 CHARLES BABST: I'm sorry.

20 GALEN CRUM: That's okay. You asked a good
21 question. Since changing the existing contracts looks to
22 be really tough, even mandating future contracts I think
23 is problematic. Perhaps it can be done but certainly not
24 changing the whole.

25 After we're left with trying to figure out how to

1 implement a program where the Osages finally start
2 getting, like everybody said, get paid for the full value
3 of the oil on however we determine that. I'm wondering if
4 we -- if, in order to make it -- and this is something
5 we're going to be getting, because we found no way to
6 protect the producers, and get the full value for the
7 Osages.

8 If it's just a -- there wasn't a path to get there.
9 And it was part of what I brought up many times, if Eddie
10 remembers, how are we going to implement this gas deal.
11 This gas deal is a problem.

12 And I wonder, as we revisit it, we couldn't look at
13 it in that tiered fashion that we were talking about on
14 the other problem that we -- and one of the reasons that
15 we looked at that offshore order because it had stuff in
16 there that protected because BLM had run into guys that
17 were producing less than 100 MCF. And they had some
18 things in there for them to be less regulated in terms of
19 how they had to do things.

20 Perhaps we need to go -- I know we can go further.
21 We can write -- you know, you guys on legal and us, we can
22 put in more things in there to help protect those
23 producers. And you know, in the past, what's happened,
24 and there was a good reason for it, and that was that the
25 oil was more important than the gas.

1 And so the BIA and the Osage Tribal councils all
2 looked at it as well, we really don't want to tackle that
3 gas problem because, believe me, it's a tough problem.
4 And we don't want to foul up the oil production when we do
5 it. But the fact of the matter is those little, you know,
6 the -- like Paul said a while ago, he had a 70/30 contract
7 with him getting the 70, or he mentioned something like
8 that.

9 That 30 given away of gas on an oil deal is not a
10 huge deal for any one producer to do. It's better for him
11 -- in his bottom line, it's better for him to do the deal
12 than not. But when you take all them 30 percents or 50
13 percents, or whatever the Osages are missing out on, it
14 suddenly gets to be a big pile of money.

15 And so we need to look at how we capture that back.
16 And if we can't do it with controlling the contracts, we
17 need to do it with a regulation of some kind that says
18 that we captured before, you know, outside of the contract
19 arena.

20 And that's what we tried to attack with the method
21 that we put in there. We also had a part that I didn't
22 talk about earlier that talked about the liquids. If it
23 looked like the liquids would not be properly captured by
24 the -- by measuring the total MMBtu value, which it most
25 certainly could be, I mean, that's -- that would capture

1 most of the value on fairly dry gas but really wet gas, it
2 probably wouldn't.

3 We did have to put the option in there that the
4 Osages, or the superintendent, could ask that we switch
5 that particular contract over to where, or that payment
6 method over to where we're now capturing the gas first.
7 We get paid for what they're getting for the gas and then
8 we also put in there a cap on what they can charge to
9 capture that liquid.

10 That's part of the regulation that we introduced.
11 So we tried to do both ways. And that part came from
12 Susan actually. I was dealing with her and she -- and so
13 we put that in there because of the concern she raised
14 that if we stay with just the regular measure, we would be
15 losing some value off many of our wells, so we put that
16 in. So that's one way.

17 But perhaps on the tier in (phonetic) is what I was
18 trying to get to, the tier in (phonetic) is trying to
19 protect some of these smaller outfits. We wouldn't lose a
20 whole lot of gas because they're not producing a whole lot
21 of gas.

22 But if we could capture the full value of some of
23 the bigger ones. And some of the bigger ones had to write
24 these deals too.

25 Devon was one of the first contracts I looked at

1 when they did the deal out here by old Alco. That would
2 give away 30 percent off the top until they -- until they
3 had a value of \$250,000 or something like that that they
4 -- that they didn't -- that us and they didn't get paid
5 for gas till they made that up. So it's even the big
6 outfits that are getting rolled by these guys.

7 REBECCA SHER: So my first expression ties
8 back to the ability to influence. I do think it would be
9 worth it to start mandating a specific contract for all
10 future gas contracts.

11 The one that BIA currently uses for leases, you
12 know, if we can get set language that has to be included
13 in all future contracts. My understanding is that a fair
14 amount come across here (indiscernible) for approval each
15 year.

16 So even though we can't hit existing contracts,
17 under the contracts clause, but if we can, you know, say
18 future contracts have to include specific language, I --
19 how many -- do you have any idea how many you're seeing
20 each year?

21 ROBIN PHILLIPS: No, I don't.

22 REBECCA SHER: I don't think it's -- we've
23 seen I think, like, 10 or 15 just that we've reviewed. So
24 I think it could be a fair amount of contracts that we
25 could influence for the future.

1 And my second question was also for the United
2 States, about how, if at all, the new regulations -- I
3 don't know if you knew this, Galen, but the onshore
4 orders, including Number 5 have been replaced by Federal
5 regulation in the last month.

6 And I looked through those regulations and they all
7 exclude Osage County or those -- that the ones for onshore
8 order three, 2 times in there. It doesn't apply to Osage
9 County. So if we wanted to use those how we had in the
10 past, --

11 EDDIE STREATER: Well, if you will just let
12 me answer this while I can still remember. We realized
13 that they were going to change. And Galen was in the
14 negotiated rule as Mitch was.

15 And the language in the proposed rule, that would
16 have been -- our onshore order language would not have
17 changed with subsequent amendments to the onshore. It was
18 set.

19 We decided that was the best way to do it for
20 whatever reason at the time. And we have talked about
21 that since then about how we could reflect changes or how
22 it could be written to reflect the appropriate changes so
23 yeah, that's something we would definitely look at.

24 REBECCA SHER: I don't want to get stuck
25 with the old language.

1 KRISTEN KOKINOS: Right. So we're looking
2 at different methods, --

3 REBECCA SHER: Okay.

4 KRISTEN KOKINOS: -- how BLM onshore orders
5 or other things like that could be adopted or referenced
6 to avoid having the situation where you're referencing now
7 an onshore order that's obsolete, and you're wanting it
8 changed all over again.

9 GALEN CRUM: Eddie is correct. We adopted
10 that as a document.

11 KRISTEN KOKINOS: Right.

12 GALEN CRUM: That read the way it was right
13 then. And in order to update with them, we didn't look at
14 -- at the possibility of being that we didn't want to do
15 it.

16 But as I recall, he explained to me, it was a
17 similar process of what we're doing right now. If we
18 wanted to update the rule, our rule to match their rule,
19 we had to go through a government-to-government
20 negotiation or a process of some kind to do that.

21 So we just adopted -- because we did not want BLM
22 having any power here. And I think that is still
23 absolutely. We're solid. We may disagree on some things.
24 But that is one thing we don't want is BLM having any
25 power here. So all we did was reference them much as we

1 might have referenced AGI for the same thing.

2 KRISTEN KOKINOS: Right. And we -- and we
3 recognize that complication. And so we are looking at
4 possibly better or different ways to incorporate that and
5 how they could grow over time. But it would never be a
6 situation where necessarily BLM is coming in to Osage
7 County or exercising control or anything like that.

8 TALEE REDCORN: As a general comment,
9 coming in in 2014, general comment on how this process was
10 starting to roll through. And I'll just use the church
11 term -- I go to church so -- it was like covering a
12 multitude of sins.

13 It felt like, you know, we had a process being
14 proposed in place. And rather than taking a holistic
15 approach and saying how could we do this business better,
16 how could we on all courts, all fronts, work toward a
17 solution, it seems like we took the bulk of it and handed
18 it straight to the producer.

19 Now, I'm not here advocating for the producer. But
20 I'm saying the shock value was very big. And I can only
21 say that from watching it with my own eyes, ears, and
22 seeing what was going on, seeing some of the feedback I
23 was getting as a Minerals Council person.

24 And I think these things are very real. I
25 appreciate your comment these things never rolled out.

1 But you know, when the United States Government tells me
2 get prepared, get ready, here comes something, I've got to
3 get prepared if I want to stay competitive.

4 But the comments I was hearing was we're
5 competitive, we're competitive, we're competitive, we're
6 gone. We can't -- with all the things that are rolling
7 out, environmental, the things that are rolling out, this
8 thing is a deal killer for our company. We're heading
9 out. We've got to. We've got to survive.

10 So that's the kind of comment I was hearing. And I
11 appreciate that but when I say "a multitude of sins", I
12 think again it's laying the responsibility not on the
13 people that went to court.

14 In my view, it's -- if two people go to court,
15 you're in divorce court or whatever, if somebody is found
16 at fault, then they may want to share some of the
17 responsibility to reshuffle and structure how they're
18 going to do a fix. But it seems to me we're going to make
19 it easy for us to go after this cash and just roll with
20 the process as is.

21 That's kind of generally how I would explain how I
22 saw the solution being played out. And then when we're
23 trying to defend it, it's not -- you can't defend it in
24 the field. We can't defend it locally. Because the way
25 perception is is these folks out here are seeing

1 governmental control and governmental decision processes,
2 and it's going to roll out on us, and there's nothing we
3 can do about it.

4 So that's why again, that's why I voted against it.
5 And I would like to see the United States, the Minerals
6 Council, the Tribe, the EPA, we all come together, do a
7 better job of reworking all of our processes, not just one
8 people which is these folks are easy to go get.

9 Yeah, I understand that. But I think we -- and it's
10 going to impact us because I feel that, the drilling
11 activity that I see, the I see the numbers all around the
12 county and the numbers are falling. They are. Because of
13 the price of oil.

14 But Osage County has fallen a significantly higher
15 than Kay County, Pawnee County, Washington County drilling
16 activity. It happen gone way down compared to the rest of
17 the state. And so I think we've got a trend here. We've
18 got a response to something going on.

19 Now, we can argue is it environmental. But I think
20 Negreg is part of that uncertainty. Companies are just
21 picking up and leaving. And that's leaving us with a big
22 problem of trying to convince people to stay, trying to
23 convince our shareholders we're looking out for them when,
24 you know, we're not really all owning the problem.

25 EDDIE STREATER: Okay. Well, I think

1 that's why we're at the table, Talee. You've mentioned
2 several times today about how the proposed regulations
3 were affected.

4 I guess we need to know which part are the ones that
5 are affected so we can somehow shape those. What specific
6 regulations that were proposed to be changed do we need to
7 be shaping as a group here. In the end, that's what we're
8 looking at.

9 TALEE REDCORN: You're asking me.

10 KRISTEN KOKINOS: We're asking everybody.

11 TALEE REDCORN: Well, I can only talk to
12 for myself.

13 TALEE REDCORN: I would pitch this. I
14 would say I'd like to absorb what we're hearing from the
15 United States. And we've got our consultants and our
16 attorney, and we communicate privately. So I think what
17 you're after is you want to hear this, what do you not
18 like about this? What do you not like about this? What
19 do you not like about this?

20 Well, give us some time. You put something forward
21 and give us time to absorb it, talk to our consultation
22 and our experts and we'll come back. But if you're out
23 today to get a bucket list of what you do and don't like,
24 yeah, all I'm going to ask is give us some time.

25 KRISTEN KOKINOS: Sure. And that wasn't

1 the intention. Today we just wanted to do an initial
2 pre-draft consultation. We know, because of the prior
3 efforts, that there were some kind of big overarching
4 topics or issues within the regs that were problematic
5 both during the litigation, resulting after.

6 And so we wanted to just get some input on that
7 today. But the goal moving forward was always that there
8 would be a draft provided to the Nation and to the
9 Minerals Council for your review and comment, and then we
10 would meet after you had had time to review that
11 internally. And then we could discuss the issues
12 specifically with what was in that discussion draft moving
13 forward.

14 GALEN CRUM: Along -- a really short
15 comment. As I'm looking down through your list, these
16 were some of the things, of course, we beat our heads
17 against down here, bonding, and some other things. I
18 wonder, to your point.

19 It might be well to just go ahead and talk about a
20 few of those things on down the list. And then maybe you
21 can get a feel of what, at least on those subjects, that
22 some of the people in the room feel about it.

23 KRISTEN KOKINOS: And that's what we wanted
24 to do today is just get your feel on those larger,
25 overarching topics before we go back and potentially put

1 together a draft for your review.

2 TALEE REDCORN: Could I propose that you
3 put it in writing each and every one of those things. And
4 then we as a team could go and we can bring our
5 consultant, and our attorneys in. And that way we're
6 doing holistically from the United States and holistically
7 back to you.

8 EDDIE STREATER: Well, we're not here to
9 force any regulation on the Tribe. We would actually like
10 it to come the other direction. We would like it to come
11 from the Tribe, the Minerals Council what their concerns
12 are to us. And we can go from there.

13 CYNTHIA BOONE: Well, what I'd like to say
14 is with the Bureau's mission to enhance our lives -- I'll
15 just read it to you. You know what it is.

16 But to carry out the responsibility to protect and
17 improve trust assets. I -- I just pulled, just for kicks
18 and giggles our oil production for 2014, '15 and '16.

19 In 2014 we were producing more than 13,000 barrels
20 daily except for one month. In 2015, our production, we
21 only hit the 13,000 mark twice. It was lower than that.
22 And now in 2016, we're down to as low as 11,200.

23 You know, I know that there is something going on
24 out there. We all know it. We've heard it said more than
25 once in this meeting that our production is down, people

1 are walking away. And the term that I've heard in talking
2 to my oil producers is not the uncertainty of these regs.
3 They refer to it as the "threat" of these new regs.

4 They're not happy with NYMEX pricing, they're not
5 happy with bonding, there's several other issues. But
6 it's all in the record because they were all made in
7 public comments.

8 And so these things are still hanging over the oil
9 producer's head. And I've said it before earlier, that
10 there's a group of people that are not going to stay here
11 if these new regs are to move forward.

12 What I want to say, or see is changes that will
13 increase the investment in the Osage Mineral Estate. And
14 the way they are now, I don't see it happening because our
15 production is decreasing daily. Thank you.

16 TOM FREDERICKS: You know, I think what we
17 need to do is we need to, like you say, it would be on us
18 to put the OMC and the Osage Nation, put something
19 forward. I think we have to look at all of the
20 regulations that -- I know the BLM has just issued about
21 668 pages of regulations on oil and gas turned in the
22 onshore oil orders due to regulation. And they're also
23 going to come out with some value, I think value
24 regulations, aren't they?

25 MICHEL MOUTON: They don't apply here.

1 TOM FREDERICKS: They don't apply here.
2 But that's going to be their mind-set because you guys
3 have done it. So we need to look at them to see what's in
4 the wind. That's a lot of review.

5 I've asked Rebecca to look at it. And she told me
6 it's 668 pages. And so we've got to digest that. And I
7 think we can come back with a proposal. We need to work
8 with the Nation, see what they -- what they want to do.

9 And if you guys want to work together or you want to
10 do this separate. But we can do that. What I was hoping
11 is we could kind of develop a preamble, if you would, to
12 regulations that kind of set the policy for it.

13 And I know we had worked on a preamble for the Army
14 and the BOI and Justice for their consultation to try to
15 get them to adopt what the policy would be, and then we
16 could develop the details of the policy after we agreed on
17 some of the preamble what would be the purpose and the
18 goals of the regulations. And I don't know if that's
19 possible. But we should try to do that.

20 REBECCA SHER: Just speaking in general
21 terms about other items that I have heard the Council say
22 especially in relation to the 2015 Final Rule about issues
23 that weren't included on the topic list today, is there's
24 a few places in the 2015 regulations that the Council
25 previously had authority that was taken away in those

1 regulations such as the royalty one we've already hit and
2 then also the ability to waive late fees or -- late fees
3 or penalties, too. And you know, we can spell those out.

4 I don't have a list in front of me. But I can
5 comment that the Council would love to have those powers
6 retained in the regulations going forward.

7 Another issue is the -- I can't remember which
8 number it was in the new regulation, but one of the very
9 last ones that states the superintendent's notice to
10 lessees and orders are considered regulations and must be
11 complied with. I think that having some public comment
12 period allowed their requirement that the Council gets to
13 review those as well would go far as well.

14 KRISTEN KOKINOS: And just as a note on
15 that point, for notices to lessees or any orders to the
16 superintendent, they are subject to appeal. So there were
17 always appeal rights there. But that's certainly
18 something we can look at.

19 ROBIN PHILLIPS: As I'm looking at some of
20 these suggested discussion topics for discussion today,
21 several of these apply to leasing such as the bonding and
22 so forth. And there are several problems or issues at the
23 agency right now that the Agency is experiencing. And I
24 really think that we should talk about that as opposed to
25 waiting for the review of the BLM's onshore orders because

1 my opinion they don't apply here.

2 But I know that I brought up Number 8, rental for
3 salt water disposal wells located off leases premises. I
4 know that I brought that up before. And I think the
5 Minerals Council said, Let's wait till the next month and
6 start discussing it.

7 I'm not saying it is anybody's fault, because I
8 forgot about it as well. But it is on here. So if we
9 could proceed in discussing some of these things, I would
10 appreciate it so that I would know where maybe we're going
11 or where we're going to go.

12 Is that possibility? Good. Thank you.

13 KRISTEN KOKINOS: Sure.

14 ROBIN PHILLIPS: Do you want me to go on?

15 KRISTEN KOKINOS: I mean, you're welcome
16 to, if you'd like.

17 EDDIE STREATER: Well, I think that
18 certainly the bonding by itself will take up today and
19 probably --

20 KRISTEN KOKINOS: The rest of the week.

21 ROBIN PHILLIPS: Oh.

22 EDDIE STREATER: But we're all ears when it
23 comes to bonding, on how to get a handle on a bond that
24 will protect the service and protect the mineral estate
25 and also not drive the producers out of business. The

1 floor -- the floor is open, guys, on bonding.

2 KRISTEN KOKINOS: Just to throw out some
3 figures on the bonding that we had. They're just, you
4 know, approximate and general.

5 I think we had got some information that the
6 estimated cost to plug wells, it was approximately \$15 per
7 foot if you've got a well that's over 10,000 feet. Or
8 between maybe 7 to \$10 per foot if it's less than 10,000
9 feet.

10 Plus you've got the costs of reclamation which are
11 widely variable in here, maybe \$200 an acre, to \$15,000 an
12 acre. I mean, it just depends. We know right now the
13 current bonding is \$5,000 per lease. So essentially, in
14 many cases, not enough to plug one well or more than one
15 well.

16 And the OCC had put out some data on the wells, the
17 average cost to them of plugging wells over the last five
18 years was about 17,000, \$17,000. I know in the Final Rule
19 that we remanded, the bond amount was \$5,000 per well
20 times the number of wells on all of the lessees' leases up
21 to a maximum of 25 wells.

22 And there was a lot of comment on that. We're
23 really open to, and want your input on bonding. You know,
24 it's an issue nationwide, not just at Osage. Congress and
25 the GAO have reported on it. We really would like your

1 input.

2 GALEN CRUM: Like Eddie said, this is
3 something that we bounced all over with. We bounced it
4 off the producers. Actually, what made it into the new
5 rule was an agreement made with the producers on that out
6 there and then they kind of talked like they hadn't done
7 that.

8 You know, just a roomful of producers and the
9 producers association was driving it. As you said, the
10 current rule is just \$5,000 per lease. And that creates a
11 whole lot of problems because not only is it not enough to
12 plug a well, but there's no incentives for people to plug
13 them as you go along.

14 When you take one out of production, they don't even
15 have to really report that to anyone which would be
16 financial incentive to take it off. If you take one out
17 as you're going along and making money, when the time is
18 right when things are happening good, not necessarily
19 right now, but when you do that and you get ready to plug
20 one, why, it doesn't change your bond any at all; it
21 doesn't help you.

22 So there was all these things to look at. And I've
23 got to admit what we did was we backed up off of the
24 actual numbers, just like you said. We did the same
25 thing. We came up with about 10,000. And we just backed

1 up from it and pinned a number on it and punt it. You
2 know, that's how it worked.

3 But the theory was solid on was that it should be
4 per well. Because that's the way you plug them is per
5 well. So, again, I'm all ears for somebody to tell me how
6 you protect.

7 And you know, one of the things that hurt when we
8 would hear is the small guys who would say, you know, I
9 can't believe this. I can't pay this. But who are you
10 guarding against with the bond?

11 You're not guarding against Chaparral or somebody
12 like that because if they forfeit on the bond, they lose;
13 you know, they can't do business here anymore, you know.
14 If they lose the nationwide bond, they can't do business
15 off of that bond.

16 So the very small guy that could just pick up and
17 walk off, that's the one that's most likely to do it
18 anyway. So my heart, you know, I just couldn't figure a
19 way around that was -- that made me feel good.

20 And we did what we did on it. And if somebody can
21 come up with a better idea, I'm all for it.

22 CHARLES BABST: What he said.

23 TALEE REDCORN: During this discussion on
24 the bond, and I don't recall where I found this
25 information. The Texas Railroad Commission was involved

1 in a similar problem.

2 And from my recollection, they had a rollout
3 process, not so much, and again, I'm talking shock value
4 just like I mentioned earlier this morning. I think
5 possibly I didn't see how or why they made that decision
6 to roll out.

7 But I'm assuming that maybe some economic
8 assessments were done to try to determine the impact on
9 the industry, how it's going to impact not only the -- all
10 the parties involved. So I, you know, I think again, if
11 we could come back to the table and look at the impact,
12 the economic impact of such as a decision just to this,
13 the rates, the NYMEX of the gas, those things, I mean, I
14 would like to see the impact assessed.

15 You roll all this stuff out at once, and that's what
16 we were facing. So anyway, that's a good example, I
17 thought.

18 EDDIE STREATER: We did take a look at the
19 role the Commission takes.

20 ROBIN PHILLIPS: One of the things that the
21 Osage Agency is experiencing right now at this point is we
22 follow this, then 226.6 right now is, as it states, the
23 regulations we're following right now at D, it says the
24 right is specifically reserved to increase the amount of
25 bonds prescribed in paragraphs A, and C of this section,

1 when the superintendent deems it proper.

2 Well, right now at this point some of the lessees
3 are having a little bit of an issue when I come back in
4 and say, We need to increase the bond. So I really think
5 that if there was something specific that was specific in
6 here, such as a bond, an amount, that it would help the
7 Agency tremendously because right now at this point, I am
8 experiencing that with the lessees.

9 PAUL REVARD: I don't think it's quite fair
10 that we have regulations that would be adopted that would
11 be retroactive to the producers when a producer maybe
12 acquired a lease in Osage County with several unplugged
13 wellbores on it. He knew what the bonding was even though
14 Superintendent Phillips, we decided that there's always
15 room in the regulations that the superintendent could, if
16 deemed appropriate, could increase that.

17 It's something that historically hadn't been done.
18 Somebody came in recently and bought some leases and not
19 realizing that there may be 10 extra wells that they may
20 have to put \$5,000 per well. That's a substantial amount
21 of money that they weren't expecting.

22 I don't think it is really fair. I think that's
23 just another thing, another reason why we might lose some
24 more of our producers if something like that was
25 implemented. To Texas, I'm familiar with Texas. I've

1 operated, and I still operate lots of wells in Texas.

2 And what they -- what they have, Texas operators
3 have a certain amount of plugging liability across the
4 county. Wells that are shut-in, maybe they're capable of
5 production but the operator hasn't produced them. And
6 we've got thousands of them like that here.

7 They have gone to the expense to get cost estimates
8 on a per well basis of what it would cost to plug that
9 well. And then a few years ago, they implemented a little
10 -- I'm going to consider it a program, regulations.

11 But they started having the operator do one of three
12 things on these abandoned or shut-in wells, temporarily
13 abandoned wells. And this is provided that they have an
14 engineering report that -- a certified engineering report
15 out of house, not in-house, that would testify to the fact
16 that the well is capable of production and it should not
17 be plugged.

18 So these are the type of wells I'm talking about
19 now. They came in and put a cost per well. One well
20 might cost \$10,000 to plug in their estimate.

21 Another one might be more of a complicated wellbore
22 than they're familiar with and that may be \$30,000. So
23 they would send the operator a list when they renewed
24 their permit, and it was, you know, in black and white
25 showing what their liabilities.

1 They had three options: Either plug the well, which
2 wouldn't be good for the state or the operator if it's
3 capable of production; or produce the well, convert it if
4 it's in producing status; or the third, put up additional
5 bonding to cover the cost to plug that well.

6 You have those three choices. And that's the way
7 they do it now. But we know that we have operators here
8 that have bought leases years ago. And I'm sure the
9 superintendent is familiar with the Longhorn area where
10 there's hundreds, hundreds of wells.

11 And I forgot the name of the outfit out of Oklahoma
12 City that operated them. But they may have 6 or 700
13 wellbores. They don't even know where they are. They
14 were drilled long ago and they bought the property.
15 They're shallow wells, if I'm not mistaken, real shallow.

16 But you just can't go in there and slap a \$5,000 per
17 well bond requirement on hundreds, literally hundreds of
18 wells. I mean, that would be one of these -- I mean, it
19 would just bankrupt them and they would be gone.

20 EDDIE STREATER: Well, they do have the
21 option of if we incorporated. And we're not saying this
22 is what we're going to use. That's not what we're talking
23 about, but they could get it nationwide.

24 PAUL REVARD: Well, these -- to get it
25 nationwide, you have to show some substantial financial

1 statements to get one. You have to have equivalent cash,
2 liquid, to get one. It's really difficult. In your
3 numbers did you say \$15 a foot?

4 KRISTEN KOKINOS: \$15 per foot for wells
5 that were over 10,000 feet.

6 PAUL REVARD: Over 10,000. We don't have
7 anything like that.

8 KRISTEN KOKINOS: Which we don't have,
9 right.

10 PAUL REVARD: I don't know what our average
11 is. I would think it would be in the neighborhood of
12 2,000 feet.

13 KRISTEN KOKINOS: Right.

14 PAUL REVARD: But some beginning at 3,000,
15 3,200. But I don't think you can plug a well in Osage for
16 5,000.

17 KRISTEN KOKINOS: No, you can't.

18 PAUL REVARD: I'm thinking because I just
19 -- I just discussed with the casino people, with our tribe
20 who was thinking about purchasing a lease. And they have
21 contacted me to ask me what it would cost to plug these
22 two wells on that property. And I told them, you know,
23 count on maybe an average of 10, just to be safe. You
24 might get it done for 7,500. It depends on how many zones
25 have been perforated. Because that tells you how much

1 cement you need, how many plugs. A big unknown on some of
2 these wellbores, especially these older wells. You don't
3 know the condition of the wellbore. Is the casing
4 collapsed? Is there tubing shot off, stuck and shot off
5 in the hole. You get down 500 and you hit something hard,
6 you can't get it, you can get into some significant money.

7 KRISTEN KOKINOS: And that's the problem
8 we're grappling with right now.

9 PAUL REVARD: It's an unknown. But I'm
10 thinking that an average cost to plug a well is probably
11 \$7,500.

12 KRISTEN KOKINOS: Right. And so the
13 current regs are set at 5,000 per lease, which we know
14 is--

15 PAUL REVARD: 5,000 per lease is not
16 enough.

17 KRISTEN KOKINOS: It's not going to work.

18 PAUL REVARD: But I don't know that it's
19 fair to go back and make something retroactive, somebody
20 come in and bought, for instance, a pumper. We've got a
21 lot of Osage pumpers, and they have picked up a couple of
22 leases.

23 KRISTEN KOKINOS: Sure.

24 PAUL REVARD: And believe me, you know,
25 they could mortgage their lease by that lease.

1 KRISTEN KOKINOS: Right.

2 PAUL REVARD: It may be one that they
3 pumped for years and years and the operator retiring or
4 dying and left it to the pumper, or gave it to him at a
5 cheap price. We've got lots of operators like that.

6 If he's got a lease with 13 wells on it and you go
7 to one of these pumpers and say you've got to put up
8 another \$5,000 for each one of them, he's not -- he's
9 already mortgaged his house to buy the property.

10 He doesn't have another 50 to 80,000 that he can,
11 you know, go back on to do it. So I don't know. I just
12 don't know how. And there again, it will run out. It
13 will discourage new operators coming in when they hear
14 these kinds of things. And it will run out and make you
15 bankrupt, so the ones that are already.

16 KRISTEN KOKINOS: Right. And to the
17 producer that Robin was speaking of, I know she had talked
18 about the current regs. I know when they had revised the
19 reg under the negotiated rulemaking, that provision was
20 updated so that bonding amounts could be adjusted when
21 appropriate.

22 And there included some separate factors that would
23 mitigate against, when appropriate, such as when someone
24 had been a routine violator, and there were problems like
25 that, and so that's certainly something else we consider.

1 But the issue of retroactivity for bonding, for people
2 already holding leases is certainly something we're aware
3 of in addition to the, you know, abandoned wells that are
4 all over.

5 CHARLES BABST: Well, Councilman Crum said,
6 you know, we did the best we could; we punted. And that's
7 a football term. Councilman Redcorn likes to talk about
8 church. And I grew up in church, too.

9 Nothing will come from this but wailing and gnashing
10 of teeth. That's where this will end up. Bonding will
11 end up with tears. There's no way around it. The only
12 question is how many tears.

13 REBECCA SHER: My impression is specific to
14 the orphaned and abandoned wells that exist on leases
15 whether they are, as of current leases in lands that are
16 not actively under lease that may become leased in the
17 future.

18 I don't see current -- what legal authority we could
19 assign liability to these orphaned and abandoned wells for
20 existing leases. At least I know in future leases we
21 could say you take these leases subject to these wells
22 that you're never going to touch and haven't been touched
23 in several years.

24 But for existing leases, I think that the United
25 States and the Osage Minerals Council have been looking

1 for outside funding to take care of these abandoned wells.

2 But it would be my thought that they don't come
3 under these regulations for trying to assign, just make
4 producers come up with the \$5,000 per well for orphaned
5 and abandoned leases. Wells, sorry.

6 GALEN CRUM: When we did this, when we were
7 working on that rule, there has been three different or
8 two different comes and back and forths on this with the
9 owner there. When we were actually working on the rule,
10 the policy of the superintendent at the time was that if
11 you don't touch it, you don't own it.

12 In other words, if you don't go into it, you know,
13 that's not yours. And so we didn't address that
14 particular issue in the reg because we -- and perhaps we
15 should have because I didn't realize it was just a policy
16 of the superintendent that could then be changed.

17 Now, why a superintendent would not think that was a
18 good idea, I can see because of all these wells that are
19 out there. So I understand their dilemma on how to do it.

20 And they come to the Minerals Council during my six
21 years there twice and asked us the question twice. And we
22 gave them two different answers. One time we said yeah,
23 don't touch it, don't do it. Another time the Minerals
24 Council said they should have that responsibility.

25 So even the Minerals Council were split at that time

1 on how to solve that problem. One thing I would like to
2 say that we don't want to throw out that we did in the new
3 regs about the bonding, and that's that we instituted a
4 bunch of new financial instruments that would do the bond.

5 KRISTEN KOKINOS: That was my next
6 question.

7 GALEN CRUM: Because what it says right now
8 is surety bond only.

9 KRISTEN KOKINOS: Right.

10 GALEN CRUM: And as Paul is saying, surety
11 bonds are getting harder to find because people are
12 renegeing on them and leaving them because these bonding
13 companies are there. And then there's the whole idea of
14 how long does that go on, you know.

15 When you were bonding a guy that drilled the well,
16 and he leaves without plugging the well, what surety bond
17 company is now liable. So that's a -- you know, that's a
18 problem, another gnashing of teeth that we run into,
19 another gnashing of teeth that we ran into.

20 So but I really want -- I'm not sure how much help
21 it will be. But I really want to leave those extra
22 financial instruments in. That was -- there wasn't much I
23 thought of that I was proud of about the bonding. One of
24 them was that we did go per well. And the second one is
25 that we put in those new financial instruments that could

1 be used.

2 So -- and I know everybody wants to -- I want to
3 throw out another subject really quickly that we need to
4 deal with quickly, I think in terms of time frames. And
5 that's a part of the regs that we deal with with the
6 superintendent and how she has to deal with determining
7 that a lease is forfeited for nonproduction.

8 The current regs just say she has the ability to say
9 it's not production. It doesn't give her any mechanism to
10 determine how long that is or what to do if you don't want
11 to call it that.

12 There -- I assume she has the ability to negotiate
13 with people and then say do it. But what we did in that
14 reg was we actually give a mechanism that there was a
15 certain date that you assumed it was going to be
16 nonproduction.

17 And then they had the ability, the superintendent
18 had the ability to talk to the producer, they come in and
19 say, Hey, I'm working on this well, I'm doing this, that,
20 or the other, and they had the ability to stop the clock.
21 The reason I think that is important right now is we have
22 a lot of wells, very expensive wells, that have been
23 drilled horizontally.

24 We just had communication with Devon about plugging
25 some of those wells. Well, the way it is right now, if

1 the superintendent decided in her own, you know, her own
2 policy because she has -- that's all there is in there is
3 her own idea about how to do it, that a year you have to
4 plug them.

5 Well, if there's no mechanism for her to stop the
6 clock and say, Oh, wait a minute, we know that horizontal
7 wells need an oil price of say \$60 to operate. So if
8 somebody had to plug that off, and they put \$7 million in
9 the well, and they had to -- or not plug it off but quit
10 producing, because the cost of electricity was higher than
11 they could sell the gas for, the oil for.

12 Well, there's no mechanism in there for her to say
13 yeah, we're going to give you another six months or a year
14 or whatever for you to either, you know, the oil prices
15 come up or you do something else and we'll kick it out
16 then.

17 The same way with the -- we have a problem with
18 recycling problems down here in the bin that was causing
19 them to shut down some of the -- temporarily, at least --
20 we don't know how long -- shut down some of the disposal
21 wells.

22 Again, an operator could come in and say, Listen,
23 this thing was making money when I could dispose of my
24 water. But I can't do it now. Can we stop the clock
25 until this problem is solved. In other words, they don't

1 have to plug that off, they don't have to stop.

2 I think we're going to get inundated here pretty
3 quick with a bunch of those problems. And it would be
4 real nice to say, you know, how is she going to handle
5 that when we walked in there.

6 I talked to some producers the other day about that
7 Devon deal, saying, did you talk to Devon about -- were
8 you approached about buying theirs. And they told me no.
9 And I said they're wanting out. Maybe you should go talk
10 to them.

11 But then right away I thought, Now, we've got to
12 solve a couple of problems for them. On some of them, we
13 have to solve that disposal well problem. Others of them,
14 how long have they been shut down without producing.

15 I know when I asked for the production records, that
16 there was some of them that were started back up for a
17 little while in March. And I assume that was perhaps to
18 help market them so they still were producing wells. Or
19 maybe the price come up that they wanted to do that.

20 But does that count? Does the year start then?
21 Does it not? These are very expensive wells that when the
22 price comes up, it would make the Osages a ton of money.
23 Maybe not with Devon's operation but somebody else could
24 do them. And I don't want to see them plug off a well
25 that's making 20 or 30 barrels day but it just won't pay

1 for the electricity to run that dang, you know, deep well,
2 horizontal.

3 CHARLES BABST: Galen, I don't remember, do
4 the regulations or the leases when you're talking about
5 that one year, did they provide for the payment of a
6 shut-in royalty? I just don't remember.

7 KRISTEN KOKINOS: I don't think so.

8 GALEN CRUM: There's a minimum -- there's a
9 minimum royalty that's due as long as you have it in your
10 name.

11 ROBIN PHILLIPS: Yeah.

12 CHARLES BABST: Okay. But only for a year?

13 GALEN CRUM: But it doesn't deal with when
14 she decides that it's been too long. It's totally up to
15 her. And there's no mechanism built in for her to stop
16 the clock.

17 And we thought that was important for her to be able
18 to stop the clock and evaluate the problem. And I think
19 we're going to run into that very quickly.

20 CHARLES BABST: You're absolutely right.

21 ROBIN PHILLIPS: I do have a mechanism.

22 GALEN CRUM: But it's not regulatory.

23 ROBIN PHILLIPS: But it's not regulatory.

24 GALEN CRUM: Yeah, it's just up to her.

25 KRISTEN KOKINOS: Right. It says here it's

1 the superintendent's discretion.

2 ROBIN PHILLIPS: Right.

3 GALEN CRUM: And I understand that. That's
4 what I said at the beginning.

5 KRISTEN KOKINOS: Right.

6 GALEN CRUM: I assume she could do that.
7 But as we talked about a while ago, it was the
8 superintendent's discretion when those oil wells counted
9 for bonding and then it changed. That could change too.

10 KRISTEN KOKINOS: Right.

11 GALEN CRUM: I would like to see it
12 regulated.

13 TALEE REDCORN: Well, when we first got on
14 the Minerals Council, I worked heavily and hard to get a
15 project going to get our orphan wells back in production.
16 So we got a team together, producers, guys that's been in
17 the field a long time.

18 We come up with a bailer system that kind of pulled
19 the oil. And the thought was we would take this little
20 trailer rig and go around the county and just dip and pull
21 oil out of these areas.

22 This would be our -- we own it, we pull our own
23 product out. Well, we got the project together, got the
24 numbers going, everything. We presented it to the BIA.
25 The BIA told us you're going to have to get \$5,000 every

1 well that you pull out of.

2 And so then I'm hearing a comment over here from Mr.
3 Crum, you know, hey, we've still got this problem of six
4 months. And I'm very aware. And I think Ms. Phillips is
5 doing a great job with that. But I think the game has
6 changed.

7 I think we're still trying to use the old playbook
8 to come up with a new process. Even when I tell you and
9 Mr. Streater, let's do this a different way. Yeah, I
10 understand. But how do you -- what do you not like about
11 this?

12 Well, that's the old playbook. We're still talking
13 about this whole system that you guys put together, put
14 out in front of us. And we're still talking about a
15 solution to that process.

16 And I think we're totally ignoring what the Chief is
17 saying. There might be, and we would like to explore a
18 way of really holistically coming back and solving this
19 problem, and doing it that we protect our sovereignty, and
20 we look out for the economic benefit of our asset.

21 So I think we have a problem with a lot of folks
22 that still want to do things the same way. Because, you
23 know, I think we've got a form in the BIA. We've got
24 several forms that they use. And what I run into is what
25 you're proposing doesn't fit the form. Literally, I get

1 that feedback.

2 And that's the kind of folks we've got. They cannot
3 think past the form they have to fill out. So if we can't
4 somehow grow beyond the form, get the experts involved,
5 redo the process, I think we're going to regurgitate a
6 failure.

7 So I don't know why we still can't discuss a
8 holistic approach to solving our problem. And I think
9 sovereignty is the issue.

10 But for you all to come and continually say, Okay, I
11 hear what you're saying; but what do you not like about
12 the plugging? Okay, what do you not like about the NYMEX?
13 Well, it's the holistic approach. And I keep saying that
14 over and over.

15 We'd like to get our experts. We've got one here.
16 He's got -- we've got several. I talked to Susan. We
17 brought a lot of them last year to our Oil and Gas Summit,
18 and listened to them on measurement, on gas measurement,
19 how they do it in other places. And I just don't think
20 those things are being discussed in these -- in these
21 conversations.

22 So I'm really interested in saying if we're not
23 going to do a holistic approach, let's -- you know, we
24 went through a big lawsuit. We're talking about a
25 multi-million dollar settlement here. And then right now

1 the only thing I'm hearing is the producers are still
2 getting the whack of it.

3 And then when they're hurt, we're hurt. So anyway,
4 my hope is that we can grow past this August 10th of 2015
5 settlement and/or lawsuit. We had to stop the train by
6 going to court.

7 Why can't we sit down together and solve this
8 problem? Do we still have to be dictated to by the BIA on
9 how we're going to solve this?

10 KRISTEN KOKINOS: No. And we want this to
11 be a collaborative approach hearkening back to what Chuck
12 was talking about a little bit earlier after speaking with
13 the Chief.

14 We don't have the jurisdiction or the authority here
15 today to say okay, this can be codified the way it's done
16 at Jicarilla or somewhere else. That goes on at a much
17 higher level. And it would likely require additional
18 legislation, and everything else.

19 So to keep moving forward, because there are current
20 issues that definitely need to be addressed, even if it's
21 in the interim. We would like to just talk about the
22 larger issues at the starting point.

23 TALEE REDCORN: I'll tell you one right
24 now. It's the mineral estate and mineral shareholders
25 wanting to put together a program. And Ms. Phillips'

1 hands are tied, just like the six-month deal. She's got
2 to do this one specific template.

3 And it could pretty much kill the whole project
4 because of administration. And we're not looking -- we're
5 not digging, we're not drilling wells, we're not doing
6 anything downhole. We're not -- it's just simply putting
7 a straw down and pulling oil out.

8 Can we look at different processes? Can we look at
9 certain types of technologies to redoing the whole thing,
10 how we lease, how we measure, how we pull our product, how
11 we sell our product? Is there any way we can have that
12 discussion?

13 KRISTEN KOKINOS: Well, I was just
14 hearkening back to what you were saying earlier about as
15 far as an overhaul of the entire process aside from
16 rulemaking.

17 CHARLES BABST: The problem we've got is
18 the statutes that were passed in the 1906 Act, and the
19 1920s amendments to them are incredibly specific. And in
20 many cases, the language from the statute was pulled
21 directly out of the statute, and then put in whole cloth
22 back into the regulations.

23 So I mean, there's only so many ways that you can --
24 that you can reinvent the same wheel without going and
25 buying a different wheel. And some of that, to the extent

1 that you want fundamental change with respect to the way
2 business is done at Osage.

3 Some of it -- and I can't get into specifics without
4 looking at specific proposals -- some of it will require,
5 I believe, statutory legislative approach. Which is
6 exactly how the Osage Tribe and the Tribal counsel went to
7 the Congress and got a specific statute that said
8 notwithstanding the language of the 1906 Act, the Tribe
9 has the ability to do a -- form its own -- make its own
10 decisions about a form of government.

11 And that statute then resulted in the passage of
12 what's now your 2006 Constitution. But you had to go to
13 Congress first.

14 And I'm -- like I say, we'll have to look at each
15 specific proposal for change to determine whether
16 legislative change is necessary. But I'm certainly
17 willing to go through the process. I mean, I've still got
18 15 years to go so I'm -- whatever.

19 KRISTEN KOKINOS: We're not trying to
20 pigeonhole --

21 CHARLES BABST: No.

22 KRISTEN KOKINOS: -- how anything is being
23 done now. But just as a starting point for conversation
24 about what some of the issues may be, and things that need
25 to be addressed, we're starting at the current regs and

1 other issues. We know it's -- we need to start somewhere
2 because things need to start changing now.

3 CHARLES BABST: Yes, that's exactly right.

4 PAUL REVARD: I have a question. Don't we
5 operate a few set matters by I think what's referred to as
6 policy procedures that were not in the regulations, for
7 instance, bonding, where we're required to have the
8 lessee, that is the named operator, is required to have at
9 least a one percent working interest ownership in order to
10 use its bond for a particular lease.

11 That's not in the regulations, I understand. It's
12 been done for years, decades, actually. And it was done
13 by a policy.

14 Another policy -- there's a few of them that I'm
15 aware of -- where the procedures are not in the
16 regulations. But because of some policy, whether it's
17 written or not written, is just the way it is.

18 A second one, the question I guess is really for
19 Superintendent Phillips. But another one is our
20 production, the producer's production reports are due on
21 the 25th of each month following the production according
22 to the 226.

23 However, by policy, I think, the gas production
24 reports that the producers are supposed to submit have
25 been given additional more time till the 10th day of the

1 following month. That's not in the regulation. But it's
2 by policy.

3 So some of these things that Councilman Redcorn, you
4 know, might want to implement or address could it be --
5 could it not be addressed by a policy procedure?

6 KRISTEN KOKINOS: They -- they can,
7 depending on what they are. So a lot of -- a couple of
8 the policies that you mentioned are essentially policies
9 or orders of the superintendent that have been issued
10 based on the authority that she's granted in the
11 regulations. Or those orders or notices are the Agency's
12 interpretation of the existing regulations.

13 So it would just depend on what types of things
14 you're dealing with, whether there's an authority or rule
15 within the current regs for those to be put into place.
16 But certainly not every policy or process is spelled out
17 in the regs, particularly as they currently exist.

18 ROBIN PHILLIPS: And in answer to that, we
19 have found that there were some things in the Osage Agency
20 that were cited in the OIG report that we did not find a
21 policy. But there were some things that were being
22 accepted.

23 And so Kristen is correct, the Agency can go in and
24 issue some policies, which we have, at the Agency. Since
25 I've been here, we've implemented a few policies as well

1 as a few procedures to assist the Agency as well as assist
2 you as a producer or even as a shareholder, since you're
3 here as a shareholder.

4 But what the Agency is really trying to do is the
5 Agency is trying to be accountable as well as have
6 everyone that's there accountable and work with the Osage
7 Minerals Council ensuring the protection of the Osage
8 Mineral Estate.

9 So with the 25th day, that is the day that the
10 residue report is due, the Osage Minerals Council did pass
11 a resolution allowing for gas reports to be accepted up to
12 the 10th. So that basically is the only difference there.

13 KRISTEN KOKINOS: Let's take a break.

14 (Whereupon, there was a recess taken.)

15 EDDIE STREATER: Do you want to go ahead
16 and get started again. Do we want to go ahead and just do
17 some housecleaning and talk about what's next or do we
18 want to open up some more issues? All right, Kristen,
19 what's next?

20 KRISTEN KOKINOS: It's the million dollar
21 question. Our next steps are going to be that we will go
22 back with input that we receive today. Obviously, we'll
23 have to do some more looking into the proposals and issues
24 brought up by the Chief. But as far as the regs
25 themselves, our plan was to go back and with some of the

1 input we receive today, try to put together a new draft of
2 revised regulations that we then circulate to all of you
3 for your review.

4 And hold another consultation session probably in
5 January, sometime in January -- because we're coming into
6 the holidays now -- to set that draft in detail. So that
7 would give you time to review that draft. And it would
8 give us something concrete to go from as far as changes,
9 issues, and things like that.

10 But we would like to know does that sound plausible
11 to you? Is that time frame workable?

12 PAUL REVARD: I have a question.

13 KRISTEN KOKINOS: Sure.

14 PAUL REVARD: Since this meeting today,
15 which I think has been very beneficial both you've
16 considered it the government-to-government meeting. At
17 what point prior to you actually drafting some new
18 proposed regulations, at what point are you going to bring
19 the other affected parties involved into the new
20 regulation?

21 KRISTEN KOKINOS: Sure. So under Agency
22 rulemaking -- I think Liz touched on it a little bit
23 earlier. So what would happen we would put together a
24 discussion draft just for consultation purposes. And we
25 would get the input and feedback from the Tribal parties

1 then we would go back with that information and put
2 together a proposed rule.

3 The proposed rule would be published in the Federal
4 Register. And then there would be I believe it's about 60
5 days for public comment. And so then all other interested
6 parties in the public would have the opportunity to
7 comment on the regulations.

8 And we would take all of that comment back in --
9 right, written comment. We would take all of that comment
10 back in, review that, and potentially have another
11 consultation meeting.

12 PAUL REVARD: How much emphasis are you
13 going to put on these other affected parties' comments?
14 Because the last time some of the parties didn't feel
15 like, even though they were given the opportunity to make
16 comments on item by item, it was acknowledged by the
17 Government, they just felt like, a lot of them, that --
18 and I'm not just talking about operators, I'm talking
19 about county commissioners who were affected.

20 Their tax revenues were affected, the communities,
21 the local supply stores. They felt like their comments
22 may have been read but just ignored. And I think whatever
23 you do come back with, I think you need to seriously --
24 this is not a threat; please don't take it that way, --
25 but I think you need to have in the back of your minds

1 what is Judge Frizzell going to think about the regs.

2 I mean, is it just, Here we go again. Because there
3 will be other affected parties, including the Minerals
4 Council, representing us headright owners that will not be
5 bashful about going back and asking Judge Frizzell to help
6 us.

7 So that needs to be kept in consideration. Not a
8 threat. But we don't want to have to go there again.

9 KRISTEN KOKINOS: No. And I don't think
10 anyone here wants to have to go there again. We certainly
11 don't want history to repeat itself.

12 PAUL REVARD: Exactly.

13 KRISTEN KOKINOS: And the public comments
14 that you receive from all interested parties are all
15 equally important and should receive equal consideration.
16 And that's what will be done here.

17 PAUL REVARD: Let me ask you because I'm,
18 you know, I read most of the comments that were made by
19 other interested or affected parties. Can you think of
20 one regulation that you considered that comment and by all
21 means you changed it because of that comment? Were there
22 any of those or very many?

23 KRISTEN KOKINOS: I didn't participate
24 personally in the negotiated rulemaking itself. I came in
25 at the litigation stage. But I believe -- I believe there

1 were several. And off the top of my head, I can't --

2 EDDIE STREATER: I can't -- and Paul, I
3 can't go specifically to them, but I know there were at
4 least two that were.

5 KRISTEN KOKINOS: Substantively revised. I
6 just can't think of them.

7 TOM FREDERICKS: We've participated in the
8 -- and we made comments and one word was changed of our
9 comments.

10 EDDIE STREATER: Yeah, we got
11 approximately, I think, 500 comments on this rule.

12 KRISTEN KOKINOS: Some of them were forms.

13 GALEN CRUM: I, of course, can't comment on
14 the ones you changed after it left the hands of the
15 committee. But I know during the committee process, we --
16 we wrote -- literally wrote dozens of them because of the
17 comments that we received out there and rewrote them.

18 You know, we would -- the process generally when
19 Osages propose something, the discussion went a certain
20 way. And then somebody in the audience would say, Wait a
21 minute, this isn't very good.

22 We were just talked to them about with the -- I was
23 just talking about with the superintendent with the
24 proposed change in minimum royalty and rental. Perhaps
25 you remember that.

1 I think it was Matt Beaver from Devon said, Whoa,
2 wait a minute we just paid \$50,000 a lease. And now
3 you're going to charge us 300 or \$3,000 a year before we
4 do it.

5 And we went, Well, maybe that is kind of silly. You
6 know, because we took the \$320 and made it go from 1950
7 money which is when that well went in there to now money.
8 And I think my 3,000 was low. I don't know what our
9 proposal was the first discussion but we changed that
10 right away.

11 And there was far -- there was lots of them. We
12 kind of wrote them on the fly in terms of changing them
13 within the committee process. And then the attorneys
14 would go back and turn them into real language.

15 And then we would deal with them again at the next
16 monthly meeting. We had them about every month. So there
17 was lots of changes made before they ever reached the
18 final draft form that was then commented on.

19 EDDIE STREATER: I will say for the
20 superintendent -- this is an aside -- we got an amazing
21 amount of comments that on certain parts of the
22 regulations that people were not happy with. And those
23 parts were never changed. I think that a lot of people
24 were just not -- didn't realize what the current
25 regulation was. We got a lot. I would say two to 300 of

1 them were commenting on sections that never changed.

2 PAUL REVARD: Question for the
3 superintendent. Since Councilman Crum brought up the \$2
4 per acre minimum royalty, --

5 ROBIN PHILLIPS: Rob I thought it was \$3.

6 GALEN CRUM: But it was a small amount.

7 ROBIN PHILLIPS: It's a small amount. Go
8 ahead. I'm sorry.

9 GALEN CRUM: We can figure it out.

10 PAUL REVARD: Minimum royalty.

11 GALEN CRUM: Yeah.

12 PAUL REVARD: Yeah, I think it's \$2 per
13 acre.

14 ROBIN PHILLIPS: Yes.

15 PAUL REVARD: Say, -- and I'm just going
16 back 39 years. Back in those days, and I don't know when
17 it stopped, but if you were operating a lease that didn't
18 meet that minimum royalty, maybe you came close but you
19 were \$40 off, we, the producers, would get a statement.

20 I don't know where it was generated from. I don't
21 know whether it was from the local Osage Agency or not.
22 But the producers would get a statement showing the
23 deficiency in it. Are those type of statements being sent
24 out today?

25 ROBIN PHILLIPS: No. Basically, what we

1 are doing is we're going in and we're reviewing -- looking
2 at all nonproduction. And if, by chance, it hasn't
3 produced in a matter of several years, then we're
4 terminating that.

5 If, by chance, they haven't produced in six months,
6 then we're looking at those and we're sending out a
7 notification. If you owe minimum royalty just for that
8 year, yes, we're going to get the minimum royalty. Some
9 of those cases we are getting minimum royalty as well as
10 terminating the lease because the last minimum royalty
11 wasn't paid prior to the last production that was
12 submitted.

13 PAUL REVARD: So producers should be just
14 sending their money in whether they get a statement or
15 not?

16 ROBIN PHILLIPS: If it's rental, they
17 should always send that in. And they should get an
18 invoice for that. But if you're talking about, --

19 PAUL REVARD: Talking about the producing
20 lease, they just didn't happen to make the minimum
21 royalty, they came close, but it was a producing lease.
22 Should they just automatically send in what they know the
23 deficiency is?

24 ROBIN PHILLIPS: No. We'll be sending you
25 a letter, we'll send you a letter to that effect. Because

1 we'll be looking at the last six months. Are you
2 producing that well on a regular basis. Okay. We'll look
3 at it.

4 PAUL REVARD: Thank you.

5 TALEE REDCORN: Chatting with our attorney,
6 Mr. Fredericks, again, my desire is to get a full breadth
7 of what the United States is asking and give us a chance.
8 Because we've got a lot of layers we've got to work
9 through.

10 We've got the law that exists in the Osage. We've
11 got economic issues. You name it. This is a big game.
12 And I just hope -- my personal feeling is I need to know
13 what the total plan is first, what the United States wants
14 to achieve. And then give us that chance to respect our
15 sovereignty and go back, let us talk, let us develop a
16 plan, let us talk to our legal team, get the experts we
17 think we need.

18 Again, I'll point it out. As we went through this
19 process, the train was rolling, we had three votes to stop
20 it. Three votes on the Osage Minerals Council, 1 and 2
21 and now we have two of them with the third Minerals
22 Council.

23 So I mean, I don't see how the United States can
24 say, you know, we -- we considered your sovereignty. I
25 find that questionable. Because, to me, a vote of the

1 people is paramount. I believe that in the United States.

2 I'm an Army veteran. To vote means a lot to me.

3 And so the Constitution, we have our Constitution.

4 I'm proud of the fact that the United States, through
5 George W. Bush, signed that we have the ability to have
6 our own Constitution.

7 The same time he signed one for the Iraqi
8 Government. I believe in the Democratic process. But
9 when the United States or the actions I see as this thing
10 continues to roll against our will, I don't -- I don't see
11 how you can say that this effort is driven by our desire.

12 It seems like it's getting fed to us. So again, I
13 would like to -- I've asked our attorney to, if we could,
14 grab the full breadth of what you're asking and give it to
15 us. And then let us look at them.

16 It's the first time I'm hearing these things. It
17 seems like you've already got a plan for closure before we
18 even have a chance to look at it. So I'm hoping, I'm
19 hoping that we can get, you know, now we've got executive
20 office bringing in some new life. And we've got some
21 things we've got to settle among ourselves.

22 And these aren't small things. We sent a letter to
23 Mrs. Phillips regarding trust assets and how to deal with
24 those. She sent us a letter back. We've got to digest
25 those things. Now, we've got to -- what are we going to

1 do next, you know. There's a lot of layers in what you
2 guys are putting together.

3 And I just don't think it -- you know, I'm hoping
4 you're hearing at least what I'm trying to say. We've got
5 a big process here. And it impacts full community.

6 And like I said, I worked with a guy who used to
7 have his own business of construction. And he had a
8 thriving business. He had employed his own family. And
9 he's working for the Tribe now. He said, When oil goes
10 down I go down, I went down.

11 So I mean, the impact to the community is very hard.
12 I can't say it enough. It's impacted our schools, the tax
13 dollars that are going to our education, the amount of --
14 it's affecting our revenue to our casinos.

15 It's just a broad -- if you're not -- you know, if
16 we're not thinking these things through, it has a
17 horrendous impact on our dollars that we're getting.

18 I just read that the State of Oklahoma has the
19 lowest in revenue for children for education. And a lot
20 of it comes through oil and gas. But again, I see the
21 impact far worse in Osage County than I do Pawnee or
22 Washington or, you know.

23 So I'm hoping that we can convince the United States
24 that we've got a lot of layers to go through. We want to
25 do it. We want to assist. And we want to look at these

1 layers. And then we want to get our legal team back to
2 you and say this is what we want.

3 And I'm hoping we'll have a receptive audience. But
4 I want to say this: One of four barrels in Osage is
5 produced by renewable means. You can't say that anywhere
6 else in the United States.

7 We are serious about what we do here. And I'm proud
8 of that. And I want to do more of that. I don't want to
9 cut any of that opportunity out for us to look further
10 down the road and look at our carbon sequestration.

11 That's the Burbank.

12 We're producing 3,100 barrels a day by sequestered
13 CO2. And they're struggling. They're struggling. But
14 they convinced us this is a keeper. We're dumping a lot
15 of assets. But this one is a keeper. So we're still in
16 the ball game. And we want to stay there.

17 But if we can't get any cooperation from the United
18 States, it's going to be darn tough because there's things
19 we want to do. So I'm hoping, you know, I'm listening to
20 what the Chief said that's encouraging. Mr. Babst is
21 saying yes, we'll consider that. Maybe that's the avenue
22 we'll approach to try to get what we want into this
23 discussion.

24 I don't know. I haven't even talked to Mrs. Boone.
25 She may say no, I don't want that because there's eight of

1 us. And we've all got to agree or the majority has got to
2 agree before we move forward. So we haven't even had that
3 chance to talk.

4 So I'm hoping the United States recognizes our
5 sovereignty and recognizes we have laws here, Tribal law.
6 Bureau or Federal law, -- I understand you know Federal
7 law; I'm not suggesting -- but our Tribal has law that
8 we've got to consider, too, including the environment,
9 including natural resource use, and the will of the
10 people. So thank you.

11 MICHEL MOUTON: I have a question. It has
12 to do with expectation. And I'm just curious. Given that
13 we all agree that what we're currently operating under
14 can't remain, it needs to be corrected, and fixed. And we
15 all agree to that.

16 Given what everybody knows or understands or expects
17 from where they sit, how long would you anticipate we
18 could or should take in correcting what we have now that
19 we all agree is not good? How long would you think the
20 process that we need to work through to get to something
21 that's acceptable to all of us should take?

22 It's only your number so you can throw out whatever
23 you think.

24 TALEE REDCORN: Well, you know what, I'm
25 going to say this. I haven't had a chance to talk to the

1 Council.

2 MICHEL MOUTON: I understand.

3 TALEE REDCORN: And we haven't had a chance
4 to talk to the new Government.

5 MICHEL MOUTON: I understand all that.
6 Nobody has. I'm just wondering off the top of everybody's
7 head, what kind of number, time frame, would you think the
8 process should take? How long should this take to get
9 from where we are now which we all agree is not good?

10 TALEE REDCORN: Can I answer your question
11 with this. I'm going to say until I understand the full
12 breadth of what the United States is asking of the Osage
13 headright holders, and then our -- we have a chance to
14 talk to our attorney, we can give you an answer.

15 MICHEL MOUTON: So for you, there is no
16 right answer to that question, it cannot be answered?

17 TALEE REDCORN: What I'm saying is, again,
18 the United States, gives to us the full breadth of what
19 you're asking us to do. I heard you walk that way saying
20 what we're doing right now is wrong.

21 So there's two answers to that. Do you want to go
22 with Mr. Paul Revard saying that we start with the 226 or
23 are you saying we want to go all the way over here and
24 prove -- we have to prove to you what's wrong?

25 MICHEL MOUTON: No, what I'm asking is from

1 where we are right now, which we all agree is not
2 sufficient, how long do you think the process should take
3 to get to a place where we can all agree this is good?

4 TOM FREDERICKS: He's saying he doesn't
5 know.

6 MICHEL MOUTON: Okay.

7 KRISTEN KOKINOS: We don't know.

8 EDDIE STREATER: We don't know even.

9 MICHEL MOUTON: I know. I'm just asking
10 for off the top of your head how long would you want it to
11 take?

12 REBECCA SHER: Why don't we get through the
13 next steps. We are here discussing how we're going to
14 move forward.

15 MICHEL MOUTON: Yes, and that's part of
16 where my question is motivated. So I'm just curious to
17 see where we all are in that, how long would you expect or
18 think or desire it to take?

19 TALEE REDCORN: I would say Minerals
20 Council needs to digest the full breadth of what the
21 United States has to offer in say, three months to
22 communicate with all our entities in the Nation to develop
23 a plan to go forward, just to understand what we want to
24 do next.

25 MICHEL MOUTON: Okay.

1 TALEE REDCORN: And then once we, and then
2 if there's an issue with -- with the Osages as a whole,
3 we've got to work that out which is under the law of the
4 Osage Nation Constitution. And we've got to communicate
5 among ourselves, is this the direction we want to go.

6 Or is Mr. Tom Fredericks correct and we need to go
7 this way. We don't know those answers until we see what
8 you want from us. And what I'm -- I'm still unclear.

9 MICHEL MOUTON: So three months, three
10 more, six months.

11 TALEE REDCORN: You're not hearing what I'm
12 saying.

13 MICHEL MOUTON: I understand. I hear
14 exactly what you're saying. I'm not going to hold you to
15 any answer here. What I'm --

16 TALEE REDCORN: It's called Tribal
17 sovereignty.

18 MICHEL MOUTON: I understand that.

19 TALEE REDCORN: We have the right to
20 determine these things among ourselves that's been given
21 by Federal law to us as Osage headright holders.

22 MICHEL MOUTON: What I'm trying to figure
23 out for me is just from everybody here as an interested
24 party in all that goes on here, we start from the position
25 that none of us are particularly pleased with where we are

1 today. And we want to get to tomorrow.

2 I'm just trying to figure out how far away is
3 tomorrow. For somebody, it may be two months. For
4 somebody else it may be two years. I don't know. I'm
5 just trying to get some feel for how long people think the
6 process is.

7 CYNTHIA BOONE: When we first started this
8 process, we were told it was going to -- we were going to
9 have two years. And we didn't get two years.

10 Whenever I came to this meeting today, I thought we
11 were going to reopen this Negreg process. But I learned
12 today we are not.

13 I am not happy with this three-month thing coming
14 out, we're going to have another proposal, yada, yada,
15 yada. I'm not happy with the public comment section where
16 all of our affected parties will get a chance to weigh in.

17 I saw how the public comment went the first
18 go-around. And I wasn't pleased with that.

19 KRISTEN KOKINOS: We have to allow public
20 comment.

21 CYNTHIA BOONE: No, no, no, what I'm
22 saying is yes, that is part of the process. But I just
23 don't think that the public comments were really taken
24 seriously.

25 KRISTEN KOKINOS: Oh, okay.

1 CYNTHIA BOONE: I think they were just
2 kind of sloughed off.

3 KRISTEN KOKINOS: Sure.

4 CYNTHIA BOONE: I know that our Osage
5 presented 500 comments but they were sloughed off. I'm
6 not going to get into that. Let me just move on with some
7 of the things that I have seen here.

8 KRISTEN KOKINOS: Sure.

9 CYNTHIA BOONE: There's a comment in here.
10 And I haven't gone through and critiqued every line in
11 here. I probably should have. That's my fault. I will
12 now, though.

13 Because there's comment in here that there was
14 something has been deleted from the current regs because
15 it's "overly burdensome administratively." Well, I don't
16 know if that intention was for our superintendent.

17 But, to me, there is nothing in these regs in terms
18 of like extending the termination or extending, let's see,
19 an extension of time to come into compliance. I don't
20 want to see that deleted.

21 Because that gives our producers a time to come in
22 to compliance and to continue on. And if we are -- if the
23 Bureau is supposed to promote economic development, I
24 don't see how that is supporting economic development
25 here. And so there are other articles.

1 I'm glad our attorney, Rebecca Sher, pointed out the
2 authority of the Osage Minerals Council. And that needs
3 to be strengthened in this document. There are places in
4 here where I believe that it should say the superintendent
5 can with the consultation of the Minerals Council.

6 There are things that go on, fees and penalties,
7 things like that, I think are a little bit high,
8 personally. And I think that with consultation with the
9 Minerals Council, we could come up with a different type
10 of penalty for these people.

11 But anyway, I will give this more thought. But
12 right now, like I said, I thought that this was going to
13 be reopening the Negreg process and we were going to have
14 two years. And now I find out we're not.

15 So I felt the first go-around that the Negreg
16 process was thrown down our throat. And now I feel the
17 same way. You know, you want to come out with a proposal
18 in January for us to look at. And I'm not pleased with
19 that. We need more time. Thank you.

20 MICHEL MOUTON: How much time do you think
21 would be appropriate? Two years from before was not
22 enough?

23 CYNTHIA BOONE: No. Two years was
24 problematic.

25 MICHEL MOUTON: Two years was not enough.

1 KRISTEN KOKINOS: Well, part of the concern
2 with timing too was in the meantime, the headright holders
3 are not getting the returns that they should because of
4 the highest posted price. And so part of our goal in, you
5 know, keeping this process moving forward is that we know,
6 you know, since the settlement in 2011, all the negotiated
7 rulemaking, you're still at highest posted price.

8 And that's been a big issue. And so we're not
9 trying to expedite to the detriment of anyone. But we
10 know that, you know, in the interest of the headright
11 holders and everyone else, the highest posted price in
12 particular, you know.

13 CYNTHIA BOONE: Right. But, you know,
14 there were a lot of comments made by oil producers --

15 KRISTEN KOKINOS: Sure.

16 CYNTHIA BOONE: -- against the NYMEX
17 pricing.

18 KRISTEN KOKINOS: Sure.

19 CYNTHIA BOONE: You know, they don't get
20 paid transportation costs. There's a whole bunch of
21 things with that. But, you know, that was just one of the
22 issues with public comment that I don't think was taken
23 into account. But there were a lot of other public
24 comments that I thought could have been looked at
25 differently. That's my opinion. Thank you.

1 GALEN CRUM: This doesn't go directly to
2 Mitch has asked about time frame. I don't necessarily
3 have one. But one thing that might help us on this side
4 of the table gauge the receptiveness of the Bureau
5 listening to our concerns and being willing to adopt them.

6 One of the things that my fellow councilman, Kathryn
7 Red Corn, has mentioned several times is the ability for
8 the Osages to set the value. In other words, you know,
9 within the -- talking about specifically within the new
10 regs, we changed it from 16 percent.

11 And you know, and a fraction to 20 percent. Plus
12 there was some wording deleted out that talked about being
13 able to with, I don't know what it says, back in the
14 proper economic study that you could do something more
15 than that, down to the eight to the 12-1/2 percent.

16 That's what the current reg says. And we changed it
17 to 20. And then the part about being able to go down to
18 the 12-1/2. Like I say, I'm not sure that was caught by
19 the committee as tightly as it should have. The 20 was
20 solid. Everybody wants, you know, on my side of the
21 committee wanted.

22 If we wanted to change that today to read exactly it
23 reads in this old one, would you guys pause one second on
24 making that change for us? That it -- that the new reg,
25 whatever it came out with, would read 16-2/3 like it did

1 before and that one little bit of wording.

2 And you can go back and read it, if you want. But
3 it was the part that's been there forever with the --
4 would the Government's mind change that whatsoever?

5 EDDIE STREATER: I don't think that there
6 would be any problem as long as there wasn't a statutory
7 conflict with that, you know, that's your --

8 GALEN CRUM: Apparently it had been that
9 way for sometime.

10 KRISTEN KOKINOS: And that's the way it is
11 now.

12 GALEN CRUM: So going back to deleting that
13 piece out, wouldn't be a problem for you whatsoever?

14 KRISTEN KOKINOS: No.

15 GALEN CRUM: Okay.

16 PAUL REVARD: I don't mean to go get back
17 in the weeds again. But I -- I do know that something
18 that affects our Osage oil and gas producers is their
19 inability to access mail records or any geologist or
20 interested party especially somebody out of state maybe
21 who is thinking about coming in to Osage County to spend a
22 little bit of their exploration capital.

23 One of the first things they need is to get well
24 logs and well records so they can start searching on paper
25 where to draw the dot, the target.

1 According to what I remembered the superintendent
2 stating in past meetings that we've had is that this
3 company has been on the books for a long time. This isn't
4 new. It's just now recently being enforced. Is there any
5 consideration of releasing these instruments back to the
6 public at any time soon?

7 EDDIE STREATER: As we've discussed, I
8 believe that this came up in the shareholders meeting that
9 I attended and we discussed it then. What we're talking
10 about here is not a regulation under 226. It's not
11 something between, on operation.

12 It's a Federal regulation that affects Federal
13 employees. It's the Privacy Act that we had a concern
14 about with the release of that information. Some of the
15 information could be considered proprietary.

16 We're not -- and have never said that you can't get
17 that information. You just have to go through the FOIA
18 process to apply for it. And we're currently working
19 behind the scenes with the Minerals Council on trying to
20 get even the benefits for it.

21 PAUL REVARD: Thank you.

22 REBECCA SHER: So my understanding is that
23 your office will work on getting some language put in to
24 form. The Minerals Council and other Osage Nation bodies
25 would have an opportunity to review that before it's made

1 -- and before it's published as a proposed rule?

2 KRISTEN KOKINOS: And we have rights. So
3 that wouldn't be the proposed rule that was planned for
4 publication.

5 EDDIE STREATER: A very rough draft.

6 KRISTEN KOKINOS: It's just a discussion
7 draft between us and the Nation, --

8 REBECCA SHER: Sure.

9 KRISTEN KOKINOS: -- just a starting point
10 for discussion of substantive revisions.

11 REBECCA SHER: And at the time we get it
12 from, I know we're going back to Mitch's question here,

13 KRISTEN KOKINOS: Sure.

14 REBECCA SHER: But I guess until I know the
15 size of the rough draft you send, I don't think we can
16 have an honest idea how long it would take to come back
17 with comments. Is there a time period that you have in
18 mind now?

19 KRISTEN KOKINOS: Our hope was to have a
20 discussion draft out to you by the beginning of December.

21 REBECCA SHER: Okay.

22 KRISTEN KOKINOS: However, that could
23 change.

24 REBECCA SHER: And then the Osage Nation
25 and the OMC, we would want to take -- do you have any

1 idea, Chairman, how much time you would think it would
2 take?

3 EVERETT WALLER: I would hate for anybody
4 to ask me that question. I can't answer. I will take as
5 long as I want to ask because it's so critical to us and
6 that's why you were hired. But I will let my counsel make
7 that decision. Does that answer you good enough?

8 REBECCA SHER: Yes, sir.

9 GALEN CRUM: I have a comment that I
10 wondered about from the beginning of this particular
11 meeting today when the Osage Nation received the
12 notifications and the Congress. And then they were very
13 unsure. I had a couple of them talk to me about what
14 their role would be and that sort of thing.

15 Another one of the things that I don't want to see
16 disappear from the -- whatever the new reg is is that the
17 Minerals Council is the one designated in this that's the
18 proper authority of the elected officials of the Osage to
19 deal with these questions.

20 One thing we did do, we put Minerals Council every
21 time it said Tribal Council. I do not want to lose that.
22 That is not to say that I am opposed to working with the
23 Chief and that sort of thing on these bigger issues.

24 Perhaps we can use -- we've lost all of our Congress
25 people. But where we can use Osage Nation law and

1 regulation to better serve our sovereignty and to better
2 -- if we can work out a method to do all of these things.

3 But I'd like to clear a little bit that it's the
4 Minerals Council that's doing this. And that we're going
5 -- if the Minerals Council wishes to go outside and talk
6 to the Nation and work out these deals, then that's a deal
7 within the Osage.

8 KRISTEN KOKINOS: Oh, it most certainly is.

9 GALEN CRUM: Not within the BIA. And you
10 know, the Chief kind of said it that way. But in the
11 past, we -- we didn't involve the Nation within these
12 kinds of, you know, in terms of the Congress.

13 Because within our Osage Constitution, they actually
14 have no role in this. The Osage Constitution is
15 remarkably vague on many things that I tried to fix.

16 But one of the things is that the Osage Minerals
17 Council has the authority to take care of the oil business
18 and the minerals business. And that the Chief does have a
19 role in terms of being able to veto. But that's his only
20 role and that was for leases.

21 So I want to make sure that the process we used
22 before is followed going forward. This is my opinion in
23 that the Minerals Council is your primary government
24 contact for these minerals matters, anything dealing with
25 226. Thank you.

1 EDDIE STREATER: Galen, I don't think they
2 quite, the Osage Council has probably not built up a
3 tolerance for rulemaking as we have. It takes a little
4 while to get used to it.

5 TALEE REDCORN: I heard December -- just a
6 quick question. Do we want to get this done before Obama
7 leaves office, kind of thing going on?

8 EDDIE STREATER: I don't think --

9 KRISTEN KOKINOS: No. Not going to happen.

10 EDDIE STREATER: And you know, I'll be
11 honest with y'all, you know what. What we're going to
12 come forth with are some of the big issues that's been
13 talked about.

14 A lot of the things like Galen said of the
15 negotiated rule, there was a lot of cleaning up of
16 language, a lot of -- typos, just everything. You could
17 tell that it had been written in different stages.

18 KRISTEN KOKINOS: Right. By different
19 people.

20 EDDIE STREATER: It was in different form.
21 And it made it hard to read, hard to interpret. And that
22 was some of the things that were cleaned up in it. Now,
23 that's probably not what you'll see on the draft. It's
24 going to be more toward the substantive questions that
25 have come up time and time again, that of bonding, you

1 know, penalties.

2 And guys, I don't -- as regional director when it
3 comes to penalties, I'm pretty ambivalent on that. The
4 Osage Minerals Council does not get that funding on those
5 penalties. So, you know, it goes into the black hole of
6 Treasury.

7 So there's a lot of flexibility in that. But NYMEX
8 is going to come up again. Reporting dates are going to
9 come up again. It's going to be those kind of topics
10 that's going to come forward.

11 TOM FREDERICKS: You know, one of the
12 things that I had mentioned, and Robin kind of poo-pooed
13 the idea, was looking at -- and I know you guys in
14 Washington will be working on these regs from BLM. And
15 some of these big issues may have been resolved in those
16 regs that they just -- that's what I think we ought to
17 look at. I know they don't apply here.

18 EDDIE STREATER: Well, that's certainly,
19 and it's not only the application. It was the Minerals
20 Council had specifically tasked us with not going to BLM
21 with a lot of things. So we can change that.

22 TOM FREDERICKS: We find a lot of language
23 similar, in our review, to the BLM language. So somebody
24 has drafted something.

25 KRISTEN KOKINOS: You mean in the final?

1 TOM FREDERICKS: And we're not -- and it
2 may not be the --

3 EDDIE STREATER: Well, of course, that goes
4 back to how the statutes apply here also. There's some
5 things that BLM do that we're unable to do.

6 KRISTEN KOKINOS: But I mean, there's --
7 that's certainly something that we can look at,
8 particularly in light of, you know, the OIG's statement
9 that the regs in Osage should be more similar to the rest
10 of Indian country. So it's certainly something that can
11 be researched.

12 EDDIE STREATER: And the steps method of --
13 we talked about that in the initial regs, Galen. That's
14 something that I think that if we can make that happen, I
15 would like that to happen here.

16 TALEE REDCORN: I've just got a question
17 here. Ms. Boone, when was the first resolution to stop
18 the Negreg process?

19 CYNTHIA BOONE: I believe it was in March
20 of 2013 right before the process ended on April 2nd.

21 TALEE REDCORN: So March of 2013?

22 CYNTHIA BOONE: '13, I believe, yes.

23 TALEE REDCORN: So the Minerals Council,
24 I'm hearing it's our desire to start it there. I know we
25 passed two since 2014. What's your comment on continuing

1 the Negreg process, that its resolutions --

2 EDDIE STREATER: The process is over. It's
3 not continuing. It's done. The final report has been
4 issued. It's all --

5 TALEE REDCORN: I'm talking about from
6 2013, when the efforts were still going in '14 when I took
7 office.

8 EDDIE STREATER: I cannot comment on that.
9 Because I was not a -- well, I was a designated Federal
10 official. I was not internal to the process.

11 TALEE REDCORN: I can only say that we
12 can't, I don't think that the United States can say that
13 they have the will of the people or the will of the
14 minerals folks when you're working against a resolution
15 that was passed March of 2013.

16 TOM FREDERICKS: The problem is once the
17 rulemaking gets going, then they treated us -- I know we
18 sent our letter in asking them. They told us that wait
19 till public comment period.

20 They treated us just like any other commenter. And
21 that's the way -- that's the way they have to do it
22 according to regs what they told us.

23 EDDIE STREATER: Yeah, for the negotiated
24 rulemaking, that open -- I forget what the Act is called.

25 LIZ APPEL: There's the Federal Advisory

1 Committee Act.

2 EDDIE STREATER: FACA. Yes. You have to
3 follow FACA. And it's very narrowly written on what you
4 can do and what you can't do.

5 KRISTEN KOKINOS: But that's not the case
6 here.

7 GALEN CRUM: I would like to make a
8 clarification on this also. As Councilman Boone pointed
9 out, it was in the month after it was immediately decided.
10 The first vote was all that they could get a vote for to
11 ask for more time.

12 It was nearly a year later that they finally
13 introduced a new one that said that they were against the
14 whole process. And then of course there was the revotes
15 by the Third Minerals Council to begin the legal process.

16 But the Government was in charge about how much time
17 they could put in it. And that's what sequester was going
18 in. And we couldn't -- for our last meeting, we couldn't
19 even get -- we had a terrible time getting all the
20 Government players in because they weren't funded anymore.

21 So they didn't feel like it was within their purview
22 to be able to -- or ability to be able to extend it
23 longer. That's all that was asked for in the first
24 resolution. It was not that we stopped it, or not to
25 stop, it was to ask for more time.

1 Just a little point of clarification, but it is
2 important. So I would -- I would very much like to see
3 what it is that you guys want to do, listen to what the --
4 our people are, you know, come up with on their own.

5 I would very much like to see some things that they
6 actually stated to say you're wrong in this. I tried for
7 years to get somebody to tell me what was bad about it and
8 very few people would stand up and say what they heard was
9 bad.

10 So but we're not going -- it doesn't sound like
11 we're going back to the weeds and getting every piece of
12 it. But there's a whole lot of it that was very necessary
13 that was not controversial to anyone.

14 And we shouldn't throw that stuff out, things like I
15 just brought up, that the Minerals Council be listed as
16 the body. That was important to me at least to have a
17 Federal document that said that we were the -- the Osage
18 Minerals Council is the Government-to-Government entity to
19 be dealt with.

20 And that's the reason I brought that up again to
21 make sure that that doesn't change. We should be that.
22 So I look forward to trying to figure out how to get paid
23 for all the oil, you know, being sold, and getting it at
24 market price.

25 I look forward to us somehow figuring out how to

1 measure properly and evaluate our gas. I look forward to
2 all those things that is costing the Osage headright
3 holders millions of dollars a year right now.

4 TALEE REDCORN: You know, the question was
5 again what do you not like about the regs. And I said,
6 Well, for starters, it ignores our sovereignty. Well,
7 nobody wants to talk about that.

8 And I think that's step one in the whole process.
9 So you know, if you're not going to recognize our
10 sovereignty, then what do we do? You know, we had to go
11 all the way to go to court to stop this thing.

12 Is anyone listening, you know? Do we have to go to
13 -- like Mr. Revard said who is a shareholder and a
14 headright holder -- do we have to go to court again for
15 you to listen? I'm hoping -- you know, we've got a
16 problem here. We've got a sovereignty issue, in my view.

17 I live on trust property. I live right down over
18 here in Indian Village. I grew up on trust property. I
19 lived about 85 percent of my life on Indian land. So it's
20 very important to me. I know the mind-set of our Indian
21 people who live on Indian land. And sovereignty is
22 critical to your future.

23 And if the United States ignores it, then we are in
24 trouble, in my view, because, I mean, I grew up with
25 people attacking our land. I grew up with them attacking

1 our headright. Our people have been killed for these
2 things.

3 Chairman talks about that all the time. And I
4 appreciate that, sir. That we remember our people who
5 have fallen. Because there's a lot of people that want
6 the activity.

7 So finally, somebody comes in and says, I want to
8 hear what you have to say. And I want to be heard. I
9 want tower our people to be heard. I want our elders to
10 be heard. I want our children to be heard.

11 And right now I'm not hearing it. I'm hearing the
12 same old plan shoved right back at us. So I'm hoping and
13 I'm going to pray, the Chairman will pray, that maybe you
14 will come back and say, Look, I really want to know what
15 you guys want. And that day, I think, will happen.

16 I mean, we talked about our relationship with the
17 United States. Back when the United States in 19 --
18 1803-1804, they came to the Osage. They asked for help.
19 They asked for help against the Spanish when they were
20 going to the new Louisiana purchase. They came to us.

21 And we remember those discussions and we talked
22 about these things, and how we went west and how we were
23 allies. These things are important to us.

24 So now we have an avenue we can be heard. And I
25 want that for my kids because they don't think like me.

1 They have got a new way of thinking. I would be astounded
2 if you was to hear how they talk. They talk like, Let's
3 rethink this oil stuff. Let's rethink these minerals.

4 We've got a Chief that's interested. And we've got
5 a Congress. I don't even know how our shareholders feel.
6 I don't know how -- we haven't even had a chance to talk.
7 All we've been doing is trying to stop the train. Now I
8 think we've stopped it hopefully. Maybe not.

9 Maybe you have pitched another one at us, and we
10 keep doing it. But I'm hoping you will hear us. When we
11 talk, you will hear our voice. And we can settle these
12 matters and we can all move on.

13 So right now, I'm not liking what I'm hearing. We
14 want it out quick, want it out quick, same template, same
15 way we're going to do this business. And I guess here we
16 go again. I'm worried.

17 EDDIE STREATER: There again, I guess maybe
18 we need to ask again. Do y'all want to provide something
19 to us to go through? Did I just not hear you say that you
20 wanted us to hear your voice?

21 I'm open to whatever, whichever way you want. We
22 can provide y'all a draft. Or we're more than happy to
23 look at a draft from the Tribe. I don't know which
24 direction we're going right now.

25 TOM FREDERICKS: Well, I think we can do it

1 either way. It's up to the OMC. If the OMC wants us to
2 do a draft, we'll do one. If they want to hear it from
3 you first, then we will.

4 EDDIE STREATER: I think that's kind of the
5 consensus then, to -- our marching papers. We stand ready
6 any way.

7 KRISTEN KOKINOS: And again, any draft that
8 we provide it's a discussion draft. It's not the composed
9 rule. It's not the end. This is the beginning of the
10 process. It's not the end of the other one. That one's
11 over. This is new. And this is the beginning.

12 EDDIE STREATER: It's a framework to add to
13 or take away, either way.

14 KRISTEN KOKINOS: To go from -- right.
15 It's a starting point, not an ending point.

16 GALEN CRUM: We don't have a enough Council
17 here to have a vote but I can speak for myself. I would
18 like to see what you guys have to say. We can work on it.
19 That doesn't prevent us from working on ideas --

20 KRISTEN KOKINOS: Not at all.

21 EDDIE STREATER: Exactly.

22 GALEN CRUM: -- parallel, much the same as
23 what we talked about with the Chief working on his ideas
24 of what we need changed. Big pictures changes, you know.

25 So I think that the more stuff that we bring that

1 shows what, a side, three sides, four sides, whatever
2 we're working with here, we want to have happen at the
3 next meeting, the sooner we will have a meeting of the
4 minds, or realize we're not going to have a meeting of the
5 minds if it appears that Congressman Redcorn has, you
6 know, expressed then we'll know that. And then we can go
7 forward.

8 TOM FREDERICKS: Well, you know what I
9 think I heard the Chief saying, and I heard the Congress
10 saying that they want to kind of get together and decide
11 whether they even want regs. It seemed like he was saying
12 he wanted to do Tribal regs in the Tribal law and order,
13 their regs. I don't know if that's possible or not.

14 EDDIE STREATER: We'll definitely have to
15 look at that considering the 1906 Act.

16 TOM FREDERICKS: He was talking about
17 Jicarilla. I just did an agreement with Jicarilla. And
18 the BIA just approved it. It seems like it was normal
19 process down there.

20 EDDIE STREATER: Well, we're definitely
21 going to take a look at that. All right.

22 I guess what we'll do then is we'll get together and
23 start preparing some drafts for circulation. And
24 hopefully sometime in early December we'll have that to go
25 out to everybody to take a look.

1 KRISTEN KOKINOS: And if it takes longer,
2 we'll let everybody know, keep in touch.

3 EDDIE STREATER: Yeah, we'll let you know.

4 KRISTEN KOKINOS: And if there's anything
5 you want to share in the meantime, certainly, please do.

6 EDDIE STREATER: Yes, very much. Very much
7 so.

8 KRISTEN KOKINOS: We want the lines of
9 communication to stay open. This isn't one way.

10 PAUL REVARD: Well, I would like to
11 reiterate -- to reiterate what Councilwoman Boone had
12 mentioned halfway through our meeting to keep in mind what
13 the BIA's mission statement is as you're writing that, how
14 economics improved for the Osage people.

15 I think that's real important. Then not a threat
16 but also keep in mind the settlement agreement from the
17 big lawsuit. And what, you know, the outcome and what the
18 language was in it as well.

19 We certainly don't want to end up back in court. So
20 it would be -- I just would like for you all to keep those
21 things in the back of your mind is how is this going to be
22 economically an improvement or beneficial for the Osage
23 headright owners. That's what our Council here, that's
24 what they're elected to do.

25 EVERETT WALLER: I know that.

1 PAUL REVARD: I'm telling, reminding the
2 Federal Government. Please keep that in mind too.

3 EDDIE STREATER: And certainly we will.
4 And you know, the cold hard facts of it is, you've got
5 another player out there in Osage County and we're
6 constantly under attack from that player.

7 And some things have to happen to defend those
8 attacks to keep the mineral estate producing. There's
9 certain individuals here in Osage County that would like
10 to shut that down. And we have to make sure that that's
11 not done.

12 Well, I do appreciate you. It's been a long day.
13 And I do appreciate everybody staying with us. Like I
14 said, the Osage Nation Council, if they get into the
15 process a little bit more, they will get used to the
16 rulemaking, so they will hang with us the whole day.

17 PAUL REVARD: I had asked earlier, is the
18 audio for the transcribed discussion today going to be
19 available? Are you going to circulate that through the
20 Council?

21 KRISTEN KOKINOS: The transcript of today's
22 proceedings, they will send to us. And it will be
23 provided. It will be part of the administrative records.

24 PAUL REVARD: It will be sent to the
25 Council?

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KRISTEN KOKINOS: That's correct.
(Whereupon, the proceedings were concluded.)

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CERTIFICATE

STATE OF OKLAHOMA)
COUNTY OF TULSA) ss.

I, Linda Fisher, a Certified Shorthand Reporter, Registered Professional Reporter, and Notary Public in the State of Oklahoma, do hereby certify that on the 27th day of October, 2016, at the Pawhuska Business Development Center, 1225 Virginia Short Street, Pawhuska, Oklahoma, pursuant to agreement of the parties, the TRANSCRIPT OF THE PROCEEDINGS was reduced to writing by me in stenograph, and thereafter transcribed by me, and is fully and accurately set forth in the preceding pages.

I do further certify that I am not related to nor attorney for any of the said parties, nor otherwise interested in the event of said action.

WITNESS my hand and official seal this 7th day of November, 2016.


Linda Fisher, CSR-RPR #866

