

**OSAGE MINERALS COUNCIL
REGULAR MEETING MINUTES**

MARCH 21, 2018

1. Call to Order

Chairman Waller called the meeting to order at 10:03 AM.

2. Opening Prayer

Councilwoman Redcorn gave the Opening Prayer.

3. Roll Call

Lacey Reynolds called roll. The Osage Minerals Council members present were: Cynthia Boone, Joseph Cheshewalla, Galen Crum, Stephanie Erwin, Kathryn Red Corn, Talee Redcorn, Everett Waller, and Andrew Yates. A quorum was declared.

Guests present were: Joy Ledbetter, Florence Bigheart Trantum, Jinx Geurin, Julie Wilson, Robin Phillips, Nona Roach, Kandy Jump, Gene Bowline, Beverly Brownfield, Susan Forman, Kyle Johnson, Roy Fletcher, Maria Whitehorn, Nancy Lewis, Rhonda C Wallace, and Susan Forman.

Councilman Cheshewalla announces that there are isn't any representation from the Bureau.

4. Auditor Report

For the month of February in 2018 Mr. Swan reports: the total collection was \$3,522,188.77, the average price per barrel of oil for January was \$65.52, the average highest posted price per barrel of oil was \$58.76, for January the average daily barrels of oil produced was 10,752, the gross barrels for January was 333,624, Royalty barrels was 51,057, Royalty barrels vs. Gross barrels was 15.30%. In February royalty collections was \$3,195,683, gas royalty was \$244,631, Scout Energy overpaid by \$40,955.23, the total collections were \$3,440,657.

5. Accountant Report

The Accountant report was provided in the books.

6. Director Report

The Director reports that on March 28th, 2017 the President issued the Executive Order (EO) promoting energy independence and economic growth to avoid regulatory burdens that encumber energy production, constrain economic growth and prevent job creation. This Administrative Order required all agency heads to review, report and rescind all climate change regulatory ordered by the previous Administration with special emphasis on oil, natural gas, etc. The EPA has complied but there is no word on the BIA compliance. Federal overreach continues to destroy the local economy and family businesses in Osage. Numerous identical lawsuits and appeals are stacking up due to the landowner notification

appeal process at the Osage Agency. Everyone is still cut off from all pertinent data at the Osage Agency under the guise of FOIA. Our drilling intent has gone from a one page Osage Form 139 to a 500 page data mining project costing up to \$35,000 and taking up to 2 years, and at the end of the 2 years, some wells are then turned down completely. This is all under the guise of NEPA, ESA, ABB, EIS & EA. On the Bird Creek Spill a shallow resistivity survey was conducted to identify the conduit source on the Bird Creek spill North of Pawhuska. This was agreed upon at a settlement meeting after the lessees appealed the EPA's Administrative Orders (AO) issued earlier. The streams low spot was pumped out twice at a shallow sandstone bowl and continued to have 40 thousand parts per million saltwater at 65 degrees Fahrenheit under ice coming in. So the work continues to protect one of Pawhuska's water supply sources. However, in the drinking water source, saltwater has never been detected there. On the softball field gas seep, the 120 day gas monitoring ended with two spots showing traces of gas. The gas does not appear to have any volume or rate and would not burn. A passive gas vent system is being discussed by the federal, state, and tribal collaboration. Chairman Waller confirms that some numbers have been submitted. Director Lynn says one bid has been turned in so far. Director Lynn reports the DEMD grant through Buffalo Data is over 60% finished with an EMDP website grant. No decision has been made on the Digital Data part II grant and the Orphan Well grant. The North Burbank Unit (NBU) CO2 project is our most prolific producing property on the Osage Mineral Estate. Director recommends the OMC request by resolution that the Osage Agency add an additional tertiary or Type 4 production element to our monthly production data reported by the operator and producer, to be kept at the Osage Agency. Councilman Redcorn likes the comments on the challenges that are being faced in Osage, trying to get permits through. Councilwoman Erwin would like the information they are requesting for the North Burbank should be sent to Mr. Swan. Superintendent Phillips says that the Director commented that it is taking up to 2 years to process drilling permits, and on a regular basis the Bureau is providing the OMC with a report of all the permits that are coming into the agency that are approved as well as pending. On companies that have turned in 139 forms to drill, performance as an example, their EA example is on the website, and that shows that it is not a 500 page EA. The EA consists of 177 pages, and took 82 days to be processed for approval, 30 of those days were the days of appeal. Superintendent Phillips says a lot of the pages were the appendices. It is incorrect that an EA is 500 pages, and the amount of time is incorrect. Superintendent Phillips says she wanted to point something out, because sometimes there is miss information out there for people that are trying to come in and do business, so it needs to be looked at correctly. If the Director looked at the monthly reports that are sent over, he could see how long it is taking for a drilling permit. The Agency is having some obstacles with appeals being filed, and the agency is addressing it. Another example is Short Oil, they had 218 pages but it covered four drilling permits. The agency is allowing individuals to do batch permits, and trying to get the decision notices out at the same time, so it is running simultaneously. Chairman asks if it is 30 days for review, and 30 days for the landowner letter. Superintendent Phillips says 30 days for the landowner letter.

She would like everyone to understand that there is a programmatic EA for all leasing approval, so when a lease is approved by the OMC, the Bureau prepares a lease and is able to approve that lease using a programmatic EA for leasing. There is now a programmatic EA for workovers and pluggings, the only time that there is a need for an environmental assessment to accompany a form 139 is when it is a new driller. So it is not taking that amount of time. Councilman Crum says 3 months ago the Council voted on a process to help get the appeals through the Regional Director's office, last week after the meeting the form had not been sent or used up until this time. A method where we can request the regional office to expedite the process on leasing. These leases on appeal need to be dealt with. Councilwoman Boone asks of the people that have been approved to drill, how many have actually drilled? Superintendent Phillips refers the question to Bob Knappe. Councilwoman Boone says she is asking how many permits that have been approved actually drilled before their lease expired. Councilman Redcorn would like to ask if anyone besides Performance has drilled. Superintendent says she can't answer that, she would have to go back and look, and would be happy to provide that at the next meeting. Councilwoman Erwin says she has spoken with Jeff Rasmussen about this, most of these they are waiting for Hayes 2, and she is working on this with Mr. Fredericks. Councilman Crum would like to see this appeal letter done and moving. He says he has spoken with someone from the archeological department, and they said they were inundated with arc survey requests, they had 40 some come through this month, these have to be done before drilling. Chairman Waller believes that there are 11 that need this letter. On the Softball field they got the contract from the state of Oklahoma, it slows the whole process down.

7. Superintendent Report

The Superintendent reports: The Branch of Field Operations reported, 3,970 Purchaser run tickets reviewed and scanned, 2 Trucking Permits Prepared, 1 Ingress/Egress Letters Prepared, 1 Well plugging witnessed, 3 Restricted Landowner Letters Prepared, 10 Leases checked for production/primary term, 3 Gas meter reports scanned into Osage Nation Report, 11 Complaints Scanned, 2 OERB Evaluations, 72 Lease inspections, 39 Lease inspections/follow-ups, 2 Lact Unit Provings Witnessed, 10 Gas Meter Provings, 9 Tank Trucks Checked for Permit, 34 Tank Strappings Witnessed, 83 Landowner/lessee meetings, 8 complaints responded to, 9 spills/leaks inspected, 29 Spill/leaks inspection/follow-up, 133 Tanks gauged, 4 Tank Bottom Removals Witnessed, 22 Run tickets and 44 calculations. The Branch of Lease Management reported that 2 leases were approved and there are 7 pending. 12 approved assignments and 181 pending, 1 returned. 15 division orders approved, 3 pending, 2 lease terminations approved, 18,101 less 3,259 saltwater disposal wells 14,842 wells. The Branch of Lease Management reported the 3 leases that sold the most under 25 CFR part 214 were APAC- 17,312.36 tons for \$15,413.12, Burbank Materials- 8,982.74 tons for \$9,352.67, Schmidt Brothers-304 cubic yard for \$336. There were 12 requests for lease information, and there was 1 FOIA request. Councilman Yates asks what happened to Candy Creek on the quarys? Superintendent Phillips says Candy Creek wasn't

reported as being one of the top three sold, that is all that is reported here. Chairman Waller says they would have to be bigger than Schmidt Brothers. Superintendent says she will look into it. Councilwoman Erwin asks about the difference in rates for APAC and Schmidt. Superintendent says they have notified APAC telling them that they need to pay the 10%. Chairman says they need to be on a level playing field, when he answers a call the answer is 10%. Councilman Redcorn would like to see it when there is a small amount going to be removed that the Chairman sign off on it, by standing resolution. Chairman says that this resolution is there, there have been a few recently that he has been asked about, and they just aren't going to fall under the 500 excavation. Councilwoman Erwin says she doesn't have a problem with it unless its ODOT. Superintendent Phillips asks if the resolution says less than 5,000? Chairman says no it talks about where it triggers it. Councilman Crum says if it meets the criteria, then it was supposed to be let go. Superintendent reports that the Branch of Subsurface approved 11 workover permits and 3 plugging permits. The Branch of Accounting provided the production reports to Mr. Swan. The Branch of Enforcement and Lease Compliance has 2 EA's that they are reviewing, they will cover 10 permits to drill. They recently approved an EA for 4 permits, they sent out 23 noncompliance letters, and 15 non production letters, they have provided 15 extension letters, 3 remediation letters issued, and 3 final notice letter issued, 6 spill remediation notices. Deputy Superintendent Winlock reports that the Osage recording system has no way of separating production, so they cannot separate the secondary and tertiary oil. They would have to get special permission from the accountability office. Chairman Waller asks how they are separating different percentages for oil. Deputy Superintendent says they can do the different percentages for different purchasers. Councilwoman Boone would like to have the top producers for oil and gas into the report. Councilman Redcorn appreciates the Superintendents report, as well as the Directors, but they are saying two different things. He would like to propose these two get together on where things are at. Superintendent Phillips says the Director is more than welcome to come over, they can have a standing monthly meeting. Councilman Crum would like to go ahead and get the process started on a different reporting system. Councilwoman Boone asks the Superintendent how long it would be to change the forms, or to add a new form? Superintendent says it would just have to be revised and then go up, during the negotiated rulemaking they looked at those forms to see about doing remediation. What the Deputy Superintendent is proposing would be something good. Chairman says the division order specified the break down. Councilwoman Redcorn asks if the Bureau has filled the petroleum engineer position. Superintendent Phillips says they got a list of individuals that qualify and will be setting up interviews within the next week. Councilwoman Redcorn asks how long that has been vacant? Superintendent Phillips says he left in October right before the lease sale, they have been relying on the DEMD and the service center to help them. Councilman Yates agrees, they need to monitor the CO2 on the north Burbank very closely. On the workover permits now that there is the landowner notification, have they ran into any problems with that, and has it delayed any workovers? Is that typically responded to? Superintendent says she

would have to check into that. Councilwoman Boone asks about the archeologist position? Superintendent Phillips says it has not been posted yet. Councilwoman Boone asks how long that position has been vacant. Superintendent Phillip says she doesn't know on that one. Councilwoman Boone asks what the holdup is? Superintendent Phillips reply's with funding. Councilwoman Boone asks when they do the budget isn't there already funding for x amount of employees? Superintendent Phillip says she is not going to talk about the budget. Councilwoman Boone says if there is an approved budget for these positions then that money should still be there, and funding should not be an excuse. Guest Susan Forman, President of the Osage Shareholder Association asks the Superintendent about the termination letters. Is there any effort to review the reserves that might still be recoverable? Superintendent Phillip says no. Mrs. Forman asks if there is a reason for that. Superintendent Phillips says she is not a petroleum engineer so she cannot answer that. Mrs. Forman asks how many drilling permits are being stopped due to appeals right now? Superintendent Phillip says she doesn't know. Mrs. Forman says it takes 52 days to process a permit, 30 days for an appeal, 82 days for the Performance example, 52 days for review. What is involved in the 52 days? Superintendent Philips says the Agency has to go in and review the Environmental Assessment, and if there are issues the Agency has to work with the company to make revisions.

8. New Business

a. Biannual meeting- report and new date

Councilman Redcorn makes a motion to approve the report as submitted by Mrs. Frayler, seconded by Councilman Yates.

MOTION PASSED: Councilwoman Boone- Yes, Councilman Cheshewalla- Yes, Councilman Crum-Yes, Councilwoman Erwin-No, Councilwoman Red Corn- Yes, Councilman Redcorn- Yes, Chairman Waller-Yes, Councilman Yates- Yes. (7-yes, 1-no)

Chairman Waller asks for potential dates. Superintendent proposes the 15th, 21-25th of May, or July the 17th.

b. Federal Register, Categorical Exclusion- Fred Storer

Director Lynn says this came out in the federal register a couple weeks ago, and asks for exclusions, responses to come out. He explains they are hoping for a categorical exclusion for all permits at the Osage Agency. Councilman Yates says it is worth a shot. Director says there is no reason to not have a categorical exclusion for all permits in Osage. Councilman Yates says ye, specifically for drilling permits, wasn't it? Chairman says at the time it was for workovers in the beginning, but now the last thing we looked at was drilling. Councilman Redcorn believes this is coming from the new administration wanting to streamline the process, and it wouldn't hurt to ask.

c. Request BIA to separate tertiary oil – William Lynn

Chairman Waller says now is a good time for a Royalty Policy Committee update, In Houston they are going to be lowering some royalty rates, they are going to be looking at off shore drilling. The coal companies are going to be doing what we do, the HPP for our oil.

Councilman Yates makes a motion to request the Osage Agency to separate the different amounts of secondary and tertiary oil since the start of the NBU CO2 project and production be reported and maintained separately and delivered to the OMC. Seconded by Councilman Redcorn.

MOTION PASSED: Councilman Cheshewalla- Yes, Councilman Crum-Yes, Councilwoman Erwin-Yes, Councilwoman Red Corn- Yes, Councilman Redcorn- Yes, Chairman Waller-Yes, Councilman Yates- Yes, Councilwoman Boone- Yes. (8-yes, 0-no)

d. House Appropriations Subcommittee- Stephanie Erwin

Councilwoman Erwin says Mr. Wilson needs this information by the 6th of next month, whether or not the Council is going to go to Washington and give testimony on the appropriations committee, and who all is going to go. If no one is going to go to instruct Mr. Wilson to be a lobbyist for that. Chairman asks for the date of the committee hearing. Councilwoman Erwin believes it is in March, you have to be put on an agenda. Councilman Redcorn says he would volunteer to go. Chairman says there actually is a resolution for him and Councilman Redcorn to go anyway, over the Fred Storer effort.

Councilwoman Erwin would like to make a motion that any council member that wants to go can go, and if no one wants to go that they request Mr. Wilson to go as a lobbyist. Seconded by Councilman Redcorn.

Councilwoman Boone says she has testified before, and wouldn't mind doing it again. Chairman asks if the Council wants to double the appropriations from the last time? Councilman Yates believes that this is a waste of money and time, yes go ahead and put in for this but to send everyone up there to grand stand is a waste of resources and time. Last year the lawyer told us that it was a waste of time, the chances of it going through were slim to none. When they start slashing the budget that would be the first thing cut. I do think that it needs to be pursued. He will be voting no.

Councilman Redcorn says the Bureau and legal team have advised them that if they need any money for plugging they have to go to appropriations, so he is going strictly to get money for plugging. He doesn't think it needs to be doubled. There is no plugging money right now, so that's why he would go. Councilman Crum says they are making a request to put in for the money they have put in for the last 2 years. He

believes that the OMC's testimony is not going to make it stay or not stay in the budget, so he thinks it's a waste of money. Councilwoman Boone says they are making a difference with their testimony, because in the last budget there actually was well plugging in it. She does not agree with Councilman Yates that it is grand standing because if every other tribe felt like that they wouldn't be down there asking for money either, they all have representatives and lobbyists too. If we need money that is our source of obtaining it. She will do whatever the Council wants to do.

Councilwoman Erwin says in the Bi annual report Mr. Dahl they came up with every way for the Council to come up with the plugging money. Chairman says let's be clear the Council's answer to that was no. Councilwoman Erwin says yes someone needs to go to show them that we still need it. Councilman Redcorn says there still needs to be a resolution to direct the attorneys to do this. Councilwoman Erwin says there is a resolution, but nobody wants to vote on it.

Councilman withdraws his second, he would like clarification if this resolution is just to approve for the request.

Councilwoman Boone seconds the motion.

Councilwoman Redcorn would like for a Council person to be there to make the request, and suggests to send two people, Talee Redcorn and Joe Cheshewalla. If the Council doesn't show enough interest to go up there themselves they aren't going to listen, to send the attorney does not either. Chairman Waller says and the attorney represents other clients up there, the Council has to remember we aren't the only people up there. Lacee Reynolds reads the proposed resolution "any council person that wants to go to the appropriations committee be allowed to go, and if no one goes then Mr. Wilson will represent the Council." Councilman Yates says this is a two-part resolution, is there any way to separate it. He is all in on putting in on the appropriations, but not on sending the whole Council. Councilwoman Boone says the Council has always made it to where anyone that wants to go, can go. Councilman Yates says he will have to vote yes because this plugging money is needed, they make it every bi annual meeting so he will have to vote yes to send everybody to DC against the attorney's advice again.

MOTION PASSED: Councilman Crum-No, Councilwoman Erwin-Yes, Councilwoman Red Corn- Yes, Councilman Redcorn- No, Chairman Waller-Yes, Councilman Yates-No, Councilwoman Boone- Yes, Councilman Cheshewalla- Yes. (5-yes, 3-no)

Councilman Crum would like to clarify that for this to make any difference there would have to be a budget passed. He believes the BIA should submit money for this in their budget, they have been a part of these wells being abandoned, and let the bond money get away. Maybe while they are there they can ask for some meetings with Mr. Tahsuda, Mr. Zinke, and Mr. James.

9. EXECUTIVE

10. Old Business

a. Resolution to Hire Dr. Evans- Cynthia Boone

Councilwoman Boone would like to have this moved to next month because there is still some discussion regarding the particular amount and how it should be worded.

b. Softball field well- William Lynn

Chairman asks if there is any other discussion, there is none. He and the Director will go ahead and get that one bid out, they will talk with the state and the Bureau. It will be the same venting that they are using. He doesn't think it is the Council's. There had to be enough cement put down there last time to cover everything. Councilman Cheshewalla says maybe in the future they could get an archeological crew out there with that ground penetrating radar, maybe there is another well out there that we don't know about. Chairman says people need to realize people ran a wide loop back then.

c. Breene Lease resolution- Stephanie Erwin

Councilwoman Erwin says the resolution can be the same, it just needs to add the water flood wording. This needs to be approved so this can be taken care of.

Councilman Yates says the interested party is here, why doesn't the Council hear what they have to say. He believes there is a question on the rolling stock part of it. Lacey Reynolds says the resolution that Councilwoman Erwin did doesn't change anything, there is just different wording. The resolution that the Director did does change it so there will need to be a vote for that one. Superintendent Phillips says that the resolution just needed to be more specific as to the intent, to reestablish the Breene lease unit. Chairman says under the agreement that the Council has already negotiated. Councilman Yates asks what the effective date is. Mr. Fletcher says that the effective date is March 1st. He says the only problem he has is the rolling stock. He says they did bring the check today. Chairman asks how long until they will start and the production will go up. Mr. Fletcher says there are two tanks of oil setting on the site. Councilman Redcorn asks Councilwoman Erwin what the resolution is for.

Councilwoman Erwin says it is to reestablish the Breene water flood. Just to change the name, nothing needs to be done.

d. Meeting minutes

Chairman says there are only a couple left after last time.

11. Committee Reports

Councilwoman Erwin says she is waiting on an article from the Chairman, currently there is Oil and Gas summit in there, that is old news, she thinks there needs to be some new stuff put in there. There is page after page of stuff, why is production on the back, it needs to be in the front. We have been waiting months on this because they thought they were going to get the two grants. She would like to wait, and have the other council members submit something. Councilman Yates asks if the Council is still having the lease sale in May, maybe it could be advertised in there. Superintendent Phillips says in order to do the online lease sale they need to get with the Director to have a process in place. Chairman says the

attorney has been working on the online contract. Councilman Yates asks if there is something on Buffalo Data, and how to get to that website. Director Lynn says it is in there. Chairman would like to see the Enel case in there. Councilwoman Erwin presents a policy for the people in the office. Chairman asks if this is being presented in the form of a motion. Councilwoman Erwin says yes.

Councilwoman Erwin makes a motion to approve the attached policy.

Councilman Redcorn says the Nation already has policies and procedures in place.

Councilwoman Boone seconds the motion.

Councilman Redcorn says there are policies within our nation that deal with the staff, and the members running for these offices. The Council needs to go forward with that.

Chairman says there will have to be a correlation with the others. Lacey Reynolds says when she was asked about this she called HR and asked if there was anything in place regarding the election, and they didn't really find much. What she wrote was pulled from the Osage Nation policies and procedures. Councilman Yates says he has read it but he believes that it should apply to the elected officials as well, under the same scrutiny for the use of office equipment and materials for campaigning, it should be prohibited.

Councilwoman Erwin says that is a whole other subject. Chairman Waller says it isn't really.

Councilman Yates says this is asking them to adhere to this, and the Council should be held to the same terms.

Councilwoman Boone says she brought up a specific issue, and that is what is addressed here. If anyone else wants to come up with a different resolution, then they can come up with that themselves. Councilman Redcorn says if it is already in the books within the Nation, although we are an independent agency, we share the same. He says we should mimic what the Nation does on these policies. Lacey Reynolds says on this particular Osage Nation policy it does exclude the OMC and its staff. Councilwoman Erwin says that we are our own, we do it all as far as election. Councilman Redcorn says he is okay as long as it doesn't go against the laws of the Nation. Has anyone checked with the AG's office. He thinks the Council needs to just mimic exactly what the nation does, so he will be voting no. Councilwoman Boone says the Council just heard the Assistant say that it doesn't go against the Nation, she even said she took this from the

Nations policies, so she doesn't have a problem with the way it is written. Councilman Crum says after seeing the email from the nation, he is rethinking. It actually involved the people running and maybe something like that should be added here. Councilman Yates asks for the motion to be amended to include officials. Councilwoman Erwin amends her resolution to include not to use any of the equipment, services of office employees to do anything for the Council in regards to the election. Councilman Redcorn would like this to be sent to an attorney to make sure it is not against the laws of the land.

MOTION FAILED: Councilwoman Erwin-Yes, Councilwoman Red Corn- Yes, Councilman Redcorn- No, Chairman Waller-No, Councilman Yates- No, Councilwoman Boone- Yes, Councilman Cheshewalla- No, Councilman Crum-No. (3-yes, 5-no)

Chairman Waller says when the election committee was held up he had to sole source the contract for Ms. Ponca they still haven't got it. The Accounting wouldn't let us use electronic signature. She still doesn't have a computer. The Council should not be specifically checked by an accounting office. This is a 1906 act; it has its own federal identity. No court action or Congress resolution effects 1906. Councilwoman Erwin says in our constitution it says we are separate pursuant to the 1906 and amendments. Councilwoman Boone asks if there was a vote on a letter on the categorical exclusion? Superintendent Phillips says that was in the federal register, so you will respond to them, not to the Osage Agency.

Councilwoman Erwin makes a motion to adjourn, seconded by Councilman Redcorn.

MOTION PASSED: Councilwoman Red Corn- Yes, Councilman Redcorn- Yes, Chairman Waller-Yes, Councilman Yates- Yes, Councilwoman Boone- Yes, Councilman Cheshewalla- Yes, Councilman Crum-Yes, Councilwoman Erwin-Yes. (8-yes, 0-no)

Adjournment- 11:53 AM

Approved by:

Chairman

Executive Administrative Assistant