

1       **9. MANAGEMENT OF MINERAL ESTATE.**

2           **a. Oil and Gas.** After the Effective Date, the United States shall provide the  
3 following information to the Osage Minerals Council regarding the United States'  
4 management of the oil and gas deposits within the Osage Mineral Estate.

5                   **i. Oil.** For all oil produced from the Osage Mineral Estate:

6                           **1.** Upon written request by the Osage Minerals Council, the United  
7 States shall provide to the Osage Minerals Council scanned copies  
8 of each run ticket left by each purchaser at the tank battery for each  
9 sale, showing the date of sale, well or lease identity, lease operator,  
10 purchaser, gravity of oil sold, and the temperature of the oil sold.  
11 The United States shall also provide table tank data in order to  
12 determine the volume of oil sold. The United States shall provide  
13 the scanned copies of each run ticket and the table tank data within  
14 thirty (30) days of its receipt of the written request.

15                           **2.** On a quarterly basis, the United States shall provide the Osage  
16 Minerals Council with scanned copies of each monthly purchaser  
17 statement issued by the purchaser to the producer, containing the  
18 date of the sale, well or lease identity, lease operator, purchaser,  
19 volume of oil sold, gravity of oil sold, price paid per barrel for the  
20 sale, 40-degree price used for the sale, gravity adjustment scale  
21 used for the sale, and total amount paid for the sale.

22                           **3.** On a quarterly basis, within thirty (30) days of the close of the  
23 quarter being reported, the Osage Agency shall provide the Osage  
24 Minerals Council with a report detailing the following information  
25 for the quarter being reported:

26                                   **a.** The total amount of severance tax deducted from sales of  
27 oil;

- b. the number of gaugers employed by the Osage Agency;
- c. the number of gaugings performed at each tank battery, and any discrepancies discovered; and,
- d. any measures taken by the Osage Agency to detect, measure, and recover royalties for volumes of oil lost through theft, spillage, mis-measurement, or any other means.

**ii. Gas.** For all gas produced on the Osage Mineral Estate, the United States shall provide the Osage Minerals Council the following documents and information on a quarterly basis:

1. for all production of gas at each oil or gas well during the quarter being reported, scanned copies of documents showing the total volume of raw gas measured at the well;
2. for all production of gas at each oil or gas well during the quarter being reported, scanned copies of documents showing the BTU value of raw gas produced at the well;
3. for each sale of gas during the quarter being reported, a scanned copy of the periodic gas analysis report taken by the purchaser, showing the components of raw natural gas, and the purchaser statement showing the volume of gas produced at the well, the total value paid for the raw gas, BTU content, percentage of residue gas paid to or returned to the producer, percentage of residue gas retained by the purchaser, volume of natural gas liquids (“NGLs”) recovered from the raw gas stream, the percentage of NGLs paid to or returned to the producer, percentage of NGLs retained by the purchaser, deductions for gathering, deductions for compression, deductions for dehydration, price used to value the residue gas, price used to value the NGLs;

- 1                   4. a copy of each gas sale and purchase contract; and
- 2                   5. a report from the Osage Agency detailing its efforts to detect or
- 3                   prevent the release, venting, flaring, theft, or production of gas
- 4                   from the Osage Mineral Estate without the payment of royalties
- 5                   thereon.

6                   **iii. Manner, Type, Format, or Source of Information To Be Superseded.**

7                   Upon the effective date of the rules or regulations adopted through the

8                   negotiated rulemaking described in Subsection 9(b) below, the information

9                   that the United States shall provide to the Osage Tribe, through the Osage

10                  Minerals Council, regarding the United States' management of the oil and

11                  gas deposits within the Osage Mineral Estate, as described in this

12                  subsection above, shall then be provided in accordance with the effective

13                  rules or regulations.

14                  **b. Negotiated Rulemaking.** To improve the management of the Osage Mineral

15                  Estate, the Department of the Interior agrees to engage at the earliest date

16                  practicable after the Effective Date in a negotiated rulemaking with the Osage

17                  Tribe pursuant to 5 U.S.C. §§ 561-570a, in accordance with the terms of that Act

18                  and in accordance with the Determination of Need under 5 U.S.C. § 563 attached

19                  hereto as Exhibit 8. The scope of the negotiated rule-making should include, but

20                  need not be limited to, the following:

- 21                   i. Identifying the appropriate information needed from all operators,
- 22                   purchasers and payers who are associated with the Osage Mineral Estate
- 23                   and developing and implementing standardized reporting to manage
- 24                   diligently production and accounting;
- 25                   ii. Identifying the source, manner, and format of transmission whereby the
- 26                   information required by Subsection 9(a) will be provided to the Osage
- 27                   Minerals Council;

- 1           iii. Identifying appropriate revisions to the methods for calculating royalties  
2                     and rentals for oil and gas, including but not limited to royalty rates,  
3                     royalty value (pricing), and rental rates;
  
- 4           iv. Identifying the best feasible practices for developing and conducting  
5                     onsite inspection programs;
  
- 6           v. Identifying the feasibility of implementing technological enhancements  
7                     for generating run tickets and other production data for reporting that  
8                     information to the Osage Tribe and the United States;
  
- 9           vi. Identifying the best feasible practices for gauging oil and gas production  
10                    and the resources needed to implement the strategy selected;
  
- 11          vii. Identifying and implementing the best feasible practices for tank battery  
12                    gauging; and,
  
- 13          viii. Determining and documenting the formal communication needed to  
14                    manage diligently the Osage Mineral Estate between the Osage Tribe, the  
15                    Osage Minerals Council and the United States.
  
- 16          c. **Consultation.** The United States shall meet with the Osage Minerals Council at  
17                    least twice each year to review issues identified in writing by the Osage Minerals  
18                    Council relating to the management and administration of the Osage Mineral  
19                    Estate. The Parties shall establish the annual schedule for such meetings in  
20                    January of each year. The first such meeting shall take place in January 2012 on a  
21                    date that is mutually agreed. The Osage Minerals Council shall submit its agenda  
22                    of issues to be discussed in the upcoming consultation meeting in writing at least  
23                    thirty (30) days in advance of the meeting. The United States and the Osage  
24                    Minerals Council agree that the agenda for the first consultation will address a  
25                    plan to undertake a review of gauging activities on the Osage Mineral Estate and  
26                    make recommendations to the Parties as to how to improve the procedure and  
27                    frequency of gauging, including the means, techniques and tools for measurement

1 used for gauging sufficient to meet industry standards. The Osage Minerals  
2 Council's agenda of issues to be discussed may include reasonable requests for  
3 information from the Osage Agency relating to topics that are to be discussed  
4 during the upcoming meeting. The Osage Agency shall make best efforts to  
5 provide the information requested by the Osage Minerals Council in advance of  
6 the meeting in which the information is to be discussed. The purpose of these  
7 meetings shall be to identify and recommend in writing to the United States and  
8 the Osage Tribe improvements that could be made in the overall management and  
9 administration of the Osage Mineral Estate. At least one (1) representative from  
10 the United States in these meetings shall be a representative from the Office of the  
11 Director of the Bureau of Indian Affairs. The United States and the Osage Tribe  
12 agree to consider and pursue in good faith any recommendations made as a result  
13 of these consultations. The United States and the Osage Minerals Council shall  
14 prepare a joint written annual report setting forth the topics of issues discussed  
15 during the preceding year, the recommendations and actions agreed upon, and the  
16 outcomes identified, if any. The report shall also include a list of additional topics  
17 and issues that the Parties have identified for further review and consideration in  
18 future meetings. If the Parties are unable to agree upon the language of any part  
19 of such annual report, each Party may include its own written views on the topic  
20 in question. The Parties shall submit the annual report to the Secretary of the  
21 Interior and the Principal Chief of the Osage Tribe no later than February 15 of  
22 each year, beginning in 2012.

- 23 **d. Restoration of Unclaimed Distributions and Payments.** As soon as practicable  
24 after the Effective Date but not later than one (1) year after the Effective Date, the  
25 United States shall identify all funds that are "unclaimed" within the meaning of  
26 25 U.S.C. § 164 (75 Stat. 584) that are derived from the Osage Tribal Trust  
27 Account and all Other Osage Accounts. The United States shall promptly restore  
28 to the Osage Tribal Trust Account any unclaimed funds so identified that are  
29 eligible for such restoration pursuant to 25 U.S.C. § 164, whereupon such funds  
30 will be re-distributed in accordance with Section 4 of the 1906 Act.