

Mr. Eddie Streater
Designated Federal Officer BIA
P.O. Box 8002
Muskogee, OK 74402

September 9, 2013

Re: 1076—AF17 Comment on Osage CFR Revision, 226.18 (1), NYMEX,
Payment for Transportation of Royalty Barrels

Dear Sir:

I think that the Cushing NYMEX daily price of oil should certainly be the basis for calculating the daily price paid to the Osage Shareholders for our royalty oil. However, the cost of transportation of that royalty oil from the lease to the purchaser should be borne by the Shareholders, even though the physical custody transfer happens at the lease.

The actual cost of transportation from each individual lease is affected by many variables, therefore, to calculate and use a perfect number for each oil run would be an accounting nightmare. I suggest you develop a reasonable, set amount, for example 2 ½ % of the daily NYMEX price, or some other amount that may be more fair, and use that number across the board to be deducted from the full published Cushing NYMEX price to cover the transportation costs, which, in this example, would make the price we receive for royalty oil be 97 ½ % of NYMEX on any given day, less any downgrades resulting from quality analysis. In the future, if oil prices continue to rise, this percentage may need to be adjusted to better reflect the true cost of transportation, but that would be a simple thing to do. Adjustment to the percentage could even be scheduled annually, using the ratio of the previous 12 months average of daily NYMEX prices /vs/ the estimated actual cost of transportation to achieve an equitable percentage.

This method would make the calculations very simple to verify and account for by the BIA, and it should be a simpler way for the purchasers to do their accounting, once the changeover is made. Further, it would forever remove the perception of the possibility of collusion among the several purchasers of Osage oil when their posted price is established each day.

I also think it would be very important that the BIA contact all purchasers of Osage oil to get their input on calculating and assessing transportation costs. A little good will would go a long way when implementing any new regulations that will require adjustments to be made to their accounting systems.

This issue of NYMEX pricing for the royalty oil has been quite divisive for the Negotiated Rulemaking Committee, for the Osage Minerals Council members of that Committee, and for the Osage Shareholders. I believe that using Cushing NYMEX as a base for calculations would utilize the most comprehensive source available, because it follows the world oil pricing structure almost perfectly from day to day. Should some unforeseen issue arise that substantially affects the local price of oil, the existing language stating “the greater of:” “NYMEX” or “the actual selling price”, immediately resolves the issue in favor of the Shareholders.

Nothing you can do will suit everyone. As long as it is as fair and equitable as possible to all parties, nothing else can be expected. The fact that you asked for comments on this subject, demonstrates that at least someone wants to get it right. I appreciate that, and thank you for this opportunity to comment.

Ray McClain, Osage Shareholder