

Charles O. Tillman, Jr.

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December 21, 2006

Melissa Currey
Superintendent
Bureau of Indian Affairs
Osage Agency
Box 1539
1813 Grand View
Pawhuska, OK 74056
Via U. S. Mail

Jeanette Hanna
Regional Director
U.S. Bureau of Indian Affairs
Muskogee Area Office
3100 W. Peak Blvd.
P.O. Box 8002
Muskogee, OK 74402
Via U.S. Mail

The Honorable James M. Inhofe
United States Senator
453 Russell Senate Building
Washington D.C. 20510-3603
Via U.S. Mail

Members of the Indian Affairs Committee
U.S. Senate
The Honorable John McCain
Chairman 2006
838 Hart Senate Building
Washington D.C. 20510
Via U.S. Mail

Re: *Osage Headright Owners*

Dear Superintendent Currey:

Several problems have arisen since the most recent election of Osage Tribal officials. This election failed to comply with Federal law. Osage elections are held under the supervision of your office pursuant to the Code of Federal Regulations, including section 90.2, et al. 25 C.F.R. 90.31 states "The manner of carrying out elections to be held under the act of June 28, 1906, as amended by the act of March 2, 1929, as amended by the act of August 28, 1957, is covered in the regulations set forth in this part." The regulations clearly indicate that "qualified" voters are headright interest owners. A list of those owners was to be compiled and the election conducted by your office, which has supervision over the notices, ballots and voting.

The recent election occurred under your oversight and is in violation of the Congressional Act of June 28, 1906 and its recent amendment, passed as House Bill 2912 in 2004. That House Bill reaffirmed that the term "legal membership" means persons eligible for allotments of Osage

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Reservation lands and a pro rata share of the mineral estate i.e., headright owners. The 2004 house bill stated "Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own membership, provided that the rights of any person to Osage mineral estate shares are not diminished thereby."

The recent Osage Constitution, adopted by the Osage Tribal Council in March of 2006 provides for management of the Osage Mineral Estate by the election of a "Osage Mineral Council" consisting of 8 members. However, this Constitution also indicates that the principal chief has a "veto" authority over all management actions taken by the Osage Mineral Council. It further provides that no "rules or regulations" may be promulgated by the Osage Mineral Council which could be inconsistent with other rules of the Osage Nation, as defined within this Constitution.

Although the "Osage Mineral Council", as defined by the new Osage Nation Constitution, is elected by the headright owners, this Mineral Council has no authority to manage or make decisions without the consent of the current principal chief, who was not elected by the headright owners. Clearly, the 1906 Act and all of the Federal Regulations promulgated thereunder mandate elections of a principal chief and assistant chief "by the headright owners". Those are still in full force and effect and such elected officers of the tribe along with an 8 member Council are still designated by the 1906 Act as amended to govern all matters dealing with the minerals and headright owners of the Osage Tribe.

The duties of the Secretary of Interior and your office are set out in 25 U.S.C. § 2 and other statutes, the regulations and numerous federal cases. The U.S. Supreme Court held that the 1906 act conferred "large administrative supervision" upon the Secretary over the Osage Council elections and those elected. *U.S. ex rel Brown v. Lane*, 232 U.S. 598, 34 S. Ct. 449 (1914). Your duties also extend to supervising and protecting a very valuable asset of the Osage Tribe, its mineral estate. The current Osage Nation Constitution and the most recent election are contrary to the letter and intent of the 1906 Act, as amended by House Bill 2912 in the following manner:

1. No principal chief or assistant principal chief was elected by the headright owners to govern the management of the mineral estate, along with 8 council members;
2. The actions and activities of a council elected by the headright owners cannot be subject to a "veto" power of a principal chief, who was not elected by said annuitants;

Another valuable asset owned by the annuitants/head right owners is their case pending in the United States Court of Federal Claims, consolidated under Case No. 99-550, which has been the subject of some recent reports in the Tulsa World and other newspapers. I have knowledge of the potential value of this case, as it was filed by the tribe when I was the Principal Chief, elected

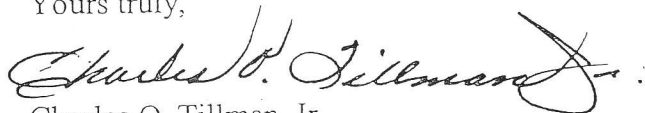
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by the headright owners. The claims in this case address damages suffered by the headright owners/annuitants. By the actions/inactions of the U.S., the management of this case is not being directed by the persons who are designated in the 1906 Act, inclusive of 8 council members, a principal chief, and assistant principal chief all to be elected by the headright owners. It is not known if the current Osage Mineral Council is even being consulted as to the management of this case.

Your office has responsibility, even in cases against the United States, to see that the rights of the Osage Tribe and its annuitants are properly represented and protected in such litigation. *See* 25 C.F.R. § 89.40 -.41. The office of the superintendent is not providing the oversight and support required by Federal law in allowing these valuable claims to be "managed" by persons not elected by the headright owners.

It is my urgent request that your office take immediate steps to rectify the unlawful situation currently existing, as a result of your failure to hold elections as required by Federal law. I further urgently request that you uphold your duty, as trustee, in the management of all matters concerning the Osage Mineral Estate including elections, leasing, royalty revenues, and the claims of the annuitants in Case No. 99-550, currently pending in the United States Court of Federal Claims in Washington D.C.

Yours truly,



Charles O. Tillman, Jr.
Former Principal Chief of the Osage Tribe of
Indians, Annuitant and Headright Owner

cc: Osage Mineral Council