

Interpreting the Osage Nation Constitution in one quick and easy sweep:

## Osage Nation Constitution

### ARTICLE IV – DECLARATION OF RIGHTS

**Section 5. Rights of Mineral Royalty Interest Holders:** *The Osage Nation Government shall not create any law or ordinance pertaining to the mineral royalties from the Osage Mineral Estate that acts in conflict with Federal law and regulations.*

## United States Constitution THE SUPREMACY CLAUSE

### Article. VI.

*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

Note from Jenny:

The preemption doctrine derives from the Supremacy Clause of the Constitution which states that the "Constitution and the laws of the United States...shall be the supreme law of the land...anything in the constitutions or laws of any State to the contrary notwithstanding." This means of course, that *any* federal law--even a regulation of a federal agency and it certainly means any tribal law including "Osage Law."

So when you see in the Constitution what I refer to as "smoke & mirrors" such as statements of this sort:

*"As an independent agency within the Osage Nation, the Osage Minerals Council may promulgate its own rules and regulations as long as such rules and regulations are not inconsistent with the laws **neither of the Osage Nation** nor the rules and regulations established by the United States Congress in the 1906 Allotment Act."*

You have to filter out the "smoke & mirror" statements and understand federal law preempts (trumps) Osage Nation law therefore pluck out the "smoke & mirror" attempts to misguide you into thinking that the addition of "neither of the Osage Nation" makes any difference whatsoever because it doesn't.

Another example:

*All leases or other forms of agreement for development of the Osage Mineral Estate shall comply with applicable federal law and all laws and regulations of the Osage Nation. The Osage Minerals Council shall exercise the administrative authority delegated under this Constitution, the laws of the Osage Nation, and as permitted by federal law.*

Note:

The leaders of this government and you, the shareholders have to just ignore these embellishments that indicate that all laws and regulations of the Osage Nation must be complied with when it comes to your Mineral Estate because it simply is not the case.

**Read this again:**

## **Osage Nation Constitution**

### ARTICLE IV – DECLARATION OF RIGHTS

***Section 5. Rights of Mineral Royalty Interest Holders: The Osage Nation Government shall not create any law or ordinance pertaining to the mineral royalties from the Osage Mineral Estate that acts in conflict with Federal law and regulations.***

Note:

So what we have here is people making decisions for a multi-million dollar concern consisting of both mineral income and gaming revenue who either are not capable of comprehending the very constitution they have sworn to uphold or are intentionally acting in a corrupt manner costing not only shareholders but non-shareholders their rightful share of revenue from these lucrative and beneficial sources of revenue.

Keep in mind that the 8 Council members supposedly in charge of Mineral Affairs took the same oath but what have they done but sell you out?

Be aware. I have been stating this case and more for several years now. Never have I wavered nor will I waver. The law is the law and millions of dollars have been lost due to the leaders of this government attempting to skirt the law for personal gain.

I need your votes and we need me in office.

Feb. 7, 2012

# Mineral Estate

**From:** Lyn Fuller

**Date:** 06 Feb 2012

**Time:** 14:55:03 -0500

**Remote Name:** 108.198.77.95

## Comments

Is there any alternative to the Jech lawsuit to protect the mineral estate? Also, what actions can be taken by the shareholders to prevent and recover any misappropriations by the ONG of the mineral estate revenues? Is there any legal recourse without approaching the BIA?

# Re: Mineral Estate

**From:** Jenny Miller

**Date:** 07 Feb 2012

**Time:** 07:49:21 -0500

**Remote Name:** 67.61.80.163

## Comments

Lynn. As you are aware, you sent an e-mail to me asking this very question and I have chosen to post my response to you written on February 4 in an effort to help other Shareholders understand the situation better. At the risk of having a much too lengthy post, I wish to re-write a post to 12.71.202.154 for your review as well as others with regard to this matter.-----Response to your e-mail:

Lynn:-----Rest assured, I have attempted every possible way to avoid supporting any lawsuit but the fact is, the Jech lawsuit is the only recourse. Frankly, this lawsuit becomes more and more important on a daily basis as we see and hear of the next atrocity occurring with regard to mineral royalties.

The royalty income is deposited into the trust fund. Between the time that all royalties are collected for a particular quarter and the time all checks are written (approximately 1 month), the royalty funds are subject to withdrawal by the (supposed) Tribe, with the approval of the BIA. In other words, due to this illegal and hostile takeover of the Tribal Council, the Osage Nation leaders, elected by non-shareholders, have the ability to withdrawal royalty income "from the top" before shareholders checks are written. Example: The Trust Fund has collected 3 million dollars to be distributed to shareholders according to their decimal interest in the estate. The Osage Nation leaders request that 1 million be held out of the 3 million for this Wind Farm suit. Your interest will be diminished quite a bit. Now hopefully this example is an exaggeration but as we have seen, these Nation leaders are capable of anything and have no concern whatsoever about what you or I think.

With regard to how this Nation government usurped the Tribal Council form of government. They did so illegally and intentionally for the purpose of gaining control of the Mineral Estate. The paper trail and the law is without a doubt on the side of the

shareholders and up to and including 2004 through today, the federal government itself has written legal documents that support the shareholders point of view much to their own (BIA's) demise insofar as this case is concerned.

A suggestion that I would make for shareholders today would be to write letters to the BIA regarding this bogus "Special Election" scheduled for Monday, August 13, 2012 for the 4 Constitutional Amendments. The Amendments having to do with Mineral Affairs CANNOT legally be voted on by non-shareholders but rest assured, non-shareholders will be voting. Such an action on the Nation Government's part is yet again another blatant, outright defiant act of federal law. Each time a letter from a shareholder or group of shareholders is written and proof of delivery has been received from the BIA, another nail in their coffin has been secured.

Being an advocate for action against this lawlessness would be an excellent path for any shareholder to take. Rally the troops and attempt to unite shareholders across the country in order to be successful in getting control of your estate back. Proof of receipt for your letters is crucial however. It is this type of documentation that makes excellent exhibits in any court of law and this "Jech" Shareholder case sits in Denver at the 10th Circuit Court of appeals today.

I hope I have helped you better understand and I hope you become inspired to take charge in an effort to recover control of your estate. Feel free to share my view with all shareholders, etc. as you endeavor to unite the base.-----Jenny Miller, February 4, 2012-----

**Response From Jenny Miller -- to 12.71.202.154 (Anonymous Poster):**

Quite the contrary 154. All who have followed my writings know better than charges such as yours.

The Nation Constitution itself states in ARTICLE IV- DECLARATION OF RIGHTS, Section 5 -- Rights of Mineral Royalty Interest Holders that: "The Osage Nation Government shall not create any law or ordinance pertaining to the mineral royalties from the Osage Mineral Estate that acts in conflict with Federal law and regulations."

ARTICLE XV-NATURAL RESOURCES AND MINERALS MANAGEMENT, Section 4 says that the Osage Minerals Council is recognized as an independent agency within the Osage Nation established for the sole purpose of continuing its previous duties to administer and develop the Osage Mineral Estate in accordance with the Osage Allotment Act of June 28, 1906 and that the Mineral Council may promulgate its own rules and regulations as long as such rules and regulations are not inconsistent with the laws, rules and regulations established by the United States Congress in the 1906 Allotment Act and that all leases or other forms of agreement for development of the Osage Mineral Estate shall comply with applicable federal law and that the Mineral Council shall exercise administrative authority delegated as permitted by federal law.----  
-End of excerpts from Constitution-----

It is not I who doesn't believe the rule of law. It's those who are running this government who don't believe in or follow the rule of law. I on the other hand, have consistently pointed out for 5 years now that those in charge of this government have failed to follow federal law which trumps all Osage law and they have done so either out of inability

(incompetence) to understand what the very constitution they have sworn to uphold says or they are doing so intentionally which is a form of outright blatant corruption.

Whichever the case may be, we must strive to correct the problem and elect people who are capable and willing to get this government on a lawful track for the common good of all Osage people.

## Failure to Unite the Base

**From:** Jenny Miller

**Date:** 07 Feb 2012

**Time:** 07:22:11 -0500

**Remote Name:** 67.61.80.163

### Comments

It has been proven that organization and communication is the key to success. In the case of the Mineral Estate debacle, there can be no doubt that its impending demise will be a result of failed organization and communication. In the case of the Jech "Shareholder" lawsuit which sits in Denver at the 10th Circuit Court of Appeals today, Shareholders should ask themselves if this case is in fact about the litigants who are not organized and don't communicate or if it is about each and every shareholder's personal interest in the Osage Mineral Estate. Furthermore shareholders should ask themselves if they believe in saving their individual interest in the estate and whether or not their interest is worth fighting for.

We can only control the actions of ourselves and regardless of how uncommunicative or how unorganized the litigants are in this lawsuit, the bottom line (reality) is, this case which sits safely in the 10th Circuit Court has all the merit imaginable backed by a brief written by the United States Solicitor General, letters and laws written by the United States Congress, letters written by the BIA including the Trust Case which was just settled.

What the Jech "Shareholder" case doesn't have is financial support from the very recipients of whom it will benefit. According to some posts on this forum such as H.J.'s and others, the frustration level of not being informed by the litigants of the case has reached its capacity and they are fleeing the fight. A personal vendetta such as this can be referred to as cutting your noses off to spite your faces. This Jech "Shareholder" case is NOT about the litigants. This case is about your personal property rights in the Osage Mineral Estate.

The case is safely in the 10th Circuit Court of Appeals and your financial contributions can be safely in the hands of the law firm of Barrow and Grimm to whom the funds rightfully belong in order to keep this suit alive and ensure your future interest in the Mineral Estate once and for all.

I absolutely understand your frustration. I have experienced the same but not so much to the point that I'm willing to ditch a winning and just cause. I will continue to support this lawsuit for the simple reason that it is the Shareholder's ONLY hope. I hope that those thinking of "giving up" will reconsider and that those of you who have not participated in financially supporting this lawsuit will step up and protect yourselves.

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----Or ----

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