EMBY KAYE
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TULSA 3, OKLAHOMA
DIAMOND 3-9144

E. DONALD KAYE

July 12, 1963

Int
Indians

Mr. E. R. Fryer, Assistant Commissioner
Bureau of Indian Affairs
Department of Interior
Washington 25, D. C.

Dear Mr. Fryer:

I have your reply to my letter of May 27th regarding a phase of the royalty provision of oil and gas leases in the Osage. It does not appear to me that you went into the substance of my position. Of course, I knew that the provision complained of was in the leases when I acquired them, but that is immaterial. That is why I wrote to the Commissioner!

(1) Leases in the Osage carry a 1/6 royalty versus 1/8 on most Federal lands or lands administered for Indians by the Federal government. In spite of this, the Council may and generally does reduce this rate for secondary oil recovered. Thus it does take equity into account.

(2) Allowables in the Osage, as in the rest of Oklahoma, are very low for the shallow sands found in the Osage, on the order of 8 to 10 barrels a day. This discourages drilling, has indeed discouraged us.

(3) The price paid by certain purchasers in Oklahoma is lower than that paid by other purchasers but the producer cannot sell his oil to the pipeline paying the higher price, because he is in a practical sense, a captive seller. Pipelines used to take each other's customers but the small volume, for one thing, and the excess supply of Oklahoma crude, for another, have stilled such activities. Several major lines, like Gulf, have sold their facilities and no longer purchase crude.

Mr. E. R. Fryer
July 12, 1963
Page Two

(4) The money involved in this question is not large, but it is an irritant to a producer to have to pay royalty on income he does not receive in an arms-length transaction.

(5) Lease sales in the Osage bring little interest and less and less drilling. There are several leases on which I should be drilling now and may drill regardless how this issue is resolved. But I have a feeling that instead of the abrupt way in which you dismiss this matter, you might find the Osage Council receptive to the proposition to correct a singular inequity to the hurt and damage of those who spend their money to produce revenue for the Osage Nation and taxes for the state and Federal government.

Finally, if you do not care to pursue this matter further, you need not trouble to reply to this letter.

Very sincerely,

Emby Kaye

EK:bmc

IN REPLY REFER TO:

Real Prop. Mgmt.
Minerals
1685-63

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

JUL - 9 1963

AIRMAIL

Mr. Emby Kaye
815 First National Building
Tulsa 3, Oklahoma

Dear Mr. Kaye:

We have your letter of May 27 requesting that a change be made in the provisions of Osage oil leases which require computation of royalty based on the actual selling price but at not less than the highest posted market price in the Mid-Continent oil field on the day of the sale or removal.

It is not felt that the royalty provisions are unfair to the oil lessees because the price of oil in Oklahoma and Kansas is a matter of general knowledge and the lessees were fully aware of the applicable provisions when the leases were acquired. Bearing in mind the interests of the Osage Tribe, we do not believe any change should be made in the leases.

Sincerely yours,

(SGD) E. REESEMAN FRYER
ASSISTANT
Commissioner