



MIKE HUNTER
ATTORNEY GENERAL

December 11, 2020

Mary Mashunkashey
Executive Director
Seminole Nation Business & Corporate Regulatory Commission
P.O. Box 1768
Seminole, OK 74818-1768

Dear Ms. Mashunkashey,

It has come to my attention that the Seminole Nation Business & Corporate Regulatory Commission has been sending letters to all oil and gas producers within Seminole County informing them about the Seminole Nation's permitting and taxing laws. I write in hopes that you can clear up confusion caused by these letters to help provide the certainty necessary for a healthy business environment within Seminole County.

As I am sure you are aware, "with limited exceptions, Indian tribes lack civil authority over the conduct of nonmembers on non-Indian fee land" and the Supreme Court has held "this general rule applies to tribal attempts to tax nonmember activity occurring on non-Indian fee land." *Atkinson Trading Co., Inc. v. Shirley*, 532 U.S. 645, 647 (2001).

But your letters are often unclear as to whether the Seminole Nation's Oil and Gas Severance Code applies only on lands under restricted tribal ownership or instead on all lands within the Seminole Nation's historic borders, including those who are not members of the Seminole Nation. For example, in your letters you state:

- "to actively produce oil and/or gas within our jurisdictional area an Operator's Permit issued by the Seminole Nation is required"
- "If you are actively producing oil and/or gas within our jurisdictional area you are required to pay a severance fee of 8% of the gross market value and file a monthly remittance report with the BCR."
- "By operating the wells within the jurisdiction of the Seminole Nation of Oklahoma," an operator is "statutorily required to pay the Severance Fees pursuant to the Oil and Gas Severance Code."

At other times, however, the letters appear to assert a more limited jurisdiction, that is, only over those lands where the Nation has a restricted property interest:

- "The Seminole Nation of Oklahoma has jurisdictional areas *of surface and mineral interest* within Seminole County."

- “If you have an active oil and gas lease in our jurisdictional area a Lessee Permit is required for each lease containing *all or a portion of restricted interest.*”

Unfortunately, because these letters appear to have been widely sent to all operators within Seminole County, and because the letters are very unclear as to the scope of the Seminole Nation’s asserted jurisdiction, both confusion and concern has arisen within this vital industry. This is especially true among small independent operators that lack the resources to sort through the complexities of federal Indian law.

Sending letters to every single operator in Seminole County, regardless of whether the Seminole Nation has specific grounds for asserting jurisdiction over that operator, can be seen as an attempt to intimidate those engaging in productive economic activity within the county to pay taxes and fees that the Seminole Nation has no jurisdiction to levy. To alleviate these concerns, I ask that you cease sending these letters to operators within Seminole County unless they are accompanied by proof of the Seminole Nation’s restricted real property interest in the land that is the subject of the specific operator’s lease as well as an explanation of the federal law authority relied upon by the Seminole Nation to regulate and tax that operator. I also ask that you send letters withdrawing your previous letters in next seven days to all operators that you contacted in Seminole County. My office will be in contact with you early next week to further discuss this matter and hopefully resolve the concerns expressed herein.

Sincerely,

A handwritten signature in black ink that reads "Mike Hunter". The signature is written in a cursive, slightly slanted style.

Mike Hunter

CC: Chief Greg Chilcoat