

# **TITLE 13 - ENERGY RESOURCE PROTECTION ACT**

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## GENERAL PROVISIONS

### Section 001. Codification.

This Title shall be codified as the Pawnee Nation Energy Resource Protection Act (Act) and supersedes and supplements all conflicting provisions or laws of the Pawnee Nation.

### Section 002. Purpose and Intent

The purpose of the Pawnee Nation Energy Resources Protection Act is to provide for the protection of energy resources within the Pawnee Nation. Exploration, development, extraction and marketing of energy resources require the review and approval of various federal agencies and the Pawnee Nation. Moreover, Tribal and federal jurisdiction depends on the ownership of mineral rights and land surface rights for the impacted property or lease. This Act will establish the requirements of notification, reporting, and monitoring for exploration, extraction, and marketing of the energy resources within the Pawnee Nation. The primary land uses with the Pawnee Nation are oil and gas extraction, and agricultural. The Pawnee Nation recognizes that while agricultural uses of the land have little to no impact upon the oil and gas operations, oil and gas operations can have significant impact upon the competing uses of the same lands such as agricultural and residential (Pawnee Nation Agricultural Resource Management Plan, BIA, 2010). Permitting of energy resource extraction activities such as oil and gas exploration, drilling, hydraulic fracturing, production, product transport, waste transport and disposal activities, and general access (in situ services) will provide for the needed notification and authorization of all aspects of oil and gas operations within the Pawnee Nation. Required reporting of production activities will enable the Pawnee Nation to project revenues and ability to assess industry needs. Monitoring and enforcement of the applicable laws and regulations of this Act will enable the Pawnee Nation to assure production accountability and minimal impact upon competing uses of the land, human health and environment. The intent of this Act is to:

- (a) Establish the requirements of notification to the Pawnee Nation for planning and operations of energy development activities within the Pawnee Nation;
- (b) Establishes the requirements of General and Individual Energy Resource Protection Permitting by the Pawnee Nation;
- (c) Establish the requirements for reporting of energy production operations to assure accountability of energy resources to the Pawnee Nation;
- (d) Provide authorization for the Environmental Regulatory Commission to establish implementing regulations upon determination by the PBC that implementing regulations are needed;
- (e) Provide authorization to the Pawnee Nation Tax Commission to establish requirements for energy resource permitting, energy production reporting, and audit regulations upon determination by the PBC that implementing regulations are needed;
- (f) Provide the authorization of the Department of Environmental Conservation and Safety, Department of Transportation and Safety, and the Division of Law Enforcement for the monitoring and enforcement of the provisions of this Act to assure energy operators are

compliant with this Act;

(g) Ensure the oil, gas, and mineral protection concerns of industry, the public, and the Pawnee Nation will be addressed in an expedient manner; and

(h) Provide for the exercise of the inherent sovereign power to govern by the Pawnee Nation.

#### Section 003. Severability

The provisions of this Act are severable, and if any part hereof shall be held void, the decision of any court so holding shall not affect or impair any of the remaining parts or provisions of this Title.

#### Section 004. Applicability

(a) This Act shall apply to all causes within the territorial jurisdiction of the Pawnee Nation and shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Pawnee Nation, provided, that the provisions of Chapter Four of Title VI of this Law and Order Code shall apply to all members of the Pawnee Nation and all Indian residents of the jurisdiction of the Nation where ever such violations may occur, if such violation has any actual or intended effect upon the political integrity or the political or economic security of the Pawnee Nation.

(b) This Act shall apply to non-Indians to the extent not inconsistent with federal law and to the extent that any person found to have violated any provision of this Title may be banished from the jurisdiction of the Pawnee Nation for a period of not more than ten years, or for such term and/or penalty or fine as may be imposed by the Section violated, in a civil proceeding brought by the Pawnee Nation. The non-Indian, in such cases shall have all the same procedural rights of a criminal defendant, and such cases shall be tried by the same rules of criminal procedure.

#### Section 005. Personal Jurisdiction; Territorial Jurisdiction

(a) For the purpose of enforcement of this Act, the Pawnee Nation shall have jurisdiction over all persons, who by their actions or negligence, violates any provision of this Act.

(b) For the purpose of enforcement of this Act, the Pawnee Nation shall have jurisdiction in the territorial boundaries of the Pawnee Nation and other places determined to be Indian Country within the Pawnee Nation jurisdiction as provided in Title I, Section 3 of this Law-and-Order Code. Because any violations of this Code, its Acts, laws, or any rules or regulations adopted there-under will demonstrably and seriously impact the environment, natural resources, public health, safety, welfare, cultural and/or political integrity, and economic security of the Nation, the Pawnee Nation shall have jurisdiction to regulate and enforce the provisions of this Act with respect to any activity conducted on trust land (Tribal and/or individual allotment), fee land, and in Indian Country within the Pawnee Nation to the fullest extent allowed by law.

Section 006. Sovereign Immunity

- (a) Neither this Law and Order Code, its Acts, Laws, Regulations, or prescribed services, nor the Tribal programs established for implementation of said Acts, laws, regulations, or services, nor any action or agreement of the Environmental Regulatory Commission, the Department of Environmental Conservation and Safety, the Department of Transportation and Safety shall be construed as, or is intended to be, a waiver or modification of any sovereign immunity now enjoyed by the Pawnee Nation, or a consent by the Nation to jurisdiction or suit against it.
- (b) The Nation reserves the right to contest the jurisdiction of the Federal Court in any citizens' suit filed against it (IE, under Section 7002 of the SWDA), except only as such jurisdiction may be expressly waived by the Pawnee Nation in such suit.
- (c) The Pawnee Nation, the Pawnee Business Council and its members; the Pawnee Nation Environmental Regulatory Commission and its members; the Pawnee Nation Department of Environmental Conservation and Safety, the Department of Transportation and Safety, their Managers and employees; and all other Tribal officers, employees, representatives, or agents thereof, who are performing their duties by implementing or enforcing any provision of the Law and Order Code, are immune from suit for monetary damages in any court of law, and they do not waive any of their sovereign rights or immunities; executive privileges or right to privacy or confidentiality.
- (d) The Pawnee Nation may enter into such contracts as are authorized by the Pawnee Business Council, for the purpose of implementing and/or enforcing provisions of this Code or its Acts therein; provided that such contracts shall not be construed to be a waiver of the sovereign rights or immunities of the Pawnee Nation, or any commission, board, agency, entity, officer, employee, representative, or agent thereof.

Section 007. Definitions

In this Act:

- (a) Act means the Pawnee Nation Energy Resources Protection Act
- (b) Approval of council means approval evidenced by a written resolution signed by a quorum of the Pawnee Business Council or, where pursuant to section 008 a council has delegated its authority to the ERC, approval in writing signed by that ERC;
- (c) BIA means Bureau of Indian Affairs;
- (d) BLM means Bureau of Land Management;
- (e) Council means the Pawnee Business Council or PBC that has the use and benefit of the Indian lands that are being used or from which oil or gas or other resources is being produced;
- (f) Tribal member in lawful possession, in respect of land, means a member of the Pawnee Nation who is lawfully in possession of allotted land;



- (g) Commercial quantity, in respect of oil and gas, means a quantity of oil or gas produced from a well that economically warrants the drilling of a similar well in the immediate area, taking into consideration the cost of drilling and production operations, the quantity of production and the availability of markets;
- (h) Communization means the combining of oil or gas rights for the purpose of forming a spacing unit according to the BLM Goldbook;
- (i) Condensate means a liquid mixture, consisting mainly of pentanes and heavier hydrocarbons, that is condensed from gas and is recoverable at a well;
- (j) Continuance, in respect of a lease, means an extension of the term of the lease; (prolongation)
- (k) Contract means a permit, lease, surface rights contract, option or other disposition issued, made or granted under these Regulations or the former Regulations;
- (l) Crude bitumen means a naturally occurring viscous mixture, consisting mainly of hydrocarbons heavier than pentane that in its natural viscous state is not recoverable through a well in commercial quantity;
- (m) Director means the Director of the Division of Natural Resources and Safety;
- (n) DNRS means the Pawnee Nation Division of Natural Resources and Safety;
- (o) DOTS means the Pawnee Nation Department of Transportation and Safety;
- (p) ERC means the Pawnee Nation Environmental Regulatory Commission;
- (q) Executive Director means the Executive Director of the Pawnee Nation of Oklahoma.
- (r) Exploratory permit means a permit to conduct exploratory work issued under section 104;
- (s) Exploratory work includes mapping, surveying, geological, geophysical or geochemical examinations, test drilling and other investigations, conducted by air, land or water, that are related to the exploration for oil and gas;
- (t) Field means the surface area of land that is or appears to be underlain by one or more pools and the subsurface vertically beneath that area;
- (u) Former Regulations means the any previous regulations made under tribal law respecting dispositions of oil or gas on Indian lands;
- (v) Lease means a lease of oil or gas rights or a lease of oil or gas rights that is deemed to be subject to these Regulations;
- (w) Marketable gas means gas, consisting mainly of methane, that meets industry or utility specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material;

- (x) Oil and gas operations means the production operations related to any such well including the installation of flowlines and gathering systems; the generation, transportation, storage, treatment, or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations;
- (y) Operator means a person who is engaged in an activity related to the exploitation of oil or gas on Indian lands, including a person who is acting on behalf of, or as an employee or agent of, a contract holder;
- (z) Paying quantity means:
- (1) in respect of a well that has been drilled but not completed and equipped, an anticipated output from the well of a quantity of oil or gas that would reasonably warrant incurring the completion and equipping costs of the well, and
  - (2) in respect of a well that has been completed for the taking of production, an anticipated output from the well of a quantity of oil or gas that would reasonably warrant the taking of production from the well;
- (aa) Permit means a permit in respect of rights granted or a permit that is deemed, pursuant to Section 010 of the Act, to be subject to the applicable laws and regulation of the Pawnee Nation Regulations;
- (bb) Person means a corporation or an individual who is at least 18 years of age;
- (cc) Pipeline means the conduit and all pertinent equipment for the transportation of any liquid or gas over a distance not otherwise covered by an existing permit in this Act;
- (dd) Pool means a natural underground reservoir that appears to contain an isolated accumulation of oil or gas or of both;
- (ee) Pooling means the combining of oil or gas rights for the purpose of forming a spacing unit and is also known as Communization according to the BLM Gold Book.
- (ff) Project means a part of one or more pools that is within the area of an operation undertaken in accordance with a plan approved in writing by the Pawnee Nation;
- (gg) Right of entry means a right to enter and use surface land;
- (hh) Right-of-way means an easement in land, or a right to cross over land that is granted under section 304 of the Act, to be subject to these Regulations;
- (ii) Service well means a well that is operated for observation, fluid injection or disposal purposes;
- (jj) Spacing unit means an area that is designated as such by an authority that is responsible for the drilling for, or production of, oil or gas on non-Indian lands;

- (kk) Surface lease means a right of exclusive use and occupation of land that is granted under section 304 of the Act, to be subject to these Regulations;
- (ll) Surface rights contract means a right-of-way, a surface lease or an exploratory license; (mm) Tribal Authority means the Pawnee Business Council, its designee, and other such employees applicable under tribal law.
- (nn) UIC means Underground Injection Well, a well for fluid injection or disposal purposes to include Class II and enhanced recovery;
- (oo) Undesirable Event means an event resulting from oil and gas activities such as; well blow out, flow-line break, oil and gas spills, property damage, saltwater spills, personal injury or death, contamination and theft.
- (pp) Unit means a part of one or more pools that is within the area of a unit operation;
- (qq) Unit operation means an operation that is undertaken in accordance with a plan for combining the interests of all owners of a common source of oil or gas in a field or pool, or in a part thereof, so that the operation may be conducted as if there were only one operator and one tract.

Section 008. Authorizations

- (a) The Pawnee Nation Department of Environmental Conservation and Safety (DECS) is designated as the lead agency to approve permits, regulate, and enforce the provisions of this Act including energy resource permits. The jurisdiction conferred on the DECS by this Title shall be consistent with the authorities established under Title 12 of the Pawnee Nation Law and Order Code, and is concurrent with and in addition to the regulatory jurisdiction of the federal government.
- (b) The Pawnee Nation Department of Transportation and Safety (DOTS) is authorized to approve, regulate, and enforce the provisions of this Act as indicated including energy easements, utility, and pipeline permits.
- (c) The Pawnee Nation Environmental Regulatory Commission (ERC) is authorized to enforce, implementing regulations which are deemed necessary by the Pawnee Nation to implement any provision of this Act.
- (d) The Pawnee Nation Tax Commission (TC) is authorized to issue and approve permits, and enforce implementing regulations which are deemed necessary by the Pawnee Nation to implement any provision of this Act.
- (e) This Act shall be interpreted and applied such that the Nation has exercised its inherent legal and regulatory authority to the fullest extent permitted by federal law and the Nation's constitution. The Nation's law shall be applied and enforced except to the extent that federal law preempts a specific exercise of the Nation's regulatory authority.

Section 009. Permits Required

No person shall engage in any energy resource extraction or development activity within the Pawnee Nation without first obtaining and maintaining the appropriate permit; provided that:

- (a) Energy Resource Protection Permits are treated as General Permits and/or Individual Permits;
- (b) General Permit Conditions are as indicated within the provisions of this Act;
- (c) No variance shall be given to the terms and conditions of the General Energy Resource Protection Permits;
- (d) Individual Permits may be negotiated and used when the scope and requirements are outside the terms and conditions of the General Permit. Fees associated with Individual Permits will be assessed on a case-by-case basis by the Pawnee Nation;
- (e) All permit fees and fines collected under this title shall be deposited into general funds of the Pawnee Nation; and,
- (f) Operating without a permit as required by this Act shall be punishable in accordance to the provisions within Section 017 of this Act unless otherwise indicated in any other Section of this Act, and/or by other laws and regulations of the Pawnee Nation.

Section 010. Types of Energy Resource Protection Permits

Types of Permits. The Pawnee Nation may issue the following types of Energy Resource Protection Permits. Each Permit will be issued as general permits or as individual permits consistent with the requirements of this Act and any regulation which may be adopted pursuant to this Act. Permit Fees are assessed in accordance this Act or by a fee schedule as approved by the Pawnee Nation Business Council (PBC).

- (a) Mineral Resources Extraction Permit types:
  - (1) Oil and Gas Exploratory Permit. Every person who proposes to conduct exploratory work on the Pawnee Nation including land in a permit or lease area, surface trust, and/or mineral trust, shall first obtain the Pawnee Nation Exploratory Permit. An applicant shall submit an application, on a form approved by the Pawnee Nation to the PBC or their designee. This permit shall grant access to the permit holder to trust property or resource under the jurisdiction of the Pawnee Nation for the purpose of exploring for mineral resources by seismic and geological studies.
  - (2) Oil and Gas Drilling Permit. Prior to commencing any drilling operation under a permit or lease, an operator or designee shall acquire the Pawnee Nation Oil and Gas Drilling Permit. The Drilling permit is a concurrent authorization to the federal Application for Permit to Drill (APD) and requires all accompanying documents (NEPA, THPO and maps) or other equivalent document issued by the Department of Interior (BLM, BIA). The Drilling Permit, when concurrent with the APD, provides access for the permit holder to conduct preliminary activities including inspections

and staking of site.

(3) Oil and Gas Operations Permit. All oil and gas facility operators within the Pawnee Nation Jurisdiction shall register and submit an application to the Pawnee Nation to operate an oil and gas production activity. The DECS shall ensure that the production facility is compliant with Title XII of this Law and Order Code.

(4) Hydraulic Fracturing Permit. Every person who proposes to Hydraulically Fracture oil and/or gas well shall submit to the Pawnee Nation a Notice of Intent to conduct the well treatment. Operators shall provide the Pawnee Nation twenty (20) business days advance in written form prior to commencing the treatment. All wells located on lands subject to a Pawnee Nation oil and gas lease, tribal mineral development agreement, communization agreement that includes any lands of the Pawnee Nation, a tribal direct development resolution, or otherwise subject to the jurisdiction of the Pawnee Nation within the exterior boundaries of the Pawnee Nation Reservation shall be subject to the Hydraulic Fracturing Permit.

(5) Underground Injection Control (UIC) Permit. Every person who proposes to drill a UIC well or convert an existing well, through a BLM Sundry Notice, into an underground injection control well shall submit an application to the Pawnee Nation on an approved form developed by the Pawnee Nation. All permit requirements shall be detailed in the implementing laws and regulations for underground injection control as promulgated by the Pawnee Nation. All UIC wells shall be subject to the USEPA regulations, registry, and enforcement as required in 40 CFR Part 144.

(6) Product Transport Permit. Every tank truck tanker trailer, or vessel used to transport raw crude, gas, or waste water (brine) within the Pawnee Nation must have a Product Transport Permit. Each truck hauling such product will be subject to inspection by the Pawnee Nation.

(7) Pipeline Permit. Every person who operates a pipeline to move any product (petroleum, brine waste, or any chemical, etc.) into, out of, or upon the Pawnee Nation jurisdiction must have a Pipeline Permit.

(8) Treatment Storage, and Disposal Permit (TSD). Every person proposing to store, treat or dispose of any oil and gas product or by- product shall submit an application to the Pawnee Nation detailing the proposed processes in either activity. Each permit will be subjected to the regulations for transport, storage, treatment, or disposal of any oil and gas product or by-product.

(9) Methane Emissions/Flaring Permit. Every person proposing an activity resulting in methane production where the methane is not contained for marketing shall acquire the Methane Emissions/Flaring Permit. The Pawnee Nation recognizes methane production as part of the drilling and production process whether it be contained as a resalable energy resource, used to power motors in the field, or released or flared as a waste. Methane production contained for resale under operational conditions shall not be required to be permitted under this part. Permitting for gas

production purposes shall be permitted under provisions of the Oil and gas Operation Permit in Chapter 3 of this Title.

(10) Easement Permit. Every person proposing an easement onto lands of the Pawnee Nation for access roadways, pipeline, utility line placement, utility access, or railway shall acquire an Easement Permit from the Pawnee Nation. General Easement Permits shall not be perpetual easement agreements.

(11) Pawnee Nation Access Permit. Every entity that provides oil and gas services on site to existing oil and gas operations including surveying, testing, seismic. Construction, electrical, water supplier, carrier, driller, roustabout, workover, etc., shall acquire a valid Access Permit. No fee shall be assessed for the Access Permit when activities are under or supporting existing valid permit authorizations.

(b) Electrical Energy Permit Types (Reserved)

(c) Energy Resource Processing Permit Types (Reserved)

#### Section 011. Application for General Permit(s)

Unless otherwise indicated in this Act, each type of General Permit shall contain the following conditions:

(a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation least thirty (30) days before the expiration date of the permit, the renewal fee shall be in the amount set by the Pawnee Nation but not less than five hundred dollars (\$500.00). If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;

(b) The applicant or permit holder shall notify the Pawnee Nation of a bankruptcy, receivership or any material change in the financial condition of the applicant or permit holder which may render the applicant or permit holder subject to the bankruptcy or receivership laws of the United States, any state, territory or foreign government;

(c) All premises covered by the permit shall:

(1) Be constructed and maintained in a safe and clean manner so as to protect the public health and safety and the health and safety of all employees, contractors or other persons present on the premises;

(2) Be open to inspection by the BIA, BLM, USEPA, and the Pawnee Nation; and

(3) Be maintained and operated in compliance with all applicable laws and regulations of the Nation and the United States;

(d) Upon request, either oral or written, by the BIA, the BLM, the Pawnee Nation, or any law

enforcement officer of the Nation, permit holders shall make the permit or a copy thereof available for inspection and copying;

(e) All energy development activity shall conform to the applicable laws and regulations of the Nation and the United States;

(f) All energy development activity, including oil and gas activity shall be conducted so as to give preference to Indians in employment and contracting as is required by the law of the Nation or the United States or by lease, contract or other agreement with the Nation.

(g) The permits are non-transferable.

#### Section 012. Suspension or Cancellation of Permit

Any energy resource protection permit may be suspended, canceled or not renewed for any of the following reasons:

(a) Filing and application or document which contains incomplete, false or misleading statements;

(b) Non-payment of permit application fee or any other payment owing to the Pawnee Nation and arising from any activity covered by the permit, including rentals, royalties, taxes, fees, penalties, or other assessments;

(c) Noncompliance with, or violations of any laws or regulations imposed by the Pawnee Nation or the United States governing energy development and/or extraction activities including oil and gas operations within the Pawnee Nation;

(d) Noncompliance with or violation of any portion of this Act (Title 13), or any other laws or regulations of the Pawnee Nation law and order code;

(e) Noncompliance with or violation of any condition of the permit; and

(f) Other grounds considered adequate by the Pawnee Nation for suspension or cancellation of the permit.

#### Section 013. Designation of Operator

The lessee may function as the operator of the oil and gas well, or may designate another party to operate the well(s) which may be a working interest owner. All operators shall be approved by the BIA approving official and notification given to the Pawnee Nation.

#### Section 014. Contract Terms and Conditions

It is a condition of every contract that the operator, agent thereof or designee will comply with:

(a) The applicable provisions of the laws and regulations of the Pawnee Nation; and

- (b) The prescribed practices and provisions of the Pawnee Nation Agricultural Resources Management Plan.

Section 015. Undesirable Events

All on-lease occurrences of any undesirable event resulting from any energy development activity are the responsibility of the lessee/operator. Notification of any undesirable event shall be provided to the DECS, BIA, and BLM immediately. Response to any undesirable event should follow the steps described in the Pawnee Nation Oil and Gas Operators Handbook and the BIA's Fluid Mineral Estate Procedural Handbook. Failure to notify the DECS may result in enforcement actions as prescribed in Section 017 of this Act and any other provision of the Pawnee Nation Law and Order Code.

Section 016. Resource Damages and Waste Unlawful

It shall be unlawful for any person to cause damage, loss, or pollution to any air, water, land or waste of any natural resources of the Pawnee Nation. All spills and/or releases of oil, gas, brine, wastewater, chemicals, fracking water, waste water and drilling fluid occurring at any location within or outside a containment area, in amount must be reported immediately to the Pawnee Nation DECS and BIA immediately upon discovery by the operator at all times. Resource damages, loss, or waste may be subject to the penalties under this Act and/or other criminal or civil provisions of the Pawnee Nation. All spills or releases in reportable quantities must be reported to the National Response Center by the operator. Violations of this part shall be punishable by a fine not less than Five Hundred Dollars (\$500), or by civil banishment or both, or as provided in Section 017 of this Title.

Section 017. General Enforcement Authority and Penalties

(a) General Authority. Whenever, on the basis of any information available to the Director, the Director finds that any person (including the Pawnee Nation and any instrumentality of the Pawnee Nation) has violated, or is in violation of any requirement or prohibition of this Act, its laws, the regulations promulgated under this Act, or permits, orders, plans, programs or fees issued or developed pursuant to this Act, the Director may:

- (1) Issue and serve on such person a Notice of Violation (NOV) ordering such person to comply with such requirement or prohibition, including an emergency order to comply, including fines pursuant to the provisions of this section;
- (2) Issue and serve on such person an administrative Notice of Violation as penalty order in accordance with Section 018 of this Act;
- (3) Issue and serve on such person a criminal or civil citation in accordance to the Law of the Pawnee Nation;
- (4) Request that the Pawnee Nation Attorney General and/or Prosecutor bring a criminal action in accordance with this Act and/or refer any criminal enforcement



action or portion of such action to the appropriate court of jurisdiction; and/or

(5) Request that the Pawnee Nation Attorney General and/or prosecutor bring a civil action, including an action for injunctive relief in accordance with this Act.

(b) Requirements for orders to comply.

(1) An order issued under subsection (a)1 or (a)2 of this section shall state with reasonable specificity the nature of the violation, shall state that the alleged violator is entitled to a hearing pursuant to regulations of the Pawnee Nation, if such hearing is requested in writing within 30 calendar days after the date of issuance of the order, and shall specify a time for compliance that the Director or Commission determines is as expeditious as practicable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(2) The order shall become effective immediately upon the expiration of the 30 calendar days if no hearing is requested and, if a timely request for a hearing is made, upon the decision of the Director or Commission.

(3) The order may be conditional and require a person to refrain from particular acts unless certain conditions are met.

(4) A copy of the order may be sent to the appropriate U.S. EPA region and, if the order is issued to a corporation, to the appropriate corporate officers and registered agent of the corporation.

(5) No order to comply issued under this section shall prevent the Pawnee Nation from assessing any penalties or otherwise affect or limit the Pawnee Nation's authority to enforce under other provisions of this Act, or affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or other requirements promulgated or approved under this Act.

(c) Emergency compliance orders.

(1) Notwithstanding any permit issued under this Act, if the Director determines that discharge of, or exposure to a pollutant is presenting an imminent and substantial endangerment to public health or welfare or the environment and determines, in consultation with the Attorney General, that it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of a civil action pursuant to subsection (e) of this section, the Director may issue such orders as may be necessary to protect public health or welfare or the environment.

(2) Such orders may prohibit, restrict or condition any and all activities that contribute or may contribute to the emergency, shall be effective immediately upon issuance and shall remain in effect for a period of not more than 60 days, unless the Director brings an action pursuant to subsection (e) of this section within the 60-day period. If the Director brings such an action, the order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought.

(d) Enforcement of compliance orders. Enforcement actions of the Director shall be enforced by the Pawnee Nation Department of Environmental Conservation and Safety (Rangers, Inspectors), Pawnee Nation Law Enforcement Officers, the Pawnee Nation Prosecutors Office, and/or Pawnee Nation Environmental Regulatory Commission as authorized by regulations. Those authorized to enforce the Director's actions may take reasonable steps to assure compliance, consistent with the requirements established by this Act (including rights of appeal), including but not limited to:

- (1) Entering upon any property or establishment believed to be violating the order and demanding compliance; and
- (2) Terminating operations at facilities not in compliance.

(e) Injunctive relief. The Director may seek injunctive relief pursuant to this Act to restrain any person who causes or contributes to an imminent and substantial threat to the public health or welfare or environment due to any activity affecting the natural resources of Pawnee Nation.

#### Section 018. Penalties

(a) Criminal penalties.

(1) Any person who:

(A) Violates any provision, requirement or prohibition of this Act, including but not limited to a regulation or plan adopted pursuant to this Act or a permit or an order issued pursuant to this Act; or

(B) Makes any false material statement, representation or certification in, or omits material from, or alters, conceals or fails to file or maintain any notice, application, record, report, plan or other document required to be filed or maintained pursuant to this Act, regulations or plans adopted pursuant to this Act or a permit or an order issued pursuant to this Act; or

(C) Falsifies, tampers with, renders inaccurate or fails to install any monitoring device or method required to be maintained or followed under this Act, regulations or plans adopted pursuant to this Act or a permit or an order issued pursuant to this Act; shall, upon conviction,

(2) Be punished by a fine of not less than Five Hundred Dollars (\$500) per violation, or banishment, or both, or be subject to any other penalty imposed by the court that is available under Pawnee Nation law.

(3) The minimum fine amount for violation of this code is Five Hundred Dollars (\$500) per violation unless otherwise specified. Each day a violation occurs is a separate violation.

(4) In any instance where the Nation lacks criminal jurisdiction over the person charged, or where the Director is limited in the amount of the fine that he may impose,

the Director may refer the action for civil penalties and/or to the appropriate Tribal, State, or Federal authority pursuant to this Act. For the purpose of this subsection, the term “person” includes any responsible corporate officer.

(b) Civil penalties. The Attorney General may file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, including the assessment and recovery of civil penalties of not less than Five Hundred Dollars (\$500) per day per violation, or be banished from the Pawnee Nation for a term established by the courts, or both in any of the following instances:

(1) Whenever a person has violated, or is in violation of, any provision, requirement or prohibition of this Act, including, but not limited to, a regulation or plan adopted pursuant to this Act, a permit or an order issued pursuant to this Act or a fee assessed under this Act;

(2) Whenever a person has violated, or is in violation of, any duty to allow or carry out inspection, entry or monitoring activities; or

(3) Whenever a person is creating an imminent and substantial endangerment to the public health or the environment, in which case the Director shall request the Attorney General to pursue injunctive relief but not the assessment of civil penalties, unless the endangerment is caused by a violation, as specified in paragraphs 1 and 2.

(c) Jurisdiction and venue. Any action under this section shall be brought in the Pawnee Nation District Court in Pawnee, Oklahoma, and such court shall have jurisdiction to restrain such violation, require compliance, assess civil and criminal penalties up to the amounts provided in this section, collect any fees or noncompliance penalties owed the Nation under this Act, seize equipment, and award any other appropriate relief.

(d) Calculation of penalties

(1) For purposes of determining the number of days of violation for which a penalty may be assessed under this Act, if the Pawnee Nation has notified the source in writing of the violation and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature. Notice under this section shall be accomplished by the issuance of a written notice of violation or written order to comply or by filing a complaint in the Pawnee Nation District Court that alleges any violation described in subsection (a) of this section.

(2) In determining the amount of a penalty assessed under this Act, in addition to the statutory amounts of penalties and fines provided, the court shall consider the history, seriousness and duration of the violation; any good faith efforts to comply with the applicable requirements; the violator’s full compliance history, including the

severity and duration of past violations, if any; the economic impact of the penalty on the violator; as an aggravating factor only, the economic benefit, if any, resulting from the violation; and any other factors that the court deems relevant.

(3) In lieu of or in addition to a monetary penalty, the Pawnee Nation may impose or may request the Prosecutor or Attorney General to seek from the court a requirement to remediate the damage caused or to perform community service, or both.

(e) Failure to pay civil penalty.

(1) If any person fails to pay an assessment of a civil penalty, the Pawnee Nation shall request the Attorney General to bring a civil action in the Pawnee Nation District Court to enforce the order or recover the amount ordered or assessed plus interest, from the date of the final order or decision or the date of the final judgment, as the case may be. In such an action the validity, amount and appropriateness of the order or assessment shall not be subject to review.

(2) Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the Director's enforcement expenses, including but not limited to attorneys' fees and costs of collection proceedings.

(3) Such person shall also pay a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be no less than ten percent of the aggregate amount of the person's outstanding penalties and nonpayment penalties accrued as of the beginning of the quarter; the Director may by regulation establish higher penalties to take into account situations where the prime rate is higher.

#### Section 019. Inspection of Records

(a) Enforcement officers of the Pawnee Nation and/or any duly authorized representative of the Pawnee Nation shall have the power to enter at any time upon any private or public property, within the jurisdiction of the Pawnee Nation, for the purpose of monitoring, sampling, inspecting, and investigating conditions relating to the condition and/or damage to natural resources, or the possible pollution, waste, or impairment of any other natural resource of the Pawnee Nation, or the environment or relating to any other environmental or permitting responsibility authorized by law.

(b) The Pawnee Nation may require the establishment and maintenance of records and reports relating to any activity regulated by them. Copies of such records shall be submitted to the Pawnee Nation, as relevant, upon request. Any authorized representative of the Pawnee Nation shall be allowed access and may examine such reports or records.

(c) The Pawnee Nation may apply to and obtain from a judge of the District Court of the Pawnee Nation, or appropriate court, an order authorizing a warrant to enforce access to premises for sampling, investigation, inquiry and inspection under the provisions of this Act and regulations promulgated hereunder. Failure to obey an administrative warrant of the

district court may be punished by the district court as a contempt of court.

#### Section 020. Culpability

Any person(s) who is willfully and, knowingly or unknowingly in violation of this Act shall be held responsible and liable for their actions whether with or without knowledge of this Act, its prohibitions, and/or the jurisdiction or ownership of land, air, or water resources potentially and/or directly impacted as a result of their violation. The Pawnee Nation, its staff, and/or designated agents shall not be held liable for loss of property, time and/or revenues (earned or lost, actual or estimated), damages, or claims incurred while operating under the authority of this Act.

#### Section 021. Appeals

Any party aggrieved by a final order, including the Pawnee Nation, may, pursuant to the Pawnee Nation of Oklahoma Law and Order Code and Pawnee Nation Administrative Procedures Act as appropriate, petition for a judicial review thereof, in the District Court of the Pawnee Nation.

#### Section 022. Seizure of Property

- (a) Grounds for Seizure. Any property or interest therein in actual or constructive possession of a person that has violated or is violating any provision of this Act or of any permits issued under the authority of this Act and used in connection with that violation may be seized and held to secure payment of a civil penalty or to be forfeited. Seizure under this Section shall not require proof that the owner of the property or the interest therein participated in, had knowledge of, or consented to the illegal use of the property.
- (b) Persons Authorized to Seize Property. Property subject to seizure under this Section may be seized by any law enforcement officer or ranger of the Nation upon issuance of a notice of noncompliance by the Pawnee Nation.
- (c) Custody of Seized Property. Property seized under this Section shall be held in the custody of the Pawnee Nation, subject only to the orders of the Nation's Court, including without limitation orders for sale of the property at public auction to collect any civil penalty assessed under this Chapter and orders issued in a forfeiture proceeding.
- (d) Release of Property. Unless a forfeiture proceeding concerning property seized under this Section is initiated, such property shall be released to its owner upon the earliest of the following:
  - (1) Thirty (30) days after seizure of the property;
  - (2) Payment of the civil penalty for which the property was seized as security; or
  - (3) Upon a finding by the Pawnee Nation's Court that such civil penalty is not proper.
- (e) Civil Forfeiture Proceedings.
  - (1) Within thirty (30) days after seizing property pursuant to this Section, the Pawnee

Nation may initiate an in rem judicial forfeiture proceeding against the seized property. The forfeiture complaint shall describe with reasonable specificity the property at issue and the basis for forfeiture.

(2) The Pawnee Nation's Court shall give written notice of forfeiture proceedings to all known or reasonably ascertained persons with an interest in the seized property, including any lien interest. All such persons shall answer the complaint and file any adverse claim to the property within thirty (30) days after notice is given.

(3) Upon notice to all interested persons, the Court shall conduct a hearing to adjudicate whether the property and/or any known interests therein have been forfeited to the Nation and shall enter an appropriate judgment. The Court may deny forfeiture of an interest in property if the owner of the interest proves that he or she did not participate in, have knowledge of, or consent to the illegal use of the property; or that he or she took all reasonable measures to prevent the illegal use of the property; or that the person committing the violation obtained possession of the property without his or her consent.

(4) Property forfeited to the Nation and proceeds from the sale thereof shall be retained by the Nation and used to equip and finance enforcement activities under this Chapter.

CHAPTER ONE –  
OIL AND GAS EXPLORATORY PERMIT

Section 101. Purpose

The purpose of the Oil and Gas Exploratory Permit is to provide adequate notification to the Pawnee Nation on potential uses of surface and mineral resources within its jurisdiction. Issuance of the Permit will provide terms and conditions for accessing and surveying the natural resources within the Pawnee Nation.

Section 102. Scope

All oil and gas exploration activity occurring within the jurisdiction of the Pawnee Nation will require the Pawnee Nation Oil and Gas Exploration Permit in addition to the requirements of the federal government. Activities include any activity requiring access to the surface and/or mineral resources. Use of contracted services (land surveys, seismic surveys, drilling of wildcat wells, etc.) will require additional permits in accordance to this Title and other laws and regulations of the Pawnee Nation.

Section 103. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Oil and Gas Exploration Permits. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

Section 104. Oil and Gas Exploratory Permit Required

No person or entity shall conduct oil and gas exploratory work on the Pawnee Nation including land in a permit or lease area, without first obtaining the Pawnee Nation Oil and Gas Exploratory Permit. The Exploratory Permit is subject to the following:

- (a) Every Exploratory Permit is subject to rights granted under a surface lease, easements, right-of-way, or in respect of the exploration for, or production of, minerals; and
- (b) Every Exploratory Permit and lease are subject to the right of the holder of an exploratory permit to conduct exploratory work in, or the right of another permittee or lessee to work through, the permit or lease area.

Section 105. Application for Oil and Gas Exploratory Permit

Every person applying for an Oil and Gas Exploratory Permit shall submit to the Pawnee Nation:

- (a) A completed application for an Oil and Gas Exploratory Permit. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the

DOI (BIA, BLM) to conduct exploratory work in the jurisdiction;

- (c) A description of the nature of the work to be performed by the applicant, the area to be covered, the names of any contractors to be engaged, the equipment to be used, the approximate number of employees to be employed and the anticipated duration of the proposed operations;
- (d) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;
- (e) Payment of the application fee in the amount of One Thousand Dollars (\$1,000), or renewal application fee in the amount of Five Hundred Dollars (\$500) to the Pawnee Nation; and
- (f) Certification by the Director that the applicant has complied with all applicable laws and regulations of the Pawnee Nation.

#### Section 106. Conditions of Permit

The Oil and Gas Exploratory Permits shall contain the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of One Thousand Dollars (\$1,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of Five Hundred Dollars (\$500) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners for damages caused by the exploratory work, including surface and crop damages;
- (d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of exploratory work as soon as possible after damages occur;
- (e) Applicant shall mark the location and identify every test hole or shot hole drilled under the exploratory permit and to plug all holes that collapse or emit gas, water or other substances during or after the exploratory work;
- (f) Immediate access to the location shall be granted inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (g) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (h) Upon request (oral or written) by designated representatives of the Federal Government or the Pawnee Nation, permit holders shall make the permit or a copy thereof available for inspection and



copying; and

- (i) The Permit is non-transferable.

Section 107. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any oil and gas exploratory activity required under this Chapter without first acquiring and approved Pawnee Nation Oil and Gas Exploratory Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Oil and Gas Exploratory Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 108 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 108. Enforcement Notice of Violation.

(a) Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) or other enforcement actions by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV:

- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or

(2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

Section 109. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the violation.

## CHAPTER TWO – OIL AND GAS DRILLING PERMIT

### Section 201. Purpose

The purpose of the Oil and Gas Drilling Permit is to provide for the protection of surface and subsurface resources and prevent environmental contamination associated with oil and gas drilling activity. The application process for the Oil and Gas Drilling Permit will assure adequate notification, collaboration, and compliance with the surface stipulations of the Pawnee Nation. Drilling activities include drill pad location and construction; Drilling any well (including Class II or III UIC wells); Deepening any existing well; Re-entering any plugged well; Recompleting and Operating any existing well; or drilling a sidetrack from any well. Collaboration during the planning and permit application process will assure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation, and as required in the federal APD.

### Section 202. Scope

All oil and gas drilling activity performed within the jurisdiction of the Pawnee Nation will require the Pawnee Nation Oil and Gas Drilling Permit in addition to the requirements of the federal government. Activities include any activity requiring access to the surface and/or mineral resources. Use of contracted services (land surveys, seismic surveys, drilling of wildcat wells, etc.) will require additional permits in accordance to this Title and other laws and regulations of the Pawnee Nation and federal government.

### Section 203. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of this Title and the Oil and Gas Drilling Permits. The authorities and jurisdictions of the Pawnee Nation are concurrent with, and in addition to the regulatory jurisdiction of the federal government.

### Section 204. Oil and Gas Drilling Permit Required

Prior to commencing any drilling operation under federal authorization, permit, or lease, an operator or designee shall acquire the Pawnee Nation Oil and Gas Drilling Permit. The Pawnee Nation Oil and Gas Drilling Permit is a concurrent authorization to the federal Application for Permit to Drill (APD). No drilling activity shall commence within the Pawnee Nation without first acquiring Director Approval of the Pawnee Nation Oil and Gas Drilling Permit. The Application shall provide information and accompanying documents to include proposed well location, proximity of well to nearest structure, waterway, roadway, railway, etc.; environmental review documents approved by the Pawnee Nation; historical preservation documents approved by the Pawnee Nation, description of access roads; water supplies and use permits; fencing and facility safety plans; drill pad construction; production, storage, pipeline, and waste disposal plans and maps; well bore diagram; and any special site provision(s) of the Pawnee Nation The Drilling Permit, when concurrent with the APD, provides access for the Applicant to conduct drill pad construction and drilling operations. Upon completion or suspension of the drilling operation, the Applicant must submit a copy of the Drilling Completion report to the Pawnee Nation.

Section 205. Application for Oil and Gas Drilling Permit stipulations of the Pawnee Nation.

Every person applying for an Oil and Gas Drilling Permit must comply with required surface stipulations of the Pawnee Nation. Acquiring the Permit will require early consultation and collaboration between the Applicant, Pawnee Nation, and BIA to assure drilling plans and lease facility plans are inclusive of both Pawnee Nation laws and regulations including all site-specific surface stipulations. The Applicant must provide a complete application to the Pawnee Nation. The Pawnee Nation shall approve or dis-approve the application before commencement of any drilling activity. The application must provide assurances on the following conditions and stipulations before the Oil and Gas Drilling Permit can be issued:

- (a) A completed Oil and Gas Drilling Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM) to conduct drilling work in the jurisdiction;
- (c) Environmental review approval by the Pawnee Nation- The environmental review shall be focused on (at minimum) the drill pad construction, drilling, and proposed production operations. The review must include historical preservation consultation, sensitive environmental concerns (water quality, location of known fault line, all pipelines and gathering lines (any pipeline), impacted to wildlife, waste management/disposal for both drilling and production waste and waste water, timber take, water resource supplies, etc.);
- (d) Drilling Plan- A description of the nature of the work to be performed by the applicant, the area to be covered, the lease name and number(s), the names of any contractors to be engaged, the equipment to be used, the approximate number of employees to be employed, the anticipated duration of the proposed operations, spacing diagram showing existing wells, operations, public roadways, structures, etc., location pictures, location drawing, hydrology map, access road map, description of current land uses impacted by activity, facility layout drawing, waste management plan, multi-well plan, 404 CWA permits, impact on existing zoning requirements, any additional site specific information required by the Pawnee Nation;
- (e) Closed systems will be required on all wells. All cuttings and fluids will be hauled to an approved disposal site. Land farming will not be permitted on Indian property;
- (f) Access Road – Specify how access roads will enter the property, such as from county roads or from private property on the north boundary or from State Highway, etc. If appropriate, consider specifying wing-in and cattle guard at property entrance. All access roads will be constructed in a manner sufficient to support heavy vehicle weight during the drilling and producing process. Locate all access roads along routes of least soil erosion potential such as along ridge tops on the contour, along terrace tops and not in the channels etc. Access road specifications are site specific and will be determined and specified according to each individual location and its unique characteristics;
- (g) Water Source – Specify the water source for permitted activity, including any temporary water line to be laid. Lines must be laid along the access road or the field boundary

fence that separates the pasture and the crop field. The line will be laid as close to the fence as possible on the pasture side and not in the crop field. If water source is located on Indian property, the oil and gas company is responsible for acquiring a Water Resource Use Permit from the Pawnee Nation;

(h) Drill Pad Location - Six inches of top soil from the proposed location will be stock piled and be available for reshaping during the restoration process. No cut and/or fill will take place outside of the staked surveyed area. If the well is a producer; the location will be restored to crop land and/or pasture beyond the dimensions of the anchors or, as specified in the conditions for approval of the APD. Any remaining cut and/or fill slopes will be stabilized at a minimum of a 3:1 finished grade. All anchors will be identified with highly visible markers (i.e., brightly painted 6-foot steel T post). The production location restoration will take place as soon as possible, specified by the Pawnee Nation. If the drill pad location is constructed in a pasture restoration shall include reseeded to specifications required by BIA and/or the Pawnee Nation;

(i) Notification – The oil and gas lessee are required to contact the Pawnee Nation prior to starting excavation of a new site, immediately upon discovery of a spill, or restoration of any site in accordance to this plan and the Pawnee Nation Natural Resource Protection Act;

(j) Well Bore Diagram of the proposed drilling operation shall be attached to the application;

(k) Fencing - A temporary 3-wire fence shall be placed along the access road and around the location to limit vehicles to road and pad area only. After the drilling operation, if the well is a producer, and after the pad area has been restored, a permanent fence will be built around the location. If the entire location is not fenced, the production facility will be permanently fenced and removable steel panels will be constructed around the well head. The permanent fence will consist of five wires and steel T posts placed at a maximum of 15-foot centers. H brace corners will be constructed of either wood or steel posts. If wooden posts are used, they will consist of 8-inch creosote treated uprights and 4-inch creosote treated cross braces. All permanent fences will be constructed with 12.5-gauge wire;

(l) Lease Facility Plan - All production equipment will be painted, and all painted surfaces will be maintained to ensure its integrity. In order to reduce unfavorable visual impact, the oil and gas company may also be required to utilize one of the standard environmental colors as referenced on the Munsell Soil Color Charts. All secondary containment installation will be in accordance with the Pawnee Nation Natural Resource Protection Act Chapter 12. A fluid impermeable artificial liner and earthen berm will be placed around the tank battery. The size of the earthen berm will be constructed as according to 40 CFR 112.7. No drains or other means will be used to remove rain water from within the berm containment. The exception to the above will be a sump pump which will be allowed to pump water into the salt water tank for haul off. The berm and the entire containment area will be graveled. A steel walkway will be placed over the berm to gain access to the tank battery;

(m) Waste Management Plans - During the drilling and production operations the location and access road will be policed and kept free from all debris and garbage. All sewage and waste water discharged from temporary living quarters, rest room facilities, or drilling operations

will be self-contained and hauled to an approved disposal site;

(n) Burn Pit - No burn pit will be allowed. All trash and other debris shall be hauled to an approved landfill;

(o) Pipeline – Applicant shall provide the Pawnee Nation a certified center line survey of the proposed pipeline route. The pipeline will be buried a minimum of 48 inches. A double ditch will be dug, the bottom 2 feet of soil will be placed on top of the pipe and the remaining soil will be placed at the surface. The trench will be compacted with a dozer track and left at natural grade or above. Water bars will be constructed along the pipeline route as directed by the BIA and Pawnee Nation. All pipelines will be installed according to the survey, within the area of an approved archeological clearance. Before pipeline is buried the Pawnee Nation’s DECS will be notified to verify the depth of the pipeline. The applicant must acquire needed Pipeline permits from the Pawnee Nation;

(p) After the production line is installed the oil and gas lessee will be responsible for protection and maintenance of this pipeline. This stipulation will be as directed by the Pawnee Nation, which includes any excavation of soil around pipeline for conservation work or any other work needed in the maintenance of the trust property, and will include the replacing and compaction of soil as per the Pawnee Nation specifications;

(q) Site specific stipulations such as requirements in zoning, spacing, access, aesthetics, riparian/floodplain issues, resource damages and compensations, compliance with other laws, regulations, lease conditions, etc.;

(r) Restoration - If the well is not a producer, the restoration process will begin within 60 days of the rig release and be completed within 30 days, weather permitting. After the drilling operation is complete all contaminated soil, cables, drums, thread protectors, etc. will be removed and hauled to an approved landfill. If the well is a producer and subsequently abandoned, restoration will begin after subsurface abandonment and after notification and approval of the restoration by the BIA, BLM and Pawnee Nation. The gravel and base material will be removed from the pad and access road. The gravel that is removed will be used on the property as specified by the BIA and Pawnee Nation. All contaminated soil will be removed and the entire area will be returned to its original contour or as directed by the BIA and Pawnee Nation. If gravel and fill is not needed on Indian property the O&G operator will remove it from the Indian property and properly dispose of. If needed, clean top soil will be added as directed by the BIA and Pawnee Nation. The entire disturbed area will be ripped in both directions, disked and a crop or grass will be planted as per the BIA and Pawnee Nation recommendation. The restoration process will be completed within 30 days, weather permitting. All production pipelines that remain after well is abandoned will be isolated on both ends and steel plugs welded in place;

(s) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;

(t) Full payment of the application fee, or renewal application fee to the Pawnee Nation;  
and

(u) Submission of Drilling Completion Report- Upon the completion or suspension of the

drilling operation, the applicant must submit a copy of the Drilling Completion report. The report shall provide the date of completion or suspension. If suspension, then state the reason for the suspension, anticipated date and method of resuming drilling, and details of work performed to date.

#### Section 206. Conditions of Permit

Upon Permit approval, the applicant shall comply with the following Oil and Gas Drilling Permit conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of Three Thousand Dollars (\$3,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of One Thousand Dollars (\$1,000) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall acquire and maintain compliance with all required Pawnee Nation Permits;
- (d) Applicant shall compensate land owners and the Pawnee Nation for damages caused by the activities under the Drilling Permit in accordance to the amounts established by the BIA, including surface and crop damages;
- (e) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of any oil or gas drilling activity as soon as possible after damages occur;
- (f) Applicant shall mark the location of and identify every test hole or shot hole drilled and to plug all holes that collapse or emit gas, water or other substances during or after the drilling work;
- (g) Pawnee Nation inspectors, law enforcement officers, and federal inspectors shall be granted immediate access to the location for inspections and investigations;
- (h) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (i) Upon request, either oral or written, by the BIA, the BLM, the Pawnee Nation, or any law enforcement officer of the Pawnee Nation, permit holders shall make the permit or a copy thereof available for inspection and copying;
- (j) The permit is issued per drilling operation. Each drilled well must have its own permit; and
- (k) The Permit is non-transferable.

Section 207. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any oil and gas drilling activity required under this Chapter without first acquiring an approved Pawnee Nation Oil and Gas Drilling Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Oil and Gas Drilling Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 208 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 208. Enforcement Notice of Violation.

(a) Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) or other enforcement actions by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV:

- (1) Shall achieve full compliance with the NOV within the stated Date of Compliance, including payment of any assessed penalty; or
- (2) May file an appeal to the Pawnee Nation District Court within the stated date of



compliance.

Section 209. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the violation.

CHAPTER THREE –  
OIL AND GAS OPERATIONS PERMIT

Section 301. Purpose

The purpose of the Oil and Gas Operations Permit is to provide for the protection of surface resources and prevent environmental contamination. The Oil and Gas Operations Permitting process will assure adequate notification, collaboration, mineral resource accountability, and compliance with the surface stipulations of the Pawnee Nation. Operation activities include the extraction of oil and gas resources from the jurisdiction of the Pawnee Nation, the transferring of any oil and gas or any associated by-product thereof, both to and from a given well site whether by truck or pipeline. Collaboration will assure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation and as required in the federal APD.

Section 302. Scope

All oil and gas operations will require the Pawnee Nation Oil and Gas Operations Permit in addition to the requirements of the federal government. Operations include the production and transfer of oil and gas and any associated by-products to and from a well site, via truck or pipeline.

Section 303. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Oil and Gas Operations Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

Section 304. Oil and Gas Operations Permit Required

No person shall engage in any oil and gas operation activity without first obtaining and maintaining in good standing the Pawnee Nation Oil and Gas Operations Permit.

Section 305. Operator's Quarterly Operating Report

The Operator shall report all existing oil and gas wells that are not plugged and abandoned on the Operator's Quarterly Operating Report. The Report is due no later than 30 days after the end of each quarter. The report shall include the following:

- (a) Production Wells- Report the volume of all fluids and gas produced at the well, maintenance activities, spills, lost product, and production issues;
- (b) Class II and Class III Underground Injection Wells- Report the volume of fluid injection into the UIC well, mechanical integrity testing schedule and results; and
- (c) Detailed records of product and produced water transferred off site must be reported on the Quarterly Operating Report and made available to the Pawnee Nation upon request.

Section 306. Application for Oil and Gas Operations Permit

Every person applying for an oil and gas operations permit shall submit to the Pawnee Nation:

- (a) A completed application for an oil and gas operations permit. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the Pawnee Nation may impose a processing fee in an amount set by the Pawnee Nation in addition to the application fee under PNC Title 13, Section 305 (I);
- (b) Satisfactory proof that the applicant has obtained a bond or insurance from a company authorized to act as surety and acceptable to the Pawnee Nation for the activities covered by the permit, in an amount set by the Pawnee Nation;
- (c) A brief statement of the business history or business transactions conducted or engaged in by the applicant, including the locations, types of operations or businesses and business names;
- (d) Description and location of the premises where oil and gas activity will be conducted;
- (e) Description of the oil and gas activity to be conducted;
- (f) If the applicant is a corporation, limited liability company or other business entity, a copy of the corporate charter or other organizational document issued by the state, country or other government in which it is organized; The applicant shall also include a statement describing all subsidiary and parent entities of the applicant;
- (g) For Underground Injection Control wells- Copies of valid USEPA UIC permits and Pawnee Nation UIC permit;
- (h) An agreement to abide by all applicable laws and regulations of the Pawnee Nation and of the United States and all conditions upon which the oil and gas operating permit is issued;
- (i) Payment of the application fee in the amount of Two Thousand Dollars (\$2,000) to the Pawnee Nation;
- (j) Certification that the applicant is not an employee or agent of the federal government;
- (k) Provide copy of USEPA UIC Permit and copy of Pawnee Nation UIC Permit;
- (l) Certification that the applicant has complied with all requirements imposed by the applicable laws and regulations of the Pawnee Nation and paid all fees, taxes, and assessed penalties, and submitted all required reports to the Pawnee Nation when due.
- (m) Provide a copy of any BLM Sundry Notices for enhanced recovery wells or disposal wells.

#### Section 307. Conditions of Permit

The Oil and Gas Operations Permit shall contain the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual

permit fee of two Thousand Dollars (\$2,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of One Thousand Dollars (\$1,000) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;

(b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;

(c) Applicant shall compensate land owners and the Pawnee Nation for damages caused by the Oil and Gas Operations, including surface and crop damages;

(d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of operations Seven (7) days after damages occur;

(e) Immediate access to the location shall be granted for inspection by Pawnee Nation and federal enforcement officers and inspectors;

(f) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;

(g) Upon request, either oral or written, by the BIA, the BLM, the DECS, or any law enforcement officer of the Pawnee Nation, permit holders shall make the permit or a copy thereof available for inspection and copying;

(h) Detailed records of product and produced water transferred off site must be reported on the Quarterly operating report and made available to the Pawnee Nation upon request; and

(i) The Permit is non-transferable.

#### Section 308. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any oil and gas operation activity required under this Chapter without first acquiring and approved Pawnee Nation Oil and Gas Operation Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Oil and Gas Operation Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 309 of this Title and any other applicable law and regulation of the Pawnee Nation.

#### Section 309. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) or other enforcement action by the Pawnee Nation. The notice shall inform the person of the

nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
  - (2) Revocation of the Permit on the date specified in the NOV;
  - (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
  - (4) Imposition of penalty as authorized in Section 017 of this Title;
  - (5) An order requiring seizure of property as authorized in Section 022 of this Title;
  - (6) An order closing the premises at which the violation is taking place; and
  - (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).
- (b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.
- (c) Compliance or Appeal. The person served the NOV shall:
- (1) Achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; or
  - (2) File an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 310. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the violation.

## CHAPTER FOUR – HYDRAULIC FRACTURING PERMIT

### Section 401. Purpose

The purpose of the Hydraulic Fracturing Permit is to provide adequate notification to the Pawnee Nation on potential hydraulic fracturing of resources within its jurisdiction. Issuance of the Permit will provide terms and conditions for hydraulic fracturing to assure the protection of human health and environment within the Pawnee Nation. This Chapter shall apply to all areas of the Pawnee Nation having fracking operations including lands having surface under fee status and mineral under trust status; surface under trust status and mineral under fee status; split estates, and any situation where Tribal mineral and/or surface interest may be impacted by the operations. This Chapter is not intended to provide guidance on hydraulic fracturing process. It is intended to provide for notification of operations and exposure hazards associated with the operations.

### Section 402. Scope

All hydraulic fracturing operations will require a Pawnee Nation Hydraulic Fracturing Permit in addition to the requirements of the federal government, prior to commencement of any hydraulic fracturing operations. The hydraulic fracturing operation has potential to impact human health and environment in a number of ways, including:

- (a) Stress on surface water and ground water supplies from the withdrawal of large volumes of water used in drilling and hydraulic fracturing;
- (b) Contamination of underground sources of drinking water and surface waters resulting from spills, faulty well construction, or by other means;
- (c) Adverse impacts from discharges of contaminants into surface waters or from disposal into underground injection wells;
- (d) Damages to natural resources and injury to human health resulting from the release of volatile organic compounds and other hazardous pollutants, or accidental exposure to chemicals transported, stored, and used in the operation; and
- (e) Increased potential of seismic activity to the fracking operation, including waste disposal under operational conditions.

### Section 403. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Hydraulic Fracturing Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

### Section 404. Hydraulic Fracturing Permit Required

No person shall engage in any Hydraulic Fracturing operation without first obtaining and maintaining in good standing the Pawnee Nation Hydraulic Fracturing Permit.

## Section 405. Application for Hydraulic Fracturing Permit

Every person who proposes to Hydraulically Fracture an oil and/or gas well shall submit to the Pawnee Nation a complete Pawnee Nation Hydraulic fracturing Permit application All wells located on lands subject to a Pawnee Nation oil and gas lease, tribal mineral development agreement, communization agreement that includes any lands of the Pawnee Nation, or otherwise subject to the jurisdiction of the Pawnee Nation within the exterior boundaries of the Pawnee Nation Reservation shall be subject to the Hydraulic Fracturing Permit requirement. The application must provide assurances on the following conditions and stipulations before the Hydraulic Fracturing Permits can be issued:

- (a) A completed Hydraulic Fracturing Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM, USEPA) to conduct hydraulic fracturing work in the jurisdiction;
- (c) Environmental review approval by the Pawnee Nation- The environmental review shall be focused on (at minimum) the hydraulic fracturing operation including surface disturbances/construction, location and depth of seismic faults within the fracking zones, water resource needs, waste management needs, chemical safety needs, and facility response plans for spills and exposure;
- (d) Hydraulic Fracturing Plan- A description of the nature of the work to be performed by the applicant, the area to be covered, the lease name and number(s), the names of any contractors to be engaged, the equipment to be used, the approximate number of employees to be employed, the anticipated duration of the proposed operations, spacing diagram showing existing wells, operations, public roadways, structures, etc., location pictures, location drawing, hydrology map, access road map, description of current land uses impacted by activity, facility layout drawing, waste management plan, multi-well plan, 404 CWA permits, impact on existing zoning requirements, any additional site specific information required by the Pawnee Nation;
- (e) Closed systems will be required on all operations. All fluids will be contained on site in tanks and hauled to an approved disposal site. Land farming will not be permitted;
- (f) Access Road – Specify if new access roads will be constructed or existing roads be modified or used as is. All access roads will be constructed in a manner sufficient to support heavy vehicle weight during the operation and must be accessible for emergency response vehicle. Locate all access roads along routes of least soil erosion potential such as along ridge tops on the contour, along terrace tops and not in the channels etc. Access road specifications are site specific and will be determined and specified according to each individual location and its unique characteristics;
- (g) Water Source – Specify the water source for permitted activity, including any temporary water line to be laid. Lines must be laid along the access road or the field boundary

fence that separates the pasture and the crop field. The line will be laid as close to the fence as possible on the pasture side and not in the crop field. If water source is located on Indian property, the oil and gas company is responsible for acquiring a Water Resource Use Permit from the Pawnee Nation;

(h) Notification – The applicant is required to contact the DECS prior to starting the operation, immediately upon discovery of a spill, and upon completion of an operation;

(i) Waste Management Plans - During the hydraulic fracturing operation, the location and access road will be policed and kept free from all debris and garbage. All sewage and waste water discharged from temporary living quarters, rest room facilities, or fracturing operations will be self-contained and hauled to an approved disposal site;

(j) Burn Pit - No burn pit will be allowed. All trash and other debris shall be hauled to an approved landfill;

(k) Pipeline – Applicant shall provide the Pawnee Nation a certified center line survey of the proposed pipeline route used for the hydraulic fracturing operation. The applicant must acquire needed Pipeline permits from the Pawnee Nation;

(l) An agreement to comply with the applicable laws and regulations of the Pawnee Nation; and

(m) Full payment of the application fee, or renewal application fee to the Pawnee Nation.

#### Section 406. Conditions of Permits

The Hydraulic Fracturing Permittee shall comply with the followings permit conditions:

(a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of Five Thousand Dollars (\$5,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of Three Thousand Dollars (\$3,000) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;

(b) Operators shall provide the Pawnee Nation twenty-four hours (24) advanced notice in prior to commencing the treatment.

(c) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;

(d) Application shall have a copy of the Hydraulic Fracturing Plan which shall present the authorization from the DOI to perform the operation; water source plan for the proposed operation; facility safety plan including facility layouts, emergency contacts, hazardous chemicals on site, spill response plans, and waste management plan for waste and waste water disposal;



- (e) Applicant shall demonstrate the ability to isolate all fresh water aquifers and other mineral- bearing formations and protect them from contamination. Neither the existence of Hydraulic Fracturing and Chemical Disclosure Regulations nor an operator’s compliance with them is intended to limit the remedies available under applicable law to adversely affected parties against operators or lessees arising from damage to fresh water aquifers, contamination, or inadequate zonal isolation resulting from hydraulic fracturing activities.
- (f) Applicant shall compensate land owners and the Pawnee Nation for damages caused by the Hydraulic Fracturing operation, including surface and crop damages;
- (g) Applicant shall repair and recondition any drill or well pad, road, fence, land features, or waterway that are damaged as a result of operations as soon as possible after damages occur;
- (h) Immediate access to the location shall be granted for inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (i) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (j) Upon request, either oral or written, by the USEPA, BIA, the BLM, the Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying;
- (k) Detailed records of product and produced water transferred off site must be kept and made available to the Pawnee Nation upon request; and
- (l) The Permit is non-transferable.

Section 407. Prohibited Acts and Penalties

- (a) It shall be unlawful to conduct any hydraulic fracturing operations activity required under this Chapter without first acquiring an approved Pawnee Nation Hydraulic Fracturing Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.
- (b) Violations of any provisions of an approved Pawnee Nation Hydraulic Fracturing Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 408 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 408. Enforcement

- (a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance

or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
  - (2) Revocation of the Permit on the date specified in the NOV;
  - (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
  - (4) Imposition of penalty as authorized in Section 017 of this Title;
  - (5) An order requiring seizure of property as authorized in Section 022 of this Title;
  - (6) An order closing the premises at which the violation is taking place; and
  - (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).
- (b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.
- (c) Compliance or Appeal. The person served the NOV may shall:
- (1) Achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; or
  - (2) File an appeal to the Pawnee Nation District Court within the stated date of compliance.

Section 409. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the action.

CHAPTER FIVE –  
UNDERGROUND INJECTION CONTROL PERMIT

Section 501. Purpose

The purpose of the Underground Injection Control (UIC) Permit is to provide for the protection of surface, mineral and aquifer resources and prevent environmental contamination. The Underground Injection Control process will assure adequate notification, collaboration, and compliance with the stipulations of the Pawnee Nation. Collaboration will assure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation and as required in the Safe Drinking Water Act and federal regulations. For the purpose of this Chapter, all domestic septic systems used for any commercial purpose are considered UIC wells.

Section 502. Scope

All underground injection control wells, including commercial septic systems located on Trust resources (surface and/or mineral) will require the Pawnee Nation Underground Injection Control Permit in addition to the requirements of the federal government. UIC activities include the construction or conversion of a new or existing well, or the transfer of produced water or by-products of oil and gas activities on site and the injection into the ground.

Section 503. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Underground Injection Control Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

Section 504. Underground Injection Control Permit Required

Every person who proposes to drill a UIC well or convert an existing well, through a BLM Sundry Notice, into an underground injection control well, or operate an existing UIC well shall submit an application to the Pawnee Nation on an approved form developed by the Pawnee Nation. All permit requirements shall be detailed in the implementing laws and regulations for underground injection control as promulgated by the Pawnee Nation. All UIC wells shall be subject to the USEPA regulations, registry, and enforcement as required in 40 CFR Part 144, and by the applicable laws and regulations of the Pawnee Nation.

Section 505. Application for Underground Injection Control Permit

Every person applying for an Underground Injection Control Permit shall submit a completed application to the Pawnee Nation:

- (a) A completed Underground Injection Control Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Facility Name and location;

- (c) Name and address of legal contact;
- (d) Ownership of the facility;
- (e) Nature and type of injection wells;
- (f) Location of waste source (production wells, tanks, lines and pumps serving the operation);
- (g) Current or proposed operating status of injection wells;
- (h) Daily disposal volume;
- (i) Location of nearest fault lines;
- (j) Name and address of any contractor providing any service to the injection well; and
- (k) Documentation or proof that the applicant has been granted authority by permit from the USEPA and/or Sundry notice by the BLM

Section 506. Condition of Permit

- (a) The Underground Injection Control Permittee shall comply with the followings permit conditions: The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee (\$1,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee Five Hundred Dollars (\$500) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners and the Pawnee Nation for damages caused by the injection well(s), including surface and crop damages;
- (d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of the development or conversion of the injection well as soon as possible after damages occur;
- (e) Immediate access to the location shall be granted inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (f) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (g) Upon request, either oral or written, by the BIA, the BLM, the Pawnee Nation, or any Federal

law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying; and

- (h) The permit is non-transferable.

#### Section 507. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any underground injection control operations activity required under this Chapter without first acquiring and approved Pawnee Nation Underground Injection Control Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Underground Injection Control Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 508 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

#### Section 508. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

(b) Suspension of the Permit on the date specified in the NOV;

(c) Revocation of the Permit on the date specified in the NOV;

(d) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;

(e) Imposition of penalty as authorized in Section 017 of this Title;

(f) An order requiring seizure of property as authorized in Section 022 of this Title;

(g) An order closing the premises at which the violation is taking place; and

(h) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(i) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

- (j) Compliance or Appeal. The person served the NOV may shall:
  - (1) Achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; or
  - (2) File an appeal to the Pawnee Nation District Court within the stated date of compliance.

Section 509. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the Violation.

## **CHAPTER SIX – PRODUCT TRANSPORT PERMIT**

### Section 601. Purpose

The purpose of the Product Transport Permit is to provide for the protection of surface resources and prevent environmental contamination. The Product Transport Permitting process will assure adequate notification, collaboration, and compliance with the surface stipulations of the Pawnee Nation. Product Transport activities include the transport of any oil and gas, or any associated by-product thereof, both to and from a given well site, processing facility, or disposal facility. Collaboration will assure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation and as required in the federal APD.

### Section 602. Scope

All transportation of oil and gas, or any associated by-product thereof, will require the Pawnee Nation Product Transport Permit in addition to the requirements of the federal government. Product Transport activities include the transport of oil and gas and any associated by-products to and from a well site processing facility, or disposal facility via pipeline, rail, or tractor trailer.

### Section 603. Application of Law

Pawnee Nation inspectors are authorized to issue permits, monitor activities, and enforce the requirements of the Product Transport Permit. The authorities and jurisdictions of the Pawnee Nation and its designee are concurrent with and in addition to the regulatory jurisdiction of the federal government.

### Section 604. Product Transport Permit Required

Prior to commencing the transport of oil, gas, and/or any associated by-product, any operator, producer, or designee shall acquire the Pawnee Nation Product Transport Permit. The Product Transport Permit is authorization for transport of oil and gas, or any associated by-product thereof, via tractor trailer, rail, or pipeline, to and from any given well site, processing facility, or disposal facility. When transporting via tractor trailer, a decal will be issued in conjunction with the Product Transport Permit, this decal must be applied to the vehicle and visible at all times. The required Product Transport Permit is in addition to any requirements needed by the federal government. The permit will require payment of One Hundred Dollar (\$1,00.00) to be paid before any transport occurs.

### Section 605. Application for Product Transport Permit

Every person applying for a Product Transport Permit must comply with required surface stipulations. Acquiring the Permit will require early collaboration with the applicant, Pawnee Nation, and BIA to assure transport activities are inclusive of both Pawnee Nation laws and regulations including all site-specific surface stipulations. The applicant must provide assurances on the following site conditions and stipulations to the Pawnee Nation before the Product Transport Permit can be issued:

- (a) A completed Product Transport Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM) to conduct work in the jurisdiction;
- (c) Notification – The applicant is required to contact the DECS immediately upon discovery of any spill or accidental release of oil, produced water, or any other by-product, in accordance to this plan and the Pawnee Nation Natural Resource Protection Act.
- (d) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;
- (e) Payment of the application fee in the amount of One Hundred Dollars (\$100), or renewal application fee in the amount of Fifty Dollars (\$50) to the Pawnee Nation; and
- (f) Certification that the applicant has complied with all applicable laws and regulations of the Pawnee Nation.

Section 606. Conditions of Permit

The Product Transport Permittee shall comply with the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of One Hundred Dollars (\$100) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of Fifty Dollars (\$50) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) Any decal associated with a Product Transport Permit (tractor trailers only) must be visible on the vehicle or trailer at all times.
- (c) The activity covered by the Permit shall be conducted in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees. Any person caught purposely offloading any material or waste in an unauthorized location shall be automatically fined Ten Thousand Dollars (\$10,000) plus cost of lost product;
- (d) Applicant shall compensate land owners and the Pawnee Nation for damages caused by transport activities, including surface and crop damages;
- (e) Immediate access to any method of transport shall be granted for inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (f) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (g) Upon request, either oral or written, by the BIA, the BLM, the Pawnee Nation, or any Federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection



and copying;

(h) The Permit is non-transferable.

Section 607. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any Product Transport operations without first acquiring and approved Pawnee Nation Product Transport Permit. Violations of this part shall result in a minimum penalty of One Thousand Dollars (\$1,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Product Transport Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 608 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 608. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV shall:

(1) Achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; or

(2) File an appeal to the Pawnee Nation District Court within the stated date of compliance.

Section 609. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the Violation.

## **CHAPTER SEVEN – PIPELINE PERMIT**

### Section 701. Purpose

The purpose of the Pipeline Permit is to provide for the protection of surface resources and prevent environmental contamination. The Pipeline Permitting process will assure adequate notification, collaboration, and compliance with the surface stipulations of the Pawnee Nation. Pipeline activities include the construction of a new pipeline and the use of any existing pipeline for the transfer of any oil and gas, or any associated by-product thereof, both to and from a given well site, processing facility, or disposal facility. Collaboration will assure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation.

### Section 702. Scope

All pipelines will require the Pawnee Nation Pipeline Permit in addition to the requirements of the federal government. Pipeline activities include the construction of a new pipeline and the transfer of oil and gas and any associated by-products to and from a well site, processing facility, or disposal facility via pipeline.

### Section 703. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Pawnee Nation Pipeline Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

### Section 704. Pipeline Permit Required

Prior to commencing construction of a new pipeline and/or any use of a pipeline for the transport of oil, gas, and/or any associated by-product, any operator, producer, or designee shall acquire the Pawnee Nation Pipeline Permit. The Pipeline Permit is authorization for pipeline construction and/or the transfer of oil and gas and associated by-products or produced waste to and from the well site, processing facility, or disposal facility. The required Pipeline Permit is in addition to any requirements needed by the federal government. The permit will require payment of one thousand dollar (\$1,000) to be paid before any use of a pipeline occurs.

### Section 705. Application for Pipeline Permit

Every person applying for a Pipeline Permit must comply with required surface stipulations. Acquiring the Permit will require early collaboration with the applicant, Pawnee Nation, and BIA to assure pipeline activities are inclusive of both Pawnee Nation laws and regulations including all site-specific surface stipulations. The applicant must provide assurances on the following site conditions and stipulations to the Pawnee Nation before the Pipeline Permit can be issued:

- (a) A completed Pipeline Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its

expiration date, the applicant may be imposed the fee of a new permit;

(b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM) to conduct pipeline work in the jurisdiction;

(c) A description of the nature of the work to be performed by the applicant, the names of any contractors to be engaged, the equipment to be used, the approximate number of employees to be employed and the anticipated duration of the proposed operations;

(d) Consultation with Pawnee Nation is required throughout the planning process. All required NEPA documentation and any other documentation regarding possible impacts to natural resources must be reviewed by Pawnee Nation. Pawnee Nation will have 10 business days to review and make comments before final submission to BIA.

(e) All exposed pipeline equipment will be painted and all painted surfaces will be maintained to ensure its integrity.

(f) Location Sanitation - During pipeline construction the location and access road will be policed and kept free from all debris and garbage. All sewage and waste water discharged from temporary living quarters or rest room facilities will be self-contained and hauled to an approved disposal site;

(g) Burn Pit - No burn pit will be allowed. All trash and other debris shall be hauled to an approved landfill;

(h) The Pawnee Nation will be provided a certified center line survey of the proposed pipeline route. The pipeline will be buried a minimum of 48 inches. A double ditch will be dug, the bottom 2 feet of soil will be placed on top of the pipe and the remaining soil will be placed at the surface. The trench will be compacted with a dozer track and left at natural grade or above. Water bars will be constructed along the pipeline route as directed by the Pawnee Nation. All pipelines will be installed according to the survey, within the area of an approved archeological clearance. Before pipeline is buried the Pawnee Nation shall be notified to verify the depth of the pipeline;

(i) The Pawnee Nation is authorized and directed to negotiate easements, extension of easements, and delivery of the Nation's oil and gas as provided in this Act, and that fees for transportation and delivery of oil and gas shall be considered as part of the consideration for grant of easements for pipelines and other facilities or extensions of such easements in negotiating with such pipeline companies.

(j) Any pipeline company constructing or maintaining any lateral or main pipeline or other facility within the Pawnee Nation without an easement in effect for such construction, operation or maintenance activity shall be subject to a charge for such unauthorized activity of a pro-rated minimum fee of Ten Thousand Dollars (\$10,000) per month.

(k) After the pipeline is installed the oil and gas lessee will be responsible for protection and maintenance of this pipeline. This stipulation will be as directed by the Pawnee Nation, which includes any excavation of soil around pipeline for conservation work or any other work needed in the maintenance of the trust property, and will include the replacing and

compaction of soil as per the Pawnee Nation specifications;

- (l) Notification – The permit holder is required to contact the Pawnee Nation prior to starting excavation of a new site, immediately upon discovery of a spill, or restoration of any site in accordance to the site plan and the Pawnee Nation Natural Resource Protection Act.
- (m) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;
- (n) Payment of the application fee in the amount of One Thousand Dollars (\$1,000.00), or renewal application fee in the amount of Five Hundred Dollars (\$500) to the Pawnee Nation; and
- (o) Certification that the applicant has complied with all applicable laws and regulations of the Pawnee Nation.

#### Section 706. Conditions of Permit

The Pipeline Permittee shall comply with the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee One Thousand Dollars (\$1,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee Five Hundred Dollars (\$500) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners and the Pawnee Nation for damages caused by pipeline activities, including surface and crop damages;
- (d) Signage in conformity to applicable Federal Law shall be installed at each property boundary, road crossing, waterway crossing, and railroad crossing;
- (e) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of operations as soon as possible after damages occur;
- (f) Immediate access to the location shall be granted for inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (g) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (h) Upon request, either oral or written, by the BIA, the BLM, the DECS, or any law enforcement officer of the Pawnee Nation, permit holders shall make the permit or a copy thereof available for

inspection and copying;

- (i) The Permit is non-transferable.

Section 707. Prohibited Acts and Penalties

(a) It shall be unlawful to conduct any pipeline operations activity required under this Chapter without first acquiring and approved Pawnee Nation Pipeline Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Pipeline Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 708 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 708. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV shall:

- (1) Achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; or
- (2) File an appeal to the Pawnee Nation District Court within the stated date of compliance.

Section 709. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the Violation.

CHAPTER EIGHT –  
TREATMENT, STORAGE, AND DISPOSAL FACILITY PERMIT

Section 801. Purpose

The purpose of the Pawnee Nation Treatment, Storage, and Disposal Facility (TSDF) Permit is both to provide notification to the Pawnee Nation of TSDFs and provide general Facility standards operating within, or otherwise handling Trust mineral of the Pawnee Nation. General facility standards consist of good housekeeping provisions for handling Trust mineral resources.

Section 802. Scope

All TSDF operations which can have impact upon the surface and/or mineral resources of the Pawnee Nation will require the Pawnee Nation TSDF Permit. TSDF operations include storage tanks, tank batteries, processing facilities, and waste disposal sites associated with energy resources. Point of retail sales (at the pump) are exempt from this Chapter.

Section 803. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the TSDF Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

Section 804. Treatment, Storage, and Disposal Permit Required

Every person proposing to treat, store, or dispose of any oil and gas product, by-product, or any chemical used in oil and gas production, at any volume, shall submit an application to the Pawnee Nation detailing the proposed processes or activity for which it's being used. Each permit will be subjected to the regulations for treatment, storage, or disposal of any oil and gas product or by-product. Only one permit per oil and gas operation site or TSD facility is required.

Section 805. Operating Record

The applicant is required to keep operating records of the Facility describing materials handled at the facility, including receiving, storage, and disposal amounts. Materials must be cross referenced with manifest numbers. The operating record must also include details of lost product/waste, record of emergencies and spills, contamination, cleanup activities, inspections and enforcement activities, and assurances of product and waste accountability.

Section 806 . Application for treatment, Storage, and Disposal Facility Permit

Every person applying for the TSDF Permit shall submit to the Pawnee Nation:

- (a) A complete application for the TSDF permit. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the Pawnee Nation may impose a processing fee in an amount set by the Pawnee Nation in addition to the application fee under PNC Title 13, Section 805 (h);



- (b) A brief statement of the business history or business transactions conducted or engaged in by the applicant, including the locations, types of operations or businesses and business names;
- (c) Location, description of operations, and characteristics of materials handled where TSDF operation is/or will be conducted. TSDF's that accepts waste or product from off site are the final signatories to the manifest as required for transport. All copies of the manifest must be recorded and maintained for Pawnee Nation review;
- (d) Copy of the TSDF Emergency Procedures;
- (e) If the applicant is a corporation, limited liability company or other business entity, a copy of the corporate charter or other organizational document issued by the state, country or other government in which it is organized. The applicant shall also include a statement describing all subsidiary and parent entities of the applicant;
- (f) For Underground Injection Control wells within the TSDF operation- Copies of valid USEPA UIC permits and Pawnee Nation UIC permits;
- (g) An agreement to abide by all applicable laws and regulations of the Pawnee Nation, the United States, and all conditions upon which the TSDF permit is issued;
- (h) Payment of the application fee in the amount of One Thousand Dollars (\$1,000) to the Pawnee Nation;
- (i) Certification that the applicant is not an employee or agent of the federal government;
- (j) Certification that the applicant has complied with all requirements imposed by the applicable laws and regulations of the Pawnee Nation and paid all fees, taxes, and assessed penalties, and submitted all required reports to the Pawnee Nation when due.

#### Section 807 . Conditions of Permit

The Treatment, Storage, and Disposal Facility Permittee shall comply with the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of One Thousand Dollars (\$1,000) and update of all information required to be filed. If a completed application to renew the permit is received by the Pawnee Nation at least thirty (30) days before the expiration date of the permit, the renewal fee of Five Hundred Dollars (\$500) shall be assessed. If the permit has expired before a completed application to renew the permit is received by the Pawnee Nation, the application shall be treated as an application for a new permit;
- (b) Any activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners and the Pawnee Nation for damages caused

by the TSDf operation activity, including surface and crop damages;

- (d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of operations within seven (7) days after damages occur;
- (e) Immediate access to the location shall be granted inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (f) All storage tank valves and discharge points shall be darged and sealed to secure and assure authorized access;
- (g) All access points on the tanks must be closed and locked to secure product;
- (h) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (i) Upon request, either oral or written, by the USEPA, BIA, the BLM, the Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying;
- (j) Detailed records of product and produced water transferred off site must be kept and made available to the Pawnee Nation upon request; and
- (k) The Permit is non-transferable.

#### Section 808. Prohibited Acts and Penalties

- (a) It shall be unlawful to conduct any TSDf operation activity required under this Chapter without first acquiring and approved Pawnee Nation TSDf Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.
- (b) Violations of any provisions of an approved Pawnee Nation TSDf Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 808 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

#### Section 809. Enforcement

- (a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:
  - (1) Suspension of the Permit on the date specified in the NOV;

- (2) Revocation of the Permit on the date specified in the NOV;
  - (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
  - (4) Imposition of penalty as authorized in Section 017 of this Title;
  - (5) An order requiring seizure of property as authorized in Section 022 of this Title;
  - (6) An order closing the premises at which the violation is taking place; and
  - (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).
- (b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.
- (c) Compliance or Appeal. The person served the NOV:
- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or
  - (2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 810. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the action.

## CHAPTER NINE – METHANE EMISSIONS/FLARING PERMIT

### Section 901. Purpose

The purpose of the Methane Emissions Permit is to provide for the protection of air quality and provide for the protection of human health and environment. Oil and gas activities typically results in methane emissions via passive release or direct release such as flaring. Application for the Methane Emissions Permit will enable the Pawnee Nation to account for emission sources, quantify losses of methane as a resource, and to monitor areas of increase emissions for public safety response.

### Section 902. Scope

All energy related operations resulting in methane emissions shall have the Methane Emissions Permit in addition to the requirements of the federal government. Operations include the exploration, production, storage, and transfer of oil and gas, flaring, and use of methane for oil and gas production.

### Section 903. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Methane Emissions Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

### Section 904. Methane Emissions Permit Required

Every person proposing an activity resulting in methane production where the methane is not contained for marketing shall acquire the Methane Emissions Permit. The Pawnee Nation recognizes methane production as part of the drilling and production process whether it be contained as a resalable energy resource, used to power motors in the field, or released or flared as a waste. Applicants demonstrating no measurable losses of methane or methane production contained for resale under operational conditions shall not be required to be permitted under this part. Permitting for production purposes shall be permitted under provisions of the Oil and gas Operation Permit in Chapter 3 of this Title.

### Section 905. Application for Methane Emissions Permit

Every person applying for the Methane Emissions Permit shall submit a completed application to the Pawnee Nation:

- (a) Facility Name and location;
- (b) Name and address of legal contact;
- (c) Ownership of the facility;
- (d) Nature of methane source (wells/operation/process);

- (e) Nature of methane disposal (passive, direct through flaring, etc.); and
- (f) Daily release/disposal volume

Section 906. Conditions of Permits

The Methane Emissions Permittee shall comply with the following conditions:

- (a) The permit shall be for a term of one (1) year renewable annually upon payment of the annual permit fee of Five Thousand Dollars (\$5,000) and update of all information required to be filed;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners and the Pawnee Nation for damages caused by Methane Emissions;
- (d) Immediate access to the location shall be granted inspection by Pawnee Nation and federal enforcement officers and inspectors;
- (e) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (f) Upon request, either oral or written, by the USEPA, BIA, the BLM, the Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying; and
- (g) The Permit is non-transferable.

Section 907. Prohibited Acts and Penalties

- (a) It shall be unlawful to conduct any energy related activity resulting in methane emissions without first acquiring and approved Pawnee Nation Methane Emissions Permit. Violations of this part shall result in a minimum penalty of Ten Thousand Dollars (\$10,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.
- (b) Violations of any provisions of an approved Pawnee Nation Methane Emissions Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per day of violation as prescribed in Section 908 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 908. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV:

- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or
- (2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 909. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the action.

## CHAPTER TEN – EASEMENT PERMIT

### Section 1001. Purpose

- (a) Easements for rights of way (ROW), and surface lease projects require the review and approval of various federal agencies and Tribal departments. Permanent ROW or Perpetual Easement shall not be granted by the Pawnee Nation under the provisions of the General Easement Permit.
- (b) For the purpose of this Chapter, the term ROW shall mean Easement for Rights of Way. Easement (ROW) projects include, but are not limited to, pipelines; access roads; highway, roadways, railways, communication lines and electrical lines. Easements typically commit surface resources involved for extended periods of time. Operators of the easements are subject to change over time, the purpose of the easements change, and easements often impact critical resources needed for emergency management, government operations, and public safety.
- (c) Surface lease projects include, but are not limited to delivery and pickup points, compressor facilities; disposal wells; water transfer facilities; communication towers; and off-lease well pads. An example of an on-lease ROW would be a pipeline that gathers natural gas from wells located within one lease only, and is installed and operated by the operator of the associated lease.
- (d) In other cases, oil and gas facilities serve multiple leases and/or are constructed outside of the boundaries of the lease served. These projects are considered “off-lease” and require BIA approval of a Grant of Easement for ROW or surface lease. An example of an off-lease ROW would be a pipeline that traverses and gathers gas from wells located on multiple leases.

### Section 1002. Scope

All proposed ROW request and existing use will require the Pawnee Nation Easement Permit in addition to the requirements of the federal government. ROW projects include any type of easement request for any purpose and surface lease projects within the jurisdiction of the Pawnee. A Tribal Resolution is required for all Surface Leases and off-lease ROW Easements involving Tribal Trust land. A Surface Lease or off-lease ROW also requires BIA approval.

### Section 1003. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Easement Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government

### Section 1004. Easement Permit Required

Every person proposing an easement onto lands of the Pawnee Nation shall acquire an Easement Permit from the Pawnee Nation. General Easement Permits shall not be perpetual easement

or permanent rights of way agreements. Request for perpetual easements or permanent rights of ways must be negotiated through Individual Permits with final approval of the Pawnee Nation Business Council.

#### Section 1005. Application for Easement Permit

Every person applying for an Easement Permit must comply with required surface stipulations. Acquiring the Permit will require early collaboration with the applicant, Pawnee Nation, and BIA to assure activities are inclusive of both Pawnee Nation laws and regulations including all site-specific surface stipulations. The applicant must provide assurances on the following site conditions and stipulations to the Pawnee Nation before the Easement Permit can be issued:

- (a) A completed Easement Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM) to conduct work in the jurisdiction;
- (c) A description of the nature of the work to be performed by the applicant and the anticipated duration of the proposed operations;
- (d) Consultation with Pawnee Nation is required throughout the planning process. All required NEPA documentation and any other documentation regarding possible impacts to natural resources must be reviewed by Pawnee Nation. Pawnee Nation will have 10 business days to review and make comments before final submission to BIA.
- (e) All easement for pipeline or other buried utilities shall be marked and surfaces will be maintained to ensure its integrity;
- (f) Location Sanitation - During construction within the easement, the easements and access road will be policed and kept free from all debris and garbage. All sewage and waste water discharged from temporary living quarters or rest room facilities will be self-contained and hauled to an approved disposal site;
- (g) The Pawnee Nation will be provided a certified center line survey and GIS files or other files compatible with ArcGIS of the proposed easement route. Any easement use requiring burying or boring will be buried a minimum of 48 inches or in accordance to the issued Pawnee Nation permits. Before the lines are covered, the Pawnee Nation will be notified to verify the depth of the pipeline;
- (h) The Pawnee Nation is authorized and directed to negotiate easements and/or extension of easements;
- (i) Easements crossing perineal waterways or wetlands shall acquire applicable federal and tribal permits. After construction, the applicant will be responsible for protection and maintenance of the easement. This stipulation will be as directed by the Pawnee Nation and BIA, which includes any excavation of soil around pipeline for conservation work or any other



work needed in the maintenance of the trust property, and will include the replacing and compaction of soil as per the specifications;

- (j) Notification – The applicant is required to contact the Pawnee Nation prior to starting construction, including clearing and grubbing, of a new site, and immediately upon discovery of a spill, or restoration of any site in accordance to this plan and the Pawnee Nation Natural Resource Protection Act;
- (k) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;
- (l) Payment of the application fee in the amount of One Hundred Dollars (\$100.00); and
- (m) Certification that the applicant has complied with all applicable laws and regulations of the Pawnee Nation.
- (n) No perpetual easements will be issued under general permit conditions.

#### Section 1006. Conditions of Permit

The Easement Permittee shall comply with the following conditions:

- (a) A permit fee of One Hundred Dollars (\$100) will be assessed;
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate land owners and the Pawnee Nation for damages caused by easement activities, including timber removal, erosion, surface and crop damages;
- (d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of operations as soon as possible after damages occur;
- (e) Immediate access to the location shall be granted inspection by Pawnee Nation and federal law enforcement officers and inspectors;
- (f) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (g) Upon request, either oral or written, by the USEPA, BIA, the BLM, Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying; and
- (h) The Permit is non-transferable.

#### Section 1007. Prohibited Acts and Penalties

- (a) It shall be unlawful to conduct easement or ROW project or activity required under this Title without first acquiring and approved Pawnee Nation Easement Permit. Violations of this part shall result in a minimum penalty of One Thousand Dollars (\$1,000) per month,

prorated, of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.

(b) Violations of any provisions of an approved Pawnee Nation Easement Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per month, prorated, of violation as prescribed in Section 1008 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

#### Section 1008. Enforcement

(a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
- (2) Revocation of the Permit on the date specified in the NOV;
- (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
- (4) Imposition of penalty as authorized in Section 017 of this Title;
- (5) An order requiring seizure of property as authorized in Section 022 of this Title;
- (6) An order closing the premises at which the violation is taking place; and
- (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).

(b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.

(c) Compliance or Appeal. The person served the NOV:

- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or
- (2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 1009. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the violation.

## CHAPTER ELEVEN – ACCESS PERMIT

### Section 1101. Purpose

The purpose of the energy Access Permit is to secure authorized access to entities conducting energy related business within the jurisdiction of the Pawnee Nation. Many energy related operations are remote and highly vulnerable to theft and vandalism. By requiring all energy service sector vendors and lease holders to register with the Pawnee Nation and acquire the Access Permit, both the Pawnee Nation and federal agencies can immediately qualify lawful and authorized presence of the individuals within the Pawnee Nation.

### Section 1102. Scope

The Access Permit applies to all persons and entities conducting energy related business within the jurisdiction of the Pawnee Nation.

### Section 1103. Application of Law

The Pawnee Nation Tax Commission is authorized to issue permits. The Pawnee Nation is authorized to monitor activities and provide enforcement of the Access Permit. The authorities and jurisdictions of the Pawnee Nation and its designees are concurrent with, and in addition to the regulatory jurisdiction of the federal government.

### Section 1104. Access Permit Required

Every person or entity that provides energy sector related services as identified under this Title, including oil and gas exploration and operations, construction, electrical, water supplier, carrier, driller, roustabout, workover, hauler, etc., shall acquire a valid Access Permit. For vehicular access, a decal will be issued in conjunction with the Access Permit, this decal must be applied to the vehicle and visible at all times.

### Section 1105. Application for Access Permit

Every person or entity applying for the Access Permit shall submit to the Pawnee Nation Tax Commission:

- (a) A completed application stating the legal contact information of the services or business;
- (b) Document or proof the applicant is authorized to provide services for an existing permittee of the Pawnee Nation; and
- (c) Description of services provided.

### Section 1106. Conditions of Permit

The Access Permittee shall comply with the following conditions:

- (a) The permit shall be for a term of two (2) years and a permit fee of Twenty-Five Dollars (\$25) will be assessed.
- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of activities associated with the permitted activity.;
- (d) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (e) Upon request, either oral or written, by the USEPA, BIA, the BLM, the Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying; and
- (f) The Permit is non-transferable

Section 1107. Prohibited Acts and Penalties

- (a) It shall be unlawful to access lands under the jurisdiction of the Pawnee Nation to conduct commercial activity required under this Title without first acquiring an approved Pawnee Nation Access Permit. Violations of this part shall result in a minimum penalty of One Thousand Dollars (\$1,000) per day of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.
- (b) Violations of any provisions of an approved Pawnee Nation Access Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per month, prorated, of violation as prescribed in Section 1108 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance to Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

Section 1108. Enforcement

- (a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:
  - (1) Suspension of the Permit on the date specified in the NOV;
  - (2) Revocation of the Permit on the date specified in the NOV;
  - (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;

- (4) Imposition of penalty as authorized in Section 017 of this Title;
  - (5) An order requiring seizure of property as authorized in Section 022 of this Title;
  - (6) An order closing the premises at which the violation is taking place; and
  - (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).
- (b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.
- (c) Compliance or Appeal. The person served the NOV:
- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or
  - (2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 1109. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the Violation.

CHAPTER TWELVE –  
Solar Energy Permit

Section 1201. Purpose

The purpose of the Solar Energy Permit is to provide for the protection of surface resources, existing land uses and prevent environmental contamination. The Solar Energy Permitting process will ensure adequate notification, collaboration, land use protections, fire department response and safety, and compliance with the surface stipulations of the Pawnee Nation. Solar energy collection activities include the exploration, construction, installation, and operation of a solar field to include any and all service utilities needed to operate within the jurisdiction of the Pawnee Nation. Collaboration will ensure compliance with all applicable surface stipulations, laws, and regulations of the Pawnee Nation and as required in the federal Wind and Solar Resource Lease.

Section 1202. Scope

All solar energy activities, over 10 kilowatts, will require the Pawnee Nation Solar Energy Permit in addition to the requirements of the federal government. Solar energy activities include the exploration, construction, installation of panels and supporting utility infrastructure, and operation of solar energy collection, geothermal connections and storage facility, including batteries.

Section 1203. Application of Law

The Pawnee Nation is authorized to issue permits, monitor activities, and enforce the requirements of the Solar Energy Permit. The authorities and jurisdictions of the Pawnee Nation are concurrent with and in addition to the regulatory jurisdiction of the federal government.

Section 1204. Solar Energy Permit Required

No person shall engage in any solar energy activity without first obtaining and maintaining in good standing the Pawnee Nation Solar Energy Permit.

Section 1205. Application for Solar Energy Permit

Every person applying for a Solar Energy Permit must comply with the required surface stipulations. Acquiring the Permit will require early collaboration with the applicant, Pawnee Nation, and BIA to ensure activities are inclusive of both Pawnee Nation laws and regulations including all site-specific surface stipulations. The applicant must provide assurances on the following site conditions and stipulations to the Pawnee Nation before the Solar Energy Permit can be issued:

- (a) A completed Solar Energy Permit application. An application to renew a permit shall include a copy of the current or most recent permit. If a permit is not renewed before its expiration date, the applicant may be imposed the fee of a new permit;
- (b) Documentation or proof that the applicant has been granted authorization from the DOI (BIA, BLM) to conduct work in the jurisdiction and acquired a Wind Solar Resource

(WSR) lease as well as an approved lease through the Title XVI Pawnee Nation Real Property Leasing Act;

- (c) A description of the nature of the work to be performed by the applicant and the anticipated duration of the proposed operations;
- (d) Consultation with Pawnee Nation is required throughout the planning process. All required NEPA documentation and any other documentation regarding possible impacts to natural resources must be reviewed by Pawnee Nation. Pawnee Nation will have 10 business days to review and make comments before final submission to BIA.
- (e) All easements for above ground or other buried utilities shall be marked and surfaces will be maintained to ensure its integrity;
- (f) Location Sanitation - During construction within the solar energy activity, the land and access road(s) will be policed and kept free from all debris and garbage. All sewage and wastewater discharged from temporary living quarters or rest room facilities will be self-contained and hauled to an approved disposal site;
- (g) The Pawnee Nation will be provided a certified surveys and GIS files or other files compatible with ArcGIS of the proposed solar energy activity;
- (h) Any activity requiring burying or boring will be buried in accordance with industry standards or in accordance with the issued Pawnee Nation permits. Before the lines are covered, the Pawnee Nation will be notified to verify the depth and location of the utilities. The Pawnee Nation is authorized and directed to negotiate any needed easements and/or extension of easements required to complete the installation and operation in accordance with chapter 10 of this Act;
- (i) Notification – The applicant is required to contact the Pawnee Nation prior to starting construction, including clearing and grubbing, of a new site, and immediately upon discovery of an environmental or cultural condition or restoration of any site in accordance with this plan and the Pawnee Nation Natural Resource Protection Act;
- (j) An agreement to comply with the applicable laws and regulations of the Pawnee Nation;
- (k) Payment of the application fee in the amount of One Thousand Dollars (\$1,000); and
- (l) Certification that the applicant has complied with all applicable laws and regulations of the Pawnee Nation.

#### Section 1206. Conditions of Permit

The recipient of a Solar Energy Permit shall comply with the following conditions:

- (a) A permit fee of One Thousand Dollars (\$1,000) will be assessed;



- (b) The activity covered by the Permit shall be maintained in a safe and clean manner as to protect both human health and environment to include the public, contractors, and employees;
- (c) Applicant shall compensate landowners and the Pawnee Nation for damages caused by solar energy activities, including timber removal, erosion, surface and crop damages;
- (d) Applicant shall repair and recondition any road, fence, land features, or waterway that are damaged as a result of operations as soon as possible after damages occur;
- (e) Immediate access to the location shall be granted inspection by Pawnee Nation and federal law enforcement officers and inspectors;
- (f) The premises and permit activities shall be operated in compliance to the applicable laws and regulations of the Pawnee Nation and the United States;
- (g) The applicant shall provide a Pawnee Business Council approved site closure plan to the Department with application;
- (h) Upon request, either oral or written, by the USEPA, BIA, the BLM, Pawnee Nation, or any federal law enforcement officer, permit holders shall make the permit or a copy thereof available for inspection and copying; and
- (i) The Permit is non-transferable.

#### Section 1207. Prohibited Acts and Penalties

- (a) It shall be unlawful to conduct solar energy activities or activities required under this Title without first acquiring an approved Pawnee Nation Solar Energy Permit. Violations of this part shall result in a minimum penalty of One Thousand Dollars (\$1,000) per month, prorated, of violation as prescribed in Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders.
- (b) Violations of any provisions of an approved Pawnee Nation Solar Energy Permit may result in a minimum penalty of Five Hundred Dollars (\$500) per month, prorated, of violation as prescribed in Section 1208 of this Title and any other applicable law and regulation of the Pawnee Nation including seizure of equipment and cease and desist orders. If violations are outside the scope of the approved permit, then penalties may be assessed in accordance with Section 017 of this Title and any other applicable law and regulation of the Pawnee Nation.

#### Section 1208. Enforcement

- (a) Notice of Violation. Any person found by the Pawnee Nation to be in noncompliance with or in violation of the permit or any requirement of this Chapter shall be issued a notice of violation (NOV) by the Pawnee Nation. The notice shall inform the person of the nature of the

noncompliance or violation and may include any or all of the following enforcement actions deemed proper by the Pawnee Nation:

- (1) Suspension of the Permit on the date specified in the NOV;
  - (2) Revocation of the Permit on the date specified in the NOV;
  - (3) An order requiring the applicant to come into compliance with the Permit or any requirement of this Chapter and to cease the violation;
  - (4) Imposition of penalty as authorized in Section 017 of this Title;
  - (5) An order requiring seizure of property as authorized in Section 022 of this Title;
  - (6) An order closing the premises at which the violation is taking place; and
  - (7) A date of compliance of no later than fifteen days (15) from the date of the NOV, by which the person must pay any assessed penalty (civil or criminal).
- (b) Service of Notice. The notice of violation shall be personally served on the person alleged to be in noncompliance or violation or shall be mailed, return receipt requested, to the address indicated in the application for Permit. Service shall be deemed complete when the notice is received in person or mailed to the address indicated in the application.
- (c) Compliance or Appeal. The person served the NOV:
- (1) Shall achieve full compliance with the NOV within the stated date of compliance, including payment of any assessed penalty; and/or
  - (2) May file an appeal to the Pawnee Nation District Court within the stated date of compliance.

#### Section 1209. Appeals

Any person issued an enforcement action or NOV for any violation of this Chapter, including the Pawnee Nation, may pursuant to the Pawnee Nation of Oklahoma Law and Order Code request an appeal of the violation.