PHOENIX PRODUCTION COMPANY

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RECEIVED MAY 1997

May 2, 1997

Mr. David S. Guzy
Chief, Rules and Publications Staff
Minerals Management Service
Royalty Management Program
P.O. Box 25165, MS 3101
Denver, Colorado 80225-0165

Re: Notice of Proposed Rulemaking
62 Federal Register 3742, 1/24/97

Dear Mr. Guzy:

This letter is written in response to the Minerals Management Service proposed rules on changing the method of determining the value of federal royalty on crude oil. Our response to these proposed rules is that they will place significant additional financial and reporting burdens on our Company and on any oil and gas companies operating on Federal Leases.

Phoenix Production Company is a small independent oil and gas producing Company with production in the States of Montana and Wyoming. During March 1997, our Company produced 29,318 barrels of oil from 31 Federal and Indian Leases in Wyoming. This oil was purchased under a 12-month arms-length contract with one purchaser and federal royalty and state taxes were based on the total value received from the purchaser. This included the posted price for the oil plus our negotiated bonus. In order to obtain the highest possible price for our Company, our working interest owners, and our royalty owners, Phoenix has historically aggregated our oil production volumes and has requested annual price bids on this oil from all of the primary area purchasers. We have determined very significant differences in the prices and terms offered with these bids, and we have always accepted the highest price bid for the succeeding year's 12-month contract. We have a few contract calls on some of this oil from the prior owner, but in every case we have required that they equal or exceed our highest bid for their respective call on the oil, or we will in turn award the contract to the high bidder. Through our competitive bidding process, Phoenix Production Company is very confident that we are receiving the highest possible wellhead price, and we have throughout our entire history paid all applicable royalties and taxes on this total price.

As a measure of the financial effect of these proposed rules to our Company, we compared our February 1997 actual oil price proceeds with the Nymex spot futures price over the same time period. The difference between these actual and speculative prices for this time period was **$4.38 per barrel.** Based on the higher speculative price, Phoenix would have been required to pay increased federal royalties of approximately $6,000 for this month. Furthermore, many of the subject lease royalty rates are presently reduced due to their marginal production and the Stripper Royalty Rate Reductions that are presently in effect. If it were not for this program, which is presently being evaluated for extension, the royalty increase would have been even more dramatic. I can assure you that if these types of royalty increases are enacted, it will be necessary for Phoenix and other operators in Wyoming to plug and abandon some of these marginal wells.

These proposed rules, in our opinion, take some of the incentive away for being a prudent oil producer. We believe that Phoenix is able to obtain the highest possible oil bonuses in our competitive bidding process, because our Company distributes all revenues to royalty and working interest owners, because we closely supervise our production, and because we incur minimum well downtime. Our producing operations cause very few operating delays or problems for the oil purchasers, and as a result we believe that our oil bonus bids are somewhat higher than other operators who might not be following their operations as closely. We also see serious problems with a single Nymex price on Federal Leases and what effects that will have on State and Fee mineral royalty owners and possibly even working interest owners in the same field or area. Why would not all owners demand in effect a higher royalty rate if these MMS rules are incorporated?

As a small operator we are also very concerned about the additional regulatory burdens that would be placed on our small office staff if these proposed rules were placed in effect. We can envision very significant time and paperwork necessary to justify our price, our transportation costs, etc for federal royalty reporting. As an example we presently complete "MMS Form 4295" to determine actual gas transportation costs on Indian Leases. This form process requires completing yearly estimates for gas transportation, and then at a later date resubmitting the actual transportation costs. This forces us to make many royalty and tax adjustments with our working interest owners, our royalty owners, and our State Agencies. We are apprehensive that the proposed oil royalty rules could require a similar complicated type of reporting process.

In summary, it is our strong belief that we are achieving the maximum possible federal royalty value as a result of our competitive bidding price methods with oil purchasers and also with our general field operating practices. We don't believe that a Nymex price at some designated central location can properly adjust for our oil quality differences and transportation costs in Wyoming. If the Minerals Management Service must institute change, then we recommend that the MMS take these oil royalty barrels in-kind before placing any more burdensome regulations on our Company and on our industry.

Very truly yours,

Robert McDougall

Robert E. McDougall, P. E.
President

cc: Mr. Jim Magagna
State of Wyoming Land Office