



August 5, 2014

Mr. Armand Southall
Regulatory Specialist
Office of Natural Resources Revenue
P.O. Box 25165, MS 61030A
Denver, Colorado 80225-0165

RE: NAVAJO NATION COMMENTS ON FEDERAL REGISTER VOL. 79, NO. 118, INDIAN OIL VALUATION AMENDMENTS (RIN 1012-AA15)

Dear Mr. Southall:

The following comments are submitted on behalf of the Navajo Nation (Nation) in response to the proposed Indian Oil Valuation Amendments published at 79 Federal Register 35102 (June 19, 2014). We appreciate the opportunity to comment on the proposed amendments.

We would like first to express our support of the use of an index-base method for determining value. We believe that the proposed oil valuation amendments not only include a valuation methodology that ensures the Nation will receive a price representative of market value for its oil sold, but also addresses the majority portion requirements of the standard Indian leases.

We provide the following comments in specific areas where the Office of Natural Resources Revenue (ONRR) requested comments:

A. Transportation Allowances – Form Filing

Arm's-length. ONRR requested comments on removing the requirement under the current rule to file a Form ONRR-4110, Oil Transportation Allowance Report. For arm's-length situations, the lessee would submit its arm's-length transportation contracts and any amendments within 2 months after the lessee reports a transportation allowance on its Form ONRR-2014.

We support this change; however, ONRR should provide additional information regarding the acceptable form of the transportation contracts. We recommend that lessees provide ONRR with hard copies of the arm's-length transportation contracts.

Non-arm's-length. For non-arm's-length transportation situations, ONRR requested comments on removing the requirement under the current rule to file a Form ONRR-4110 in advance with estimated information. Lessees would still be required to submit the Form ONRR-4110 but not until 3 months after the end of the 12-month period to which the allowance applies.

We support the change that requires lessees to submit actual cost data on Form ONRR-4110 within 3 months after the end of the 12-month period to which the transportation allowance applies. We also support eliminating the requirement that lessees submit a Form ONRR-4110 in advance with estimated information; however, we believe that the lessee should be required to notify ONRR in advance that a transportation allowance will be applied against value and reported on Form ONRR-2014. The difference between the current rule and the proposed change is that the lessee would not be required to submit estimated data.

We believe that a requirement to give prior notice is prudent and will serve as an audit or compliance review planning tool allowing ONRR and its Tribal audit partners to identify areas of risk sooner rather than later.

Opponents to this recommendation may reason that lessees are required to report transportation allowances as a separate line on Form ONRR-2014 so auditors should use the reported allowance lines for audit planning purposes; however, lessees do not always adhere to this reporting requirement. Lessees should be required to submit a notice to ONRR annually, at the beginning of each annual reporting period. A notice requirement can also serve as a reminder to lessees that their allowance must be reported as a separate line on Form ONRR-2014 and if allowances are not properly reported, the allowance will be denied.

B. Transportation Factors

ONRR requested comments on eliminating transportation factors from the regulations. This change would result in the lessee's requirement to report arm's-length transportation factors as transportation allowances on Form ONRR-2014.

We support this change. We agree with ONRR that the change will increase transparency.

C. Limiting Allowances

ONRR requested comments on removing the exception to the 50-percent limitation on transportation allowances. The current rule allows a lessee to request an exception to the rule that transportation allowances cannot exceed 50 percent of the value of the oil at the point of sale. ONRR believes it is a better exercise of the Secretary's trust responsibility to not allow cost allowances for transporting production from Indian leases to exceed 50 percent of the value of oil.

We support this change and agree with ONRR that the change supports the Secretary's fiduciary trust responsibility to Indian tribes and allottees.

The following are comments on areas of the Indian Oil Valuation Amendments where ONRR didn't request comments:

D. Initial Location and Crude Type Differential (LCTD)

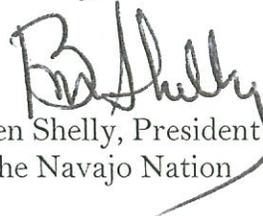
The initial calculation of the LCTD will be based on the previous year's average annual difference between the NYMEX CMA and the Major Portion Price. ONRR will calculate the Major Portion Price by arraying all of the prices reported in a designated area from the highest to the lowest price and determining the price associated with the 25th percentile by volume plus one barrel of oil. ONRR will calculate a LCTD for each crude type within each designated area using arm's-length and non-arm's-length sales values reported on Form ONRR-2014. The values will also include values reported on Form ONRR-2014 as royalty-in-kind (Transaction Code 06).

As previously stated, we support the use of an index-base method for determining oil value. However, the reported sales values used to determine the initial Major Portion Prices should be subject to audit or compliance review, and adjustment. If the reported prices are determined inaccurate, the initial computed LCTD will be inaccurate and should also be subject to audit adjustment. We recommend that ONRR consider a time limit to audit/review the accuracy of the reported sales values.

The auditing or review of the initial reported prices used to compute the LCTD is crucial since subsequent monthly adjustments of 10 percent, if warranted, will be made up or down to the computed LCTD.

If you have questions concerning our comments, please contact Akhtar Zaman, Director, Minerals Department, or Rowena Cheromiah, Minerals Royalty and Audit Manager, Minerals Department, at (928) 871-7098.

Sincerely,



Ben Shelly, President
The Navajo Nation

RC:BS/kjs

xc: Akhtar Zaman, Director, Navajo Nation Minerals Department