CROW TRIBE EXECUTIVE BRANCH

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VIA EMAIL
May 4, 2017

Heidi M. Badaracco
Program Manager
State and Indian Coordination
Office of Natural Resources Revenue
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Denver, CO 80225-0165

Re: Comments on RIN 1012-AA20 and -AA21

On behalf of the Crow Tribe of Montana, thank you for your letter of April 3, 2017 on the proposed repeal of the Valuation Rule that was finalized on July 1, 2016. Following are the Crow Tribe's comments on the Notice of Proposed Rule for repeal of the Valuation Rule, and the Advanced Notice of Proposed Rulemaking requesting suggestions on amendments to the Valuation Rule whether or not it is repealed.

As you know, coal has been an economic mainstay for the Crow people and our Reservation. The Crow Nation has developed a limited amount of its 9+ billion ton coal resource, by leasing a portion of its coal reserves for more than 40 continuous years to Westmoreland Resources, Inc. ("WRI"). When WRI's Absaloka Mine was operating at full capacity, the revenue generated from the Mine represented as much as two-thirds of the Crow Nation's non-federal budget. The Mine has also provided the best source of employment in the area for both Tribal and non-Tribal members.

Coal from the Absaloka Mine is sold to the utility customers at the mine-mouth, and ninety percent of that coal is shipped to power plants in Minnesota. However, our coal partners and our coal economist consistently remind us of the difficult environment for domestic coal production for use in power plants across the country. Due in part to EPA regulations, our coal sales are now at greatly reduced levels.

Thus, the Crow Nation has elected to utilize its coal asset by pursuing sales to both domestic and international power generation utilities. The potential future growth in international demand for coal provides an additional opportunity for Crow Nation to obtain full value for our resource and could offset some loss of revenue caused by the decline in domestic coal markets.

For example, in June 2013, the BIA approved another Crow Nation agreement with Cloud Peak Energy ("CPE") to explore, with options to lease and develop an estimated 1.4 billion tons of Crow coal in the southeastern corner of the Crow Reservation. The project – named Big Metal – is largely dependent on reaching international customers through the Pacific Northwest.

However, ONRR's Valuation Rule would extensively reconstruct royalty valuation methods as they relate, in part, to marketing coal to international customers, which most often involve sales through affiliated entities. We are concerned that the Valuation Rule, as adopted in 2016, could seriously and negatively impact our ability to access those customers by creating unworkable uncertainty in international coal sales, and leave the Crow nation with few options.

Therefore, consistent with our 2015 comment on the proposed Valuation Rule, the Crow Nation strongly recommends and requests that ONRR:

1) Repeal the Valuation Rule, at least with respect to non-arms-length coal sales between affiliates as they relate to international coal sales;

2) If potential changes to Indian coal valuation rules are contemplated, that such rulemaking be conducted separately from any further rulemaking on oil and gas valuation; and

3) If potential changes to the rules for valuation of non-arms-length coal sales are undertaken, that ONRR seek a more thorough understanding of the mechanics of affiliate transactions for international sales, including all the additional costs incurred in getting the coal to the ports, storing it at the ports, loading it on ships, and the various increased risks involved in selling coal at the ports rather than on a mine-mouth basis.

Finally, the Crow Nation would appreciate ONRR's confirmation that under any existing or proposed rules, a different valuation method set out in the Tribe's coal leases and development agreements will override the regulations' default procedures.

We would further request an in-person government-to-government consultation in the event that any further actions are being considered, other than a simple repeal of the new Valuation Rule.

Thank you very much for the opportunity to comment.

Sincerely,

/s/

Alvin Not Afraid, Jr.
Chairman