STATE OF WYOMING
OFFICE OF THE GOVERNOR

JIM GERINGER
GOVERNOR

STATE CAPITOL BUILDING
CHEYENNE, WY 82002

October 28, 1997

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RECEIVED

Mr. David S. Guzy, Chief
Minerals Management Service
Rules and Procedures Staff
P.O. Box 25165, MS 3101
Denver, CO 80225-0165

Re: Comments on Reopening of Proposed Rules Establishing Oil Value for Royalty Due on Federal Leases. (Fed. Reg. Vol. 62 No. 183, Sept. 22, 1997, comments deadline: Nov. 5, 1997)

Dear Mr. Guzy:

Wyoming is again availing itself of the opportunity to comment further on the proposed crude oil valuation rule. The Minerals Management Service must be complimented on its obvious efforts at arriving at a fair and practical solution for this difficult problem.

To summarize and clearly delineate for you the position Wyoming has espoused on the issue, I thought it appropriate to send you the attached document. We feel strongly that this would represent a fair method of valuing crude oil in arms length as well as non-arms length transactions for the Rocky Mountain Region, or at the very least for Wyoming. I am pleased to note that we seem to be in agreement for the arms length transactions. I am hopeful that you will give full consideration to our proposal regarding non-arms length transactions.

Best regards,

Jim Geringer

Jim Geringer
Governor
State of Wyoming

JG:JB
Encl.
cc.: Jim Magagna, Director, Public Lands
Michael Geesey, Director, Department of Audit
Johnnie Burton, Director, Department of Revenue

would require approval of the lessees bid program before it is used for valuing royalty oil. The producer would be required to tender ten (10) to twenty(20) percent (or a specified number of barrels) of its oil from a given field or area. A minimum of three bids must be received.

Benchmark #2 - Leased Based Comparable Sales/Purchases

MMS would determine lease based comparable prices for a given geographical field or area. These comparable prices would include:

- *Prices received for oil under an RIK program out of the field or area.*
- *Producer arms-length sales from the field or area.*
- *Producer arms-length purchases from the field or area.*

Benchmark #3 - Netback from a Spot Price

A producer would use a published spot price (P+, etc.) less actual transportation costs, quality adjustments and any approved marketing costs.

Note: There was support from other states to trace the oil from the lease to the refiner and use a comparable price at the refinery (e.g. - a price that a refiner is purchasing oil from unaffiliated parties). The cost of transportation/quality differentials and any approved marketing costs would be deducted to arrive at a price at the lease.

PROPOSED REGULATIONS FOR FEDERAL ROYALTY OIL VALUATION

WYOMING'S POSITION

ARMS-LENGTH SALE

Sales of federal oil to third-party purchasers (arms-length sales) would be valued under the current "gross proceeds" regulations. A contract or agreement between the buyer and seller is arrived at in the market place between independent, nonaffiliated persons (lessees) with opposing economic interests. Most small independent producers would fall under this valuation method because they sell their oil at the lease to independent third-parties.

NON ARMS-LENGTH SALE

We propose to separate sales of fully integrated companies (refiners) and non-integrated companies (non-refiners). The lessee has no arms-length contracts and no representative market prices to compare to when valuing its proprietary oil.

NON-REFINERS:

If a lessee does not refine oil, but has a marketing affiliate that sells its oil either in an outright sale or through a buy/sell exchange agreement, royalties would be due on the resale value less actual transportation and any approved marketing costs[1].

Example:
Producer A sells 1000 barrels to its affiliate B at the lease. B enters into an agreement with C to exchange 1000 barrels of Wyoming oil for 1000 barrels of West Texas Intermediate oil. B receives 1000 barrels at Cushing, OK and sells it for a spot or negotiated price. The value for federal royalty purposes would be based upon the spot or negotiated price less actual transportation costs and any approved marketing costs, which would result in a price at the lease.

REFINERS (Rocky Mountain Region only):

A fully integrated company that produces and refines its oil in the Rocky Mountain Region would be subject to the benchmarks listed below. If benchmark #1 does not apply to a given lessee the second benchmark would be considered for applicability and so on.

BENCHMARKS

Benchmark #1 - Tendering (bid-out)
A tendering (bid-out) arrangement is where a lessee offers a percentage of its own oil to the highest bidder(s) in order to establish the lessees value for its non-armslength sales. MMS

[1] The federal regulations would have to define the types of marketing and transportation costs that would be allowed as a deduction. A clear definition of terms such as field or area, like quality, percentage of production, etc. would need to be agreed upon to avoid confusion with the industry and government interpretations.