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LEE D. BLOCH

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Mr. David S. Guzy
Chief - Rules and Publications Office
Royalty Management Program
Minerals Management Service
P.O. Box 25165
Mail Stop 3021
Denver, CO 80225-0165

RE: COMMENTS ON MMS's PROPOSED FINAL CRUDE OIL VALUATION RULE

Dear Mr. Guzy:

This comment is being submitted in response to the Minerals Management Service's (MMS's) request for comment on its proposed new crude oil valuation rule and also in regard to MMS's request for comment on the correct Rate of Return (ROR) to be used as an expense component in calculating transportation costs for Non Arm's-Length (NAL) pipelines used to transport a lessee's oil to market.

My name is Lee D. Bloch and I am the owner of Bloch, Briggs, and Associates. For the past 18 years I have been engaged in auditing oil, gas and NGL royalties paid to my clients. I have represented hundreds of various landowners and governmental agencies and have completed many audits of companies ranging from the very largest multi-nationals to companies of significantly less size. I represent my clients through on-site audit work. In addition I have testified in court or have been deposed on numerous occasions as both an expert and factual witness. My educational background includes a B.S. in Accounting and a Masters in Finance from Louisiana State University.

Federal royalty policy impacts me as a taxpayer and more importantly, as a representative of lessors who frequently are exposed to the "trickle-down" effect of Federal royalty policy. I see accounting systems set up to pay fee and non federal governmental entities on the basis of the lessee's interpretation of federal royalty policy. In addition, on numerous occasions the reasons I hear from lessees for not paying audit claims are "well, the way we paid you is OK for the MMS... ".

It is with this in mind that I was very pleased to see the MMS getting to a "final" stage in its oil rulemaking process. Although I feel that the rule is long overdue, the major components of it dealing with valuation for the OCS and Mid Continent area seem to offer a good balance between fairness and effective, accurate valuation for both arm's-length and non-arm's-length (NAL) lessees. It is in the area of transportation for NAL transporters that the rule needs improvement. I am not well versed in citing federal regulations and will instead refer to the general intent and make my comments and suggestions relevant to the intent.

In the preamble to the rule, MMS asks for comment on whether the BBB bond rate (currently applied against book value of a pipeline as an expense component for Return On Investment, (ROI) should be increased to 1.5 to 2.0 times the BBB bond rate. First the BBB bond rate is a rating allotted to a relatively marginal credit risk anyway and in that sense already provides the lessee with a higher rate of return.

Moreover by the time the decision to construct a pipeline is made, reserves have largely been proven and the risk of having volumes to amortize the project is not particularly great. Additionally the MMS's practice of allowing the lessee to amortize his investment based on actual throughput rather than design capacity serves to already transfer a portion of the risk of pipeline construction to the government.

In addition, MMS's proposed rule allows a new lessee to set up a new depreciation schedule when he buys an existing pipeline. While at first blush, this may seem equitable, it potentially could cause material losses because it does not contain an element to require the selling lessee to "recapture" depreciation in instances where the pipeline is sold at a price greater than book value.

To remedy this situation and bring equity to both sides, I simply recommend that the depreciation schedule transfer from the original party to subsequent parties. Knowing this, buying and selling parties would keep this fact in mind when negotiating buying or selling prices. In other words, MMS should maintain the status quo.

This methodology also serves to prevent the "gaming" of sales prices of multiple assets to work to the lessee's benefit and to the lessor's detriment. For example, a sale of a pipeline often accompanies sales of other assets, including producing platforms, wells, shore facilities, camps, etc. It can certainly be visualized that a lessor could easily allocate greater purchase values for deductible items (pipelines) and lower values for non deductible items (platforms).

For the reasons stated above, probable inequitable treatment of both lessee and lessor under the proposed rule and potential "gaming", I feel the rule must be changed, most preferably by maintaining the status quo.

I thank you for your very kind consideration of the above.

Very truly yours,

Lee D. Bloch