THE NAVAJO NATION

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Submitted via e-mail to: David .Guzy@mms.gov

October 30, 2000

Attn: David S. Guzy, Chief
Minerals Management Service
Minerals Revenue Management
Rules and Publications Staff
PO Box 25165, MS 3021
Denver, Colorado 80225-0165

RE: Proposed Rule; Notice of Initial Regulatory Flexibility Analysis

Dear Mr. Guzy:

The Navajo Nation (Nation) submits the following comments on Minerals Management Service's (MMS) proposed rule; notice of Initial Regulatory Flexibility Analysis (IRFA) concerning MMS' Proposed Rulemaking on crude oil valuation for Indian leases.

When the Indian lessors and MMS initiated the process of formulating the new proposed Indian crude oil valuation rule, it was firmly anticipated that the new rule would result in achieving a higher return to the Indian lessors for their non-renewable natural resources. In fact, the underlying principal that precipitated the process was the fact that posted prices, upon which the current regulations rely on for value, were indeed not reflective of the true market value of Indian crude oil. We now fail to understand MMS' motive in performing and publishing their IRFA when the cost impact to lessees producing Indian crude oil is obvious, that is, lessees would be required to pay royalties based upon the true market value of oil.

MMS must consider the separate and distinct major portion provision contained in Indian leases in its decision to go forward with the final promulgation of the Indian crude oil valuation rule. Furthermore, most Indian leases provide that value for royalty purposes, is at the discretion of the Secretary. Finally and most important, the Federal Government must recognize its fiduciary trust responsibility in its consideration to amend its regulations regarding the valuation of crude oil produced from Indian leases.

Although we generally agree with MMS' conclusion that the proposed oil valuation rule would have a negative cost impact upon lessees, the proposed rule is fair and reasonable, as it would return to the Nation, a fair market value for its crude oil resource.

Furthermore, it should also be noted that the IRFA is premised upon many assumptions, which are substantive, in terms of estimating cost impacts to lessees and provides no factual basis for MMS to not proceed with final promulgation of the Indian crude oil valuation rule.

In its own conclusion, MMS states that it believes the supplementary proposed rule is appropriate because it establishes fair and reliable measures of royalty value for Indian resources. MMS further states that several alternatives were examined but it concluded that the rule as currently proposed best achieves market value for Indian lessors. The Nation strongly agrees.

The Nation is very dependent on the royalty revenues it receives from its non-renewable mineral resources. In fact, the Nation's mineral royalty revenues account for approximately eighty percent of its general fund budget used to provide basic services to Navajo people. Each day the proposed regulations are not implemented results in revenue loss, which limits resources needed to provide the Navajo people with basic subsistence. The Nation respectfully requests that MMS finalize and implement the amended regulations as proposed, as soon as possible.

If you have any questions, please contact me at (520) 871-6340.

Sincerely,

Perry Shirley

Perry Shirley
Assistant Director
Minerals Department

xc: Arvin S. Trujillo, Division Director, Division of Natural Resources, Navajo Nation
Akhtar Zaman, Director, Minerals Department, Navajo Nation