THE NAVAJO NATION

Minerals Department
Minerals Audit Program

Joe Shirley, Jr.
President

Frank Dayish, Jr.
Vice-President

April 14, 2003

Attn: Sharron L. Gebhardt, Regulatory Specialist
Minerals Management Service
Minerals Revenue Management
PO Box 25165, MS 320B2
Denver, Colorado 80225

RE: Proposed Rule; Establishing Oil Value for Royalty Due on Indian Leases

Dear Ms. Gebhardt:

The Navajo Nation (Nation) submits the following comments on the proposed rule for establishing oil value for royalty due on Indian Leases as published by the Minerals Management Service (MMS) at 68 Federal Register 7086, February 12, 2003.

The Navajo tribe is a large producer of crude oil among the Indian tribes with an annual production of approximately 6.1 million barrels of crude oil. In contrast to some tribes, the Nation is very dependent on royalty revenues it receives from its mineral production. In fact, mineral related revenues account for approximately 75 percent of the Nation's general funds. These funds are used to provide much needed services to Navajo people. As such, the Nation is very interested in the policies and regulations that govern the valuation of its mineral resources.

It has been over seven (7) years since December 1995, when the MMS formally announced its intention to reassess its crude oil valuation regulations for Indian leases. The Nation has been anticipating the final promulgation of new crude oil valuation regulations for Indian leases; however, the MMS has cited various reasons for the delay in finalizing the new crude oil rule. Nonetheless, the Nation strongly urges the MMS to finally promulgate the new Indian crude oil regulations. We have provided comments to the MMS in regards to all previous notices of proposed rules for establishing oil value for royalty due on Indian leases. Please consider these comments as a supplement to all previous comments submitted by the Nation. Our comments contained herein are limited to the specific areas that impact the Nation and in which the MMS requested input in its February 12, 2003 Federal Register notice.

The Nation supports the use of price indices established by the New York Mercantile Exchange (NYMEX) futures market with proper adjustments for location and quality differentials. Our understanding is that placing reliance on NYMEX price indices, as opposed to published spot price indices would have a positive effect on the value of crude

P.O. Box 3750 Window Rock, Arizona 86515 Phone #: 928/871-6340 Fax #: 928/871-7832

oil for royalty purposes. Furthermore, recent alleged manipulation of contract pricing information, which is reported to companies who publish such information, has led to questions concerning the integrity of price indices generated using a industry survey approach. We feel that using NYMEX price indices would be beneficial to the Indian lessor.

The MMS also seeks comments concerning the determination of adjustments for location and quality differentials in instances where the companies do not have the information readily available. Under these circumstances, the new rule should allow for the use of an alternative source for the determination of reasonable and valid differential adjustments. However, this should be the exception rather than the norm and lessees should be able to justify their differential adjustments. In cases where the MMS may determine that differential adjustments used by lessees are not reasonable or include other non-deductible expenses, such differential should be determined as invalid.

The MMS is also considering whether to specifically define certain transportation expenses as allowable deductions from value for royalty purposes. The Nation strongly urges that no changes be made to the current policies and regulations concerning the determination of transportation allowances for Indian leases. We feel that any attempt to specify allowable transportation costs will be construed to the advantage of industry. Furthermore, in the ever-dynamic marketing environment of the crude oil industry, pipeline expenses and costs also undergo changes and rules governing these allowances should allow the MMS to determine the extent that certain costs are allowable.

It is quite apparent that crude oil prices posted by companies to value production for royalty purposes are not reflective of the true market value of Indian crude oil and we urge the MMS to consider all of our previously submitted comments in finalizing the Indian oil valuation rule.

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

Sincerely,

Perry Shirley

Perry Shirley
Assistant Director
Minerals Department

c: Akhtar Zaman, Director, Minerals Department

NAVAJO NATION
MINERALS AUDIT PROGRAM
PO BOX 3750
WINDOW ROCK, AZ 86515
Phone: (928) 871-6340
FAX: (928) 871-7832

Facsimile transmittal

To: Sharon L. Gebhardt Fax No: 303/231-3385

From: Perry Shorty Date: April 14, 2003

Re: Pages: 3 w/Coversheet

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Notes:

PLEASE CALL (928) 871-6340, IF THERE IS A PROBLEM WITH THIS TRANSMITTAL