MOBIL BUSINESS RESOURCES CORPORATION
OFFICE OF LEGAL COUNSEL
MOBIL PLACE
DALLAS, TEXAS

TELECOPIER NUMBER: (214) 951-2029
OR BIG MAT: 323-2029
FOR CONFIRMATION CALL (214) 951-3964 OR BIG MAT 323-3964

Wednesday, May 13, 1998
DATE

«Number of Pages 03»
NUMBER OF PAGES, INCLUDING COVER

RE: «Subject - Comments on Proposed Regulations - Establishing Oil Value For Royalty Due on Indian Leases; 63 FR 7089 (February 12, 1998)»

To: «Mr. David S. Guzy»

«Chief, Rules and Procedures Staff - Minerals Management Service»

«Denver, Colorado»
Location (City, State, Unit)

«Phone» «(303) 231-3385»
Phone Number *Telecopier No*

From: DEBORAH BAHN HAGLUND
MBRC

Office of Legal Counsel - Dallas, Texas
Department

(214) 951-3349 / Big Mat 323-3349
Phone Number

COMMENTS: **«Comments»**

IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, CALL: **RICHARD GLENN - (214) 951-4091** *or* **BM 323-4091.**

Mobil

MOBIL BUSINESS RESOURCES CORPORATION
3000 PEGASUS PARK DRIVE
DALLAS, TEXAS 75247

P. O. BOX 650232
DALLAS, TEXAS 75265-0232

TEL: (214) 951-3349
FAX: (214) 951-2029
E-MAIL: debbie_b_haglund@email.mobil.com

DEBORAH BAHN HAGLUND
COUNSEL
OFFICE OF LEGAL COUNSEL
MEPUS PRACTICE GROUP

May 13, 1998

VIA TELECOPY (303) 231-3194
ORIGINAL BY MAIL

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

Re: Comments on Proposed Regulations -- Establishing Oil Value for Royalty Due on Indian Leases; 63 FR 7089 (February 12, 1998).

Dear Mr. Guzy:

Mobil Business Resources Corporation, on behalf of Mobil Exploration & Producing U.S. Inc. ("Mobil"), appreciates the opportunity to comment on the Minerals Management Service ("MMS") proposed rulemaking entitled "Establishing Oil Value for Royalty Due on Indian Leases," published at 63 FR 7089 (February 12, 1998). As a significant producer of federal and Indian oil, Mobil has a substantial interest in the outcome of this rulemaking.

Mobil concurs with the written comments submitted by the American Petroleum Institute ("API") dated May 11, 1998. It therefore adopts and incorporates API's comments by reference as its own. Additionally, since the Indian oil rulemaking parallels the MMS' federal oil valuation rulemaking in many respects, Mobil also adopts and incorporates by reference its own prior comments on the federal rulemaking, including its original comments dated May 28, 1997, and its supplemental comments dated August 4, 1997, November 5, 1997, and April 7, 1998.

While Mobil agrees with all of the API comments, of particular importance to Mobil are the following:

1. Reliance on NYMEX prices as a starting point for valuation is unwarranted, unworkable, and statutorily unauthorized. Indeed, in the federal oil rulemaking, MMS itself has abandoned NYMEX prices as the measure of value, except in the special case of the Rocky Mountain Region.

2. Even if NYMEX were an appropriate starting point for valuation, there is no rational basis for requiring the use of the five highest NYMEX future settle prices for the prompt month to value oil produced throughout the month. "Administrative simplicity" is not a sufficient justification for extracting royalty on a price that is higher than a lessee reasonably can be expected to receive from the sale of the oil.

3. "Major portion" lease provisions require the payment of royalty on "the highest price paid or offered at the time of production for the major portion of oil production from the same field." Hypothetical prices unlinked to actual sales have no place in this analysis, nor do prices for production from other fields or areas. Moreover, the plain meaning of "major portion" (50% plus 1) precludes the proposal's attempt to use the top 25% of reported values as the benchmark for valuation. See Ladd Petroleum Corp., 127 IBLA 163, 173 (1993). MMS cannot rewrite existing lease terms under the guise of promulgating new "interpretive" regulations.

4. The imposition of a duty to market for free likewise is an unwarranted and illegal attempt to rewrite existing lease terms. It also is a statutorily unauthorized attempt to impose royalty on downstream values that are not part of the value of the production when and as it is saved, removed or sold from the leased premises.

5. MMS cannot reasonably or lawfully disallow transportation allowances based on tariffs previously approved by the Federal Energy Regulatory Commission, another governmental agency. Additionally, there is no supportable rational for disallowing any part of a lessee's actual, reasonable transportation costs. Accordingly, all transportation costs, not just those beyond the reservation, should be allowed.

We appreciate your consideration of our comments. If you have any questions regarding these comments, please call the undersigned at 214-951-3349.

Very Truly Yours,

Deborah Bahn Haglund

Deborah Bahn Haglund