



United States Department of t

OFFICE OF THE SECRETARY
Washington, D.C. 20240

FEB 10 1995

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Dear Payor:

The Minerals Management Service (MMS) is conducting an inquiry into compliance with the accounting for comparison--commonly called "dual accounting"--requirements of Indian oil and gas leases. The objective of this inquiry is to assist MMS in carrying out its duties to determine whether royalty payments are in compliance with applicable laws, regulations, directives, and lease terms. Upon conclusion of this inquiry, MMS may undertake further audit or other investigation of the records of your company.

The Secretary of the Interior has a trust responsibility to ensure compliance with Indian oil and gas lease terms and regulations. Regulations at 30 CFR 206.155 (1994) require that, where lease terms provide, dual accounting must be performed in determining the value of certain natural gas production for royalty purposes. As a royalty payor on Indian leases, you must comply with any dual accounting requirements embodied in the lease terms. The MMS emphasized this obligation in Dear Payor letters dated September 30, 1988, and February 2, 1993.

Dual accounting is performed by calculating and paying on the highest of the following values:

1. The value of the processed gas as -
 - ° the combined values of the residue gas and gas plant products derived from processing the gas (determined under 30 CFR S 206.153 (1994)),
 - ° less applicable transportation and processing allowances (determined under 30 CFR §§ 206.156 through 206.159 (1994)),
 - ° plus the value of any drip condensate recovered downstream from the point of royalty settlement without resorting to processing (determined under 30 CFR § 206.102 (1994)); or

2. The value of the unprocessed (wet) gas (determined under 30 CFR § 206.152 (1994)).

Under MMS rules, you are required to pay royalty on the higher of value determined by dual accounting or the gross proceeds accruing to the lessee, including any additional consideration transferred either directly or indirectly. See 30 CFR § 206.153(h).

To conduct this inquiry, a knowledgeable and responsible officer of your company (for example, Chief Executive Officer, Chief Operating Officer, General Counsel) is ordered to submit a written statement to MMS listing your Indian leases that include the dual accounting requirement. For each of those leases, for each month from July 1, 1989, to the present, if there was gas production that was subject to the dual accounting requirement, state whether personnel responsible for calculating and paying royalties under Indian leases performed dual accounting to determine the royalty value of natural gas production.

Note that you are not required to perform "dual accounting" if your natural gas production is never processed, either by you or by anyone who purchases the gas, provided you can demonstrate that the gas is not processed. If your Indian gas production is not processed by any party, so state in your response.

The MMS is vigorously enforcing the dual accounting requirement where it is applicable for Indian leases. However, MMS recognizes that it is sometimes difficult for payors to obtain the information necessary to perform the calculation. The MMS is willing to assist payors in reaching compliance. The MMS has developed simplified methods for "dual accounting" that you may be able to use. Such methods were discussed in a Dear Payor letter dated July 27, 1992. The MMS will also try to assist payors that have other problems complying with this "dual accounting" requirement.

We must receive your response to this letter within 60 days of your receipt of this letter or such later date as the MMS Associate Director for Royalty Management provides in writing. We are enclosing a sample statement in the format you must use. Your response must be mailed to:

Valuation and Standards Division
Minerals Management Service
Royalty Management Program
P.O. Box 25165, Mail Stop 3150
Denver, CO 80225-0165

The authority for this inquiry is section 107(a) of the Federal Oil and Gas Royalty Management Act of 1982, P.L. 97-451 (30 U.S.C. 1717), which provides:

In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate In connection with any such . . . inquiry . . . , the Secretary is also authorized where reasonably necessary --


(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

Because the Assistant Secretary for Land and Minerals Management is issuing this order, it constitutes the final action of the Department of the Interior. Blue Star, Inc., 41 IBLA 333 (1979).

Failure to provide the information this order requires within the time period specified, or providing false or inaccurate information, may result in appropriate enforcement action.

If you have any questions, please call Deborah Gibbs Tschudy, Chief, Valuation and Standards Division, MMS, at (303) 275-7200.

Sincerely,



ACTING FOR Bob Armstrong
Assistant Secretary, Land and
Minerals Management

Enclosure

STATEMENT OF _____
(Name of Payor)

1. I am currently employed with the _____
(Company) (City)

_____, as _____
(State) [President, Chief Executive Officer, Chief Financial
Officer, General Counsel, etc.) I have held this position since

(Date)

2. As a matter of actual practice and company policy, company personnel responsible for calculating and paying royalties under oil and gas leases on Indian Tribal or allottee lands as a general rule, for each month since July 1, 1989, [DID/DID NOT] compare the value of unprocessed wet gas at the lease with the combined value of dry methane and extracted drip condensate derived from processing, less the actual and allowed processing and transportation costs and compared those values with the gross proceeds accruing from disposition of the production, and selected the highest of those measures as the value of production on which _____ paid royalties.
(Company)

3. To the extent that _____ has not made that
(Company)

comparison in determining the value of production for royalty purposes, a general identification of leases and time periods for which that comparison was not made is attached hereto.

Name

Date