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April 26, 1999

By Fax: 303-231-3700/Original By Mail

Paula Neuroth
Rules and Publications Staff
Royalty Management Program
Minerals Management Service
P.O. Box 25165 MS 3021
Denver, Colorado 80225-0165

Re: 64 Fed. Reg. 8835, 8844

Dear Ms. Neuroth:

The following comments on MMS's proposals to modify reported information are submitted on behalf of the California State Controller's Office.

According to the Notices, MMS is asking for comments on the need for reducing reported information for a system that will not be implemented until "September 2001". E.g., 64 Fed. Reg. at 8836. In the meantime, MMS is working on various substantive changes to its regulations, such as modifications of its oil and gas valuation rules and accounting relief for marginal properties. Moreover, MMS is in the midst of reevaluation of its entire approach to royalty compliance and collection -- the MMS reengineering program. Under that program, MMS is looking towards developing teams that will become experts for particular fields or areas containing federal production.

While SCO is generally supportive of measures that reduce red tape and bureaucracy, MMS's proposals for reducing reported data are tantamount to putting the cart before the horse. It is obvious that further modifications to forms filing requirements will be necessary depending on the approach MMS finally determines to take with regard to oil and gas valuation. In fact, under MMS's current proposals for oil valuation, for example, different data may be needed for

different geographic areas.

The very viability of MMS's reengineering program calls for greater advance reporting of industry data, not less. Auditors and other royalty management personnel cannot become "experts" capable of reviewing payments upfront without access to detailed data. Nor, can any reengineering pilot be evaluated without a greater understanding of how oil and gas are actually traded; knowledge that demands information and education in the mechanics of minerals trading beyond a particular field. The evidence on overall balancing arrangements, alone, confirms this need.

In this regard, SCO also notes that whatever the pros and cons of MMS's reengineering program, it cannot be viewed as a panacea for correcting valuation problems, as has recently been suggested by many industry representatives and lobbyists. The idea of a field market for the bulk of oil and gas production has become an anachronism. To paraphrase Judge Beaumont in the *U.S. v. General Petroleum Corp.*[1], while it might be said that oil does not go to the market, but the market goes to the oil, it does not follow that the market travels to the field with offers representing the true value to it of the production. Judge Beaumont's observation is of even greater force and relevance in today's nationwide oil and gas markets.

Elimination of data such as the two line adjustment will serve to obscure both advance analysis and audit trails. This is merely one example of the flaws in MMS's proposals. SCO understands that New Mexico and the Jicarilla Apache Tribe have provided MMS with additional specific examples of problems with MMS's proposals, through comments and during public hearings.

For the foregoing reasons, SCO opposes the MMS's proposals as being premature. SCO believes that MMS's resources would be better spent in training and evaluation of industry trading practices in advance of any attempt to modify forms filing requirements. To this end, SCO also urges MMS to take steps to access the data being compiled by the private relators and the Justice Department, which, even if it can only partially be revealed to the general public at this time, would provide MMS and the States and Tribes (*see* 30 U.S.C. §1733) a wealth of relevant information for training purposes. MMS should determine to the greatest possible

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[1] 73 F.Supp. 225, 243 (S.D. CA 1947), *aff'd sub nom, Continental Oil Co. v. U.S.*, 184 F.2d 802 (9th Cir. 1950).

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extent what data it needs for correct determinations of royalties owed before making any attempt to reduce reported information.

Respectfully submitted,

Lee Ellen Helfrich
On behalf of the
California State Controller's Office