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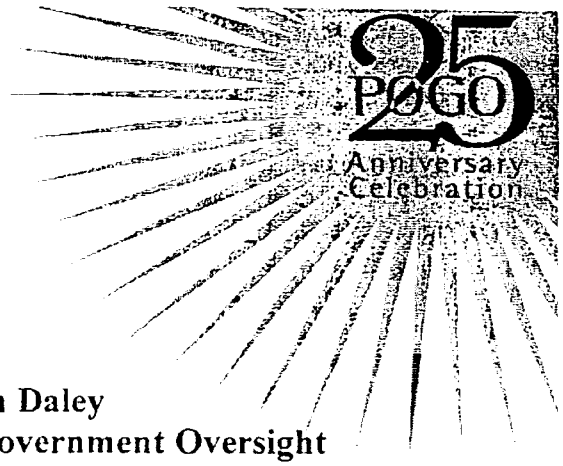

Written Statement of Beth Daley
Director of Investigations, Project On Government Oversight
to the Royalty Policy Committee

Royalty Policy Committee Meeting, November 14, 2006
Department of Interior, Minerals Management Service

Dear Members of the Royalty Policy Committee:

At the last meeting of the Royalty Policy Committee on April 26, 2006, there was some discussion of the deteriorating relationship between the Minerals Management Service ((MMS) and the State and Tribal Royalty Audit Committee (STRAC). Since that meeting, the relationship has deteriorated further.

To refresh your memory, at the last meeting, Ms. Lucy Denett of the MMS described the situation:

> "She explained that we have a good working relationship, but periodically we do not agree on certain things—whether it is policy, funding, etc.—but those things arise, and we work through them. Ms. Denett stated that she was extremely disappointed when STRAC chose to involve the media and congressional committees in our debates, especially when it was done in reference to the New York Times article. STRAC sent several letters critical of MMS to the MMS Director, to her, and to the congressional committees. The concerns revolve around three issues—funding, compliance processes, and the automated system."

Since that time, Ms. Denett and other officials at the Department of Interior have been in the process of attempting to gut the State and Tribal Royalty Audit Committee, apparently in order to silence their criticisms and their ability to collaborate toward their shared goals. MMS has done so by refusing to reimburse states and tribes for their three national meetings, a meeting schedule which has been in place for more than 20 years. MMS has also declared that it will set the STRAC's meeting agendas and monitor all of STRAC's meeting discussions, essentially making it into a puppet organization.

Prior to its decision, the MMS asked the 17 members of STRAC to share their thoughts on whether the STRAC should be allowed to continue to meet independently. Eleven states and tribes wrote to indicate that national independent meetings have value and should continue. Two tribes, which were short-staffed, abstained from providing input. In other words, despite the fact that the

overwhelming majority of STRAC members requested that their organization continue in its tradition of 3-4 national meetings per year. MMS has indicated that it will rule against their wishes. I have enclosed copies of those letters of support for the STRAC for the record of your meeting. (APPENDIX A)

These recent decisions can only harm the relationship between MMS and the STRAC. Members of the STRAC to whom I have spoken believe that the MMS is retaliating against them for voicing their concerns about the new "compliance review" system which the MMS is now in the process of forcing them to use. Members of Congress have also noted that MMS' actions appear to be retaliatory in a recent letter. (APPENDIX B) The notes from your last meeting support this view point as MMS clearly voiced its displeasure with the states and tribes publicly raising their concerns. Yet, the STRAC had been raising these concerns privately for several years to no avail. In addition, the STRAC was founded primarily for just this purpose -- to provide a check on failures at the Department of Interior to adequately collect what is owed to states and Indian tribes.

In fact, preliminary information from an investigation being conducted by the Department of Interior Inspector General (IG) suggests there is merit in the concerns that have been raised by the STRAC about the new compliance review system. A forthcoming report by the IG will certainly shed light on the issue.

In addition, last week, the House Government Reform Committee announced a greatly expanded Government Accountability Office (GAO) investigation aimed at further examining compliance review (APPENDIX C). In their request letter to the GAO, the Committee's fourth and fifth research request items are on point to this discussion (APPENDIX D):

> "4. Analyze the cost and effectiveness of information technology systems developed and employed by the Minerals Management Service to gather production data and conduct compliance audits. This analysis should include:
>
> a. A review of contracts entered into by the Minerals Management Service and other parties to develop information technology systems, whether these systems met the specifications required by the contract, and, if applicable, why systems did not meet any specifications.
>
> b. A comparison of the effectiveness of national systems to collect such data and other systems employed by state and territorial auditing entities, if such systems exist.
>
> c. A review of the extent to which information technology systems developed by MMS contain automated functions that enable auditors to systematically analyze production volumes reported by lessees with other data bases containing similar information.
>
> 5. Analyze the compliance and enforcement efforts of the Minerals Management Service related to royalty collection, including a comparison of the frequency of enforcement actions, such as issue and demand letters, over time."

Finally, as was pointed out in my recent written testimony to the House Government Reform Committee, audit and compliance review dollar collections have dropped substantially in the past four years:

"In the four years from 2002 to 2005, MMS's auditing and compliance program collected an average $48 million annually, less than half the average $115 million collected annually in the division's first 20 years." (APPENDIX E)

I have enclosed several STRAC letters from earlier this year which articulate their concerns about compliance review. (APPENDIX F) In addition, I should note that I have been told by several individuals that MMS sent an email to members of the STRAC informing them that providing what was called "confidential" information to the news media may be a violation of agreements held between MMS and the states and tribes. This email sounded like an awkward attempt by the MMS to intimidate and silence states and tribes.

The Project On Government Oversight urges the Committee to examine MMS' treatment of the STRAC and to make recommendations to improve the situation. The STRAC has historically played an important role in ensuring the integrity of the federal government's royalty collection policies and practices. Without an independent voice, STRAC will be significantly less able to bring forward legitimate concerns about failures at the Department of Interior to protect the interests of Native Americans and the taxpayer.

Sincerely,

Beth Daley
Director of Investigations
Project On Government Oversight
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STATE and TRIBAL ROYALTY AUDIT COMMITTEE

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State of North Dakota • State of Oklahoma • Shoshone & Arapaho Tribes • Southern Ute Indian Tribe • State of Texas
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Former Chair, Ex Officio:
Joe Vintze

Phil Sykora, Program Director
Compliance and Asset Management
Minerals Management Service
P.O. Box 25165, MS390B2
Denver, CO 80225-0165

Dear Mr. Sykora:

At the last State and Tribal Royalty Audit Committee (STRAC) meeting in Albuquerque, New Mexico, you posed several questions regarding the format and location of these meetings. The STRAC members present determined that each delegation would respond to your questions individually and I, as STRAC chair, would collect the responses and forward them on to you. You should find the correspondence enclosed with this letter.

Of the seventeen (17) active delegations, eleven (11) provided comments. Additionally, the Blackfeet and Ute Mountain Ute Tribes requested I inform you that both organizations are currently without audit managers and would abstain from responding at this time. The group of enclosed correspondence may also include duplicates of letters mailed directly to you or the Associate Director which you have already received. I have included those in order to provide you a complete package of all responses.

If you have any questions, you can contact me at (970) 563-5559.

Sincerely,

Lisa Dockter

Lisa Dockter,
STRAC Chair
State and Tribal Royalty Audit Committee

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ROBERT R. PETERSON
PHONE
(701) 328-2241

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DENNIS ROLLER
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OFFICE OF THE STATE AUDITOR
ROYALTY AUDIT SECTION
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BISMARCK, NORTH DAKOTA 58502-3009

May 9, 2006

Phil Sykora
Program Director, Onshore & Offshore Compliance
P.O. Box 25165, MS 390B
Denver, Colorado 80225-0165

Dear Mr. Sykora:

At the most recent STRAC meeting in Albuquerque, NM, you asked the STRAC delegations three questions. Here are answers to your questions.

1. WHY IS THERE A STRAC ONLY SESSION AND CAN MMS ATTEND THESE SESSIONS?

In my opinion, the STRAC only session is for planning purposes of the joint meeting and for voicing concerns and issues and to hear other delegations perspectives on those concerns/issues. STRAC has concerns that affect ALL of the delegations and some that affect SOME delegations. STRAC uses the STRAC only session to share these concerns and prioritize prior to meeting with the MMS. This process allows smaller delegations that may not have much of a voice by themselves to present their concern(s) and STRAC as an organization can more effectively voice the concern(s).

It also provides a chance for the less vocal delegations to speak up. The latest STRAC only meeting was very productive and informative because more delegations did speak up. Many times we discuss how the delegations may work more effectively with the MMS, which was one of the main topics discussed at the latest meeting.

2. WHAT IS THE PURPOSE OF STRAC MEETINGS?

The main purpose of the STRAC meetings is for coordination and communication necessary to effectuate an effective royalty management program. It is my opinion, that since the disappearance of the State and Indian Compliance Division (SICD), STRAC has had a decreasing voice within the MMS. Since STRAC no longer has direct representation within the MMS, the STRAC meetings have become even more important. It is the only opportunity for STRAC to be able to voice concerns and issues.

An implication was made at the last STRAC meeting that the MMS felt that the information sharing was a one way street from the MMS to STRAC. While I do not feel that is solely the case, I do believe that the majority of the information sharing needs to be from the MMS to STRAC as the MMS is already aware of (or should be aware of) the delegations information through contract monitoring, progress reporting, voucher reimbursement requests, draft demand letter requests, etc. In contrast, the MMS is currently re-engineering their compliance tools, developing a 5 year strategic business plan, looking at potentially modifying

the GPRA goals or potentially developing other performance measurement tools, etc. All of which STRAC has very little if any voice in, but all of which will significantly affect STRAC.

3. WOULD A REGIONAL MEETING WITH FEWER ATTENDEES BE BETTER?

Absolutely not. At the last STRAC meeting, several delegations expressed the same concern prior to this question. That concern was 'divide and conquer'. I don't believe that has been the conscious intention of the MMS over the past several years, but STRAC delegations do feel it has occurred. The main purpose of the STRAC meeting as stated earlier is for coordination and communication to effectuate an effective royalty management program. This is a concern for all STRAC delegations and many specific issues to achieve this purpose affect all or most of the delegations. In addition, a small Tribe or State that is affected by an issue when most other delegations aren't has very little power to influence a change within MMS, whereas if that delegation gets the support of STRAC as a whole a change is more likely to occur.

Thank you for the opportunity to briefly explain the importance of the STRAC meetings and for the opportunity to present a couple areas in which improvements need to be made.

Sincerely,

Dennis Roller

Dennis Roller, Audit Manager

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL & GAS

FRANK H. MURKOWSKI, GOVERNOR

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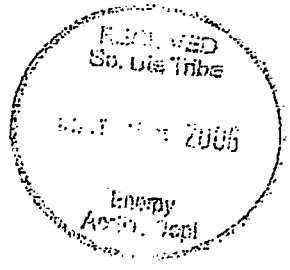
May 16, 2006



Phillip Sykora
Minerals Management Service
Minerals Revenue Management
Po Box 25615
Denver CO 80225-0165

Dear Phil:

At the recent STRAC/MMS meeting in Albuquerque MMS requested to attend the day long session that for over twenty years has traditionally been reserved for only STRAC members. The Alaska delegation would strenuously object to any MMS personnel attending the STRAC only session for the various reasons outlined below.

Purpose of STRAC only meeting.
The valuable purposes of the STRAC only session are many and at the same time difficult to adequately describe in words. The STRAC only session allows the delegations' managers and other attending individuals time together to brainstorm, discuss, share ideas, come to a consensus, etc. Most of which are to better serve the overall purpose of maximizing the benefits due to the States and Tribes through and with MMS.

One of the main benefits that MMS is unable to observe is the level of participation by all delegations during the STRAC only session. During the STRAC only session more delegations participate in discussions with the exchange of ideas and points of interest than would occur during the STRAC/MMS session. Stating the obvious, the more delegations that voice their opinions, views, or experiences the better and the more expansive/comprehensive the discussions are with MMS the next day. The main point from STRAC's point of view is to produce an agenda that is to the point and effectively produces a concise meeting with MMS to accomplish goals for both.
A very important benefit of the STRAC only session that MMS most likely is not aware of is that the STRAC only session routinely diffuses issues so they may be discussed more rationally and lead to a more productive joint session during the following day. Much of the time is spent discussing events or decisions, either made by MMS or other entities, and what any effect might be on any one or many delegations.

Value to the Delegations.
As the newest delegation, Alaska has seen the importance of the STRAC/MMS meeting as a whole and especially the STRAC only session. The Alaska delegation has learned a tremendous amount from the opportunity to sit back and listen to discussions that take place during both sessions. As any professional would attest, most people go to their peers first for advice and discuss ideas for feedback. The STRAC only session is actually a way for questions or issues to be first 'settled

internally' without having to seek out a response from MMS. Although, it may be perceived by MMS, the STRAC only session is not a time set aside to write letters in hopes of making it more difficult for MMS to do business. As previous meetings have been discussed in subsequent meetings it is clear that misunderstandings have occurred between STRAC and MMS. The STRAC only meeting explores why these might have occurred and the best way to present and correct these to MMS the next day. Again with the sole purpose of making our joint effort more effective.

Alaska attended its first STRAC/MMS meeting in Bismarck in May 2004, since then STRAC has been asking for cost-benefit statistics of the compliance reviews conducted by MMS. Only once STRAC's request was in writing did MMS supplying the information. The appearance does not lend itself to a coincidence but shows that appearances are interpreted individually by both STRAC and MMS on several different issues.

As I am sure you are aware of the efficiencies that prevail during the meetings, but the most obvious is the economies of scale for MMS to present a topic to the 17 delegations at one instance. The alternative would be instead getting the same question from 17 different entities and MMS responding 17 different times. How would the results of regional meetings or various discussions be communicated to other regions and then to all? This just seems counter intuitive. Ideas that might discussed at regional meetings are better served in the STRAC only meeting with all members present. Many of the common issues that STRAC and MMS encounter are not regional but rather national and relate to more than one payor.

Other benefits of the meetings.

As the newest delegation, Alaska would likely have the most objective opinion and we would like the meetings to remain unchanged from their current structure of having a STRAC only session. Thank you for your time and if you have any reasons to contact me you may do so at 907-269-8793 or rls@dnr.state.ak.us.

Sincerely,

Robert Snyder
Principal Investigator for Alaska's Delegation
Oil and Gas Revenue Specialist, Division of Oil & Gas

Shaun E.P. Werle
Oil and Gas Revenue Auditor

STATE OF COLORADO

TAX AUDITING AND COMPLIANCE DIVISION
Department of Revenue

Field Audit Section
400 South Colorado Blvd. Suite 400
Denver, Colorado 80246

RECEIVED
Southern Ute Tribe
2006
Energy
Accting Dept

Bill Owens
Governor

M. Michael Cooke
Executive Director

John Vecchiarelli
Division Director

May 29, 2006

Phillip Sykora
Minerals Management Service
Minerals Revenue Management
P.O. Box 25165
Denver, Colorado 80225-0165

Dear Phil,

At the May STRAC meeting in New Mexico, you discussed three areas concerning STRAC meetings that I would like to address.

First, you asked the purpose of the STRAC only sessions. The STRAC only sessions have existed since the beginning of the STRAC organization. Over 20 years ago the Linowes Commission recommended that STRAC have quarterly meetings (we now have 3 meetings a year). While there is a partnership between the MMS and the States and Tribes, there is also a need for independence. The MMS, States and Tribes have common goals that filter down to the local level for States and Tribes. For example, the State's and Tribe's perform audits for the benefit their own state or tribe while the MMS looks at the larger federal picture. I believe that STRAC needs to meet alone in order to discuss issues relevant at the local level. The STRAC only session also gives STRAC members an opportunity to streamline and edit the issues and questions that they will discuss with MMS the following day. This actually reduces the time MMS needs to spend at the meetings.

Second, you talked about regional meetings instead of the current format of meetings. I don't believe that this would be helpful since STRAC has issues that transcend regional boundaries. The larger meetings are very educational to the managers. It is very important that all the individual managers are free to discuss issues among themselves in an open manner. Regional break out sessions could be added to the current meeting structure. It appears that the MMS objective in moving to regional meetings is to divide, conquer and punish STRAC. If the cost of the meetings is an issue, the MMS and STRAC need to discuss the possibility of having a limit on the number of people who attend.

You suggested having MMS representation at the "STRAC Only" sessions. I believe that this idea would stifle the free flow of ideas in the meeting. Some STRAC members are not comfortable speaking in front of the MMS.

I had been a way from STRAC for six years when I returned last September as

Manager of the Colorado delegation. I was surprised at the negative change between STRAC and MMS. Although there has always been tension between MMS and STRAC, it was never at this level.

At the New Mexico STRAC meeting, everyone seemed to blame the other for the bad relationships. We used to have a partnership that Colorado appreciated. I have noticed a much more dogmatic approach by MMS when dealing with STRAC, the States and Tribes. For example, we are being told how we will "audit', and no budget negotiations exist. The negotiation and co-operation aspect of a partnership seems to have been lost. The MMS wants to control every aspect of STRAC. It also appears that the STRAC meeting issue has been raised in retaliation for the letter written by STRAC to the Pombo Committee. The MMS believes STRAC is hatching troublesome schemes in their STRAC only meetings. This is not true. The MMS needs to regain the trust of STRAC through co-operation and goodwill.

I believe that funding for STRAC and MMS is causing some of these problems. MMS views the funding process as the States and Tribes taking money from their budget. The States and Tribes look at the MMS as a conduit for the Federal money meant for the States and Tribes. The States feel MMS is interfering with their State and Tribal goals and objectives while the MMS feels STRAC isn't doing enough to help with MMS internal goals. STRAC and the MMS must reconcile these differences and work toward a common goal of making sure all royalties are paid.

Colorado desires a better atmosphere between MMS and STRAC. Colorado employees have served on many committees and pilot projects with the MMS in the past. This showed depth of Colorado's partnership. I have always enjoyed dealing with the MMS employees and recognize the quality of your people. The MMS has obviously valued Colorado's program that can be seen by the number of former employees now working for MMS. I hope we can get back to trust and civility and hope we can go back to having a true partnership with you.

Sincerely,

Mineral Audit Section

James R. Meyers

James R. Meyers
Manager

SOUTHERN UTE INDIAN TRIBE
DEPARTMENT OF ENERGY

June 5, 2006

Phil Sykora
Minerals Management Service
P.O. Box 25165
Denver, CO 80225-0165

Dear Mr. Sykora,

This letter is in response to certain matters that you raised at the recent STRAC meeting in Albuquerque.

STRAC Only Meeting

During the STRAC meeting, you suggested that attendance at the "STRAC only" meeting be opened to the MMS. When various states and tribes raised objections, you requested that we provide you with written justification for continuing this over two decades-old tradition. The following response to your request represents my views.

After the passage of FOGRMA in 1982, certain state and tribal employees, realizing the significant benefits for their jurisdictions, began discussions regarding the delegation of audit authority from the MMS to their employers. This group met periodically to share common issues and to broaden their individual understanding of how a government-to-government relationship such as this would best work. When I attended my first meeting with this group in Sacramento, I recognized that, while sharing common interests in most areas, the individuals represented separate, sovereign governments. At that time, the MMS recognized this important fact, too.

The ability to meet among ourselves, without MMS attendance, has provided state and tribal representatives the valuable opportunity to speak freely regarding matters both of common and individual concern to our sovereign employers. Some members, while reticent during the joint meeting the following day, do participate in the STRAC discussions and often contribute useful information and insightful opinions.

Frequently, an issue of concern, once discussed freely during the STRAC discussions, is better understood by all the members in preparation for the joint meeting. For example, when MMS leadership proposed the initial draft coalbed methane forgiveness letter, I was alarmed that MMS had not considered the harm such a letter would have on the Southern Ute Indian Tribe and other delegations. During the next STRAC only session, we were able to garner our STRAC colleagues' understanding and support. During those discussions, it became clear to the STRAC

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membership that such a policy would have negative impacts on most, if not all, our separate jurisdictions, not only on those who produce coalbed methane.

Contrary to your implication, we do not conspire to confound the MMS leadership during the STRAC only meeting. We do promote the best interests of our separate employers and, sometimes, that may lead to a STRAC action that may prove uncomfortable for the MMS leadership. In the case of the forgiveness letter, I believe that STRAC, in fact, saved the MMS from potential public discomfort that would have resulted from allowing oil and gas companies to keep money that belongs to the Southern Ute Indian Tribe and its STRAC colleagues.

Regional Meetings

I do not believe that separating STRAC jurisdictions into regional meetings would benefit any of us, including the MMS. I have never attended a STRAC meeting when purely regional issues consumed more than a few minutes of the agenda. The overwhelming majority of our agenda items are of interest to us all. The accuracy of CIM data is a good example of such an issue. At our last STRAC meeting, we all understood that the then existing CIM data was incorrect, incomplete and should not be used for any reporting purposes. That is not a regional concern. The proposal that STRAC be divided into regional meetings is ill-conceived and of questionable intent.

Other Matters

I have spent a career working in cooperation with the Minerals Management Service. My employer has reaped significant benefits from our professional relationship. I respect the dedicated MMS employees who have worked hard to maintain that relationship over the years and who never lose sight of their responsibility to protect the Tribe's trust resources. Sadly, in recent years, I sense that your leadership's perception of what constitutes our relationship has changed and now undermines our mutually beneficial government-to-government relationship. What used to feel like a partnership of equals has now devolved into something else. The MMS is increasingly issuing directives, requirements and mandates to STRAC members on almost every aspect of our delegations of authority and cooperative agreements with no negotiation, no consultation. At times, I think that your leadership perceives me as an MMS employee (a second-class employee at that), rather than a partner.

I believe that a broken partnership can be salvaged and I look forward to better times.

Regards,

Karen H. Anderson, Manager
Energy Accounting Division

New Mexico
Taxation and Revenue Department

Bill Richardson
Governor
Jan Goodwin
Secretary

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Taxation and Revenue Department
An Equal Opportunity Employer

Oil and Gas Bureau
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June 5, 2006

Mr. Pat Milano
Audit Supervisor, CAM
P.O. Box 25165, Mail Stop 390B2
Denver Federal Center
Denver, Colorado 80225-0165

Re: MMS Participation

Dear Mr. Milano:

At the May 3, 2006 STRAC meeting with the Minerals Management Service (MMS) in Albuquerque, New Mexico, the MMS communicated a request that they be allowed to attend the STRAC only sessions within the 2 ½ days set aside for the meeting. This request, while presented to STRAC, was not fully explained as to why it was being made. While little discussion occurred on this request it was decided by the STRAC organization that each organizational unit would provide thoughts to the MMS on this request. On behalf of New Mexico's audit program, we offer the following comments based upon the limited understanding we have of the request:

History:

1. The first day that has been historically allocated to STRAC has been utilized as a mechanism for the "group as a whole" to discuss matters that pertain to all participants. This environment allows everyone to hear and openly discuss matters related to audit issues, budgets, trainings, subcommittee updates, internal reviews (peer and DOI), and congressional actions, etc.
2. The first day allows the STRAC board to update the members as a whole on matters for which they have had discussions with the MMS or other interested parties.
3. The first day allows the group as a whole to meet as an organizational unit to discuss the next days agenda and to prepare for the joint agenda discussions.
4. The final ½ day (maximum) has historically been used to go over the previous days joint discussions and to discuss organizational or specific state and tribal assignments.

Opportunity:

1. If MMS wishes to further participate in the discussions or to support further opportunities for coordination, New Mexico has no problems with meeting with the MMS as a whole on the last day. Opportunities for meeting structure could entail the following:
    a. Meeting jointly on topics that were briefly discussed the previous day and require further presentation or discussion.
    b. Meeting separately on issues impacting STRAC organization(s). For example: audits, orders, appeals, settlements, budgets.
    c. Developing coordination/issue sessions where Onshore Cam meets with state organizations and Indian Cam meets with Indian organizations, including shared discussions with MMS regional offices that do audits and investigations on STRAC related federal and Indian land and where the audit issues are comparable.
    d. Developing sessions where audit issues and policies are further discussed with impacted organizational units or develop training opportunities on audit issues or other required contract items.
    e. Meeting with CO or COTR on issues impacting organizational programs.

Based upon the above history and opportunities identified, New Mexico does feel that the overall structure of the meeting can change, not by fully changing what has been recognized in the past, but by allocating additional time to matters that need further discussion on the last day of the meeting. If you wish to further discuss this matter, please feel free to give me a call.

Sincerely,

Valdean Severson
Oil and Gas Bureau Chief

June 6, 2006

TO: Phil Sykora, Program Director, Compliance and Asset Management

FROM: Carlisle Cuch, Acting RMA Director

SUBJECT: MMS Request to Attend STRAC Only Session

I don't know the whole history of the STRAC Committee, but since I have been attending these meetings there has always been the STRAC only session.

An agenda is prepared with issues that the States and Tribal delegations would like to discuss. These issues are discussed amongst the STRAC group before being brought the attention of the MMS. I feel that these STRAC only sessions are necessary and beneficial, because some issues require a vote and there are times issues need to be acted on quickly, as a group we can take care of them.

Having regional meetings, as suggested by MMS, would only add confusion and the STRAC group would not be united. The STRAC/MMS Quarterly Meetings should remain as they have in the past.

I feel that we should not allow MMS to attend the STRAC only session, because the STRAC group needs to focus on the States and Tribal issues, before they are brought to the attention of the MMS.

STEVE WESTLY
California State Controller

June 12, 2006

Lisa Dockter
STRAC Chair
State and Tribal Royalty Audit Committee
Southern Ute Tribe
P.O. Box 737
Ignacio, CO 81139

RE: **Opposition to the Minerals Management Service's (MMS) efforts to end or alter "STRAC-only" meetings**

Dear Ms. Dockter:

Pursuant to the unanimous view of the State and Tribal Royalty Audit Committee (STRAC), the California State Controller's Office (SCO), through this letter to you, submits its opposition to the MMS's efforts to end or alter "STRAC-only" meetings. Our understanding is that you, as STRAC Chair, will forward this letter to the appropriate MMS official.

SCO opposes any changes, in whatever form, to STRAC-only meetings. Thus, the SCO will not separately address MMS's various alternatives. Instead, our comments address the history of STRAC-only meetings, problems with the so-called "partnership" between STRAC and MMS, the apparent impetus for MMS's efforts, and suggestions for improving STRAC's joint meetings with MMS.

For well over 20 years and with the knowledge of MMS, states and tribes have met separately before meeting with the agency. As more states and tribes joined the State and Tribal audit program, the jurisdictions loosely organized themselves as STRAC for the purpose of discussing common concerns and promoting the orderly presentation of those concerns to MMS. MMS has never controlled STRAC and, indeed, until May 3, 2006, has never objected to STRAC-only meetings.

MMS's proposals are based on the premise that sovereign state and tribal governments and the Interior Department share similar interests in the royalty collection program. Congress and the Linowes Commission recognized that the states' and tribes' interests in full and fair royalty collection are greater and more direct than those of a distant federal administrator. This recognition underlies the congressionally authorized participation of states and tribes in the collection program and is underscored by the directive that the Secretary give "priority" to audits of properties designated by these jurisdictions. Other provisions of the Federal Oil and Gas Royalty Management Act, as amended, reinforce the expectation of a divergence of interests.

Over the years, STRAC has often voiced its concerns about, or objections to, MMS policies and procedures. It has also supported MMS on many issues. STRAC's activities in this regard have taken several forms – public comments, letters to agency officials, letters to oversight and appropriations committees, meetings with congressional staff, etc. More often, however, STRAC has expressed its views orally to MMS at the joint STRAC/MMS meetings. STRAC has corresponded with Interior Headquarters or Congress only when less informal contacts with the agency have proven futile, when the objectionable policies emanating from Interior Headquarters cannot be resolved by MMS/Lakewood, or when congressional staff or other oversight entities request information.

At the May 3 meeting, the reason given by MMS/Lakewood officials for objecting to STRAC-only meetings was that such meetings are adversely affecting the "partnership" between MMS and STRAC. Over the past four years, any "partnership" has been weakened by MMS itself. MMS has made decisions (e.g., guidelines waiving collection of pre-1996 royalties), apparently at the Headquarters level, without any prior discussion with STRAC or any of its member jurisdictions. Representatives from STRAC jurisdictions have attended MMS "team meetings" only to find that final decisions had been made on issues never raised with the jurisdictions. MMS has made unilateral contract modifications shortly before funding expiration without any offer to negotiate and has instituted funding formulas that ignored the input or concerns of STRAC jurisdictions. Inquiries for relevant information needed for jurisdictional evaluation have been ignored for years.

It is clear that MMS is making little effort to advance any "partnership" with the states and tribes or STRAC as a whole. Indeed, MMS seems to use "the partnership" rhetoric only when it is convenient to the agency; when it is inconvenient, representatives of sovereign governments are treated as little more than federal employees. State and tribal auditors work to protect the interests of their governments, not to promote the policies and programs of Interior Headquarters.

At the May 3 meeting, it appeared that MMS was less concerned about "partnership" and more concerned about: (1) the efforts of a few STRAC jurisdictions to seek additional funding for their audit programs, and (2) a letter endorsed by a majority of STRAC members to Congress concerning reductions in audits. These are, of course, related issues.

It was an MMS official, Deborah Gibbs Tschudy, who advised, if not encouraged, STRAC to approach Congress if its jurisdictions needed more funding. MMS has been aware for more than two years of many STRAC members' past concerns regarding the impact on their audit programs of the reduction in funding. Given STRAC's past activities to foster its jurisdictions' interests, MMS should have expected the organization's reaction.

Moreover, based on sheer speculation, MMS complained that a member of STRAC circulated the letter to Congress to the *New York Times*. To the SCO's knowledge, STRAC was wholly uninvolved in providing the letter to any member of the media. From the SCO's perspective, MMS's reaction to the *New York Times* articles raises a red flag and suggests that more problems may exist than have been revealed in the media.

Given this context for MMS's efforts to end or monitor STRAC-only meetings, we conclude that MMS is engaging in retaliation against STRAC. For the MMS to raise objections about STRAC activities with industry at the Royalty Policy Committee only reinforces this conclusion.

The SCO believes that there is room for improvement in the STRAC/MMS meetings. Improvement, however, has been made difficult because of MMS's insistence that the number of meetings be reduced. MMS spends too much time at the joint meetings rehashing already-well-known initiatives and giving PowerPoint presentations that have already been given in other forums or that are available on the MMS Web site. For example, at the May 3 meeting, there was little need for MMS to present to STRAC its rebuttal to the *New York Times*. Moreover, despite MMS's representations in its new strategy, unmanaged conversation between STRAC members and MMS officials or employees is rare—again, a departure from the past.

In the SCO's view, "partnership" would be enhanced by more cost-effective discussions of audit findings across companies; more discussion of documentation discovered by other audit programs to assist future audit document requests; more discussion of common valuation issues as raised in company appeals or elsewhere; more willingness by MMS to provide accurate data for evaluation of its initiatives; more effort to bring BLM and possibly BIA to the table; and more detailed, single-issue training exercises. The meetings would also benefit from regular attendance by the MMS Director or MRM Associate Director; in this way, Interior Headquarters could hear directly from STRAC members regarding its concerns.

In conclusion, the SCO notes that it believes that it has a good "day-to day" working relationship with MMS staff. We respect all of their efforts to implement Interior Headquarters' directives, programs, and goals. The SCO, however, has serious disagreements with those directives, programs, and goals, as well as with Interior Headquarters' apparent unwillingness to respond to the input and concerns of STRAC jurisdictions.

Thank you for the opportunity to provide these separate comments.

Sincerely,

JEFFERY V. BROWNFIELD, Chief
Division of Audits

JVB:CHP:vb

5666

STATE OF WYOMING
DEPARTMENT OF AUDIT

MINERAL AUDIT DIVISION
(307) 777-6663 Fax (307) 777-5341 Email: sdilsaver@wyaudit.state.wy.us

Dave Freudenthal
Governor

Michael Geesey
Director

Steven Dilsaver
Administrator

June 21, 2006

Patrick Milano
Mineral Management Services
P.O. Box 25165, MS 390B2
Denver, CO 80225-0165

RE: Need for STRAC Meetings & MMS Attendance to STRAC Only Sessions

Dear Pat:

We welcome the opportunity to provide comments and insights into several questions that have an impact on Wyoming's mineral audit program. We understand the questions posed to be: 1) Is there a continuing need for States and Tribes to meet with the MMS, as a group or an entity? 2) If there is a need to continue meeting with the MMS as group, would such a need be better served by regional group meetings? And 3) Could MMS attend the STRAC only portion of the STRAC meetings?

1) Is there a continuing need for States and Tribes to meet with the MMS, as a group or an entity?

YES. States and Tribes periodically getting together to discuss common audit issues can be very beneficial. STRAC meetings provide a very efficient means to share audit developments, concerns, and issues among the various delegations. STRAC meetings also provide an efficient means for MMS and STRAC delegations to share concerns, issues, and new developments, as well as stay current and up to date on changes in federal policies, practices, and the development of federal polices and practices. STRAC meetings provide a very efficient means for the MMS to communicate with the states and tribes that the Secretary has delegated "authorities and responsibilities" to "conduct inspections, audits, and investigations" pursuant to FOGRMA, RSFA, CFR, and the federal contract.

2) If there is a need to continue meeting with the MMS as group, would such a need be better served by regional group meetings?

NO. In our judgment, breakout sessions at the STRAC meetings would be a more cost effective and efficient use of time, rather than regional meetings. During the STRAC meetings there could be break out sessions with tribes for Indians issues, states with common mineral issues, for example solid minerals, or particular states and tribes that have common issues limited

to their region. With breakout sessions the costs of meeting to discuss regional issues or issues particular to a few delegations would not be in addition to the STRAC meeting costs, thus saving the costs that would otherwise be incurred, while preserving the benefits of traditional STRAC meetings.

3) Could MMS attend the STRAC only portion of the STRAC meetings?

Our experience with the STRAC only sessions is that a lot of issues get fully vetted (or vented) prior to meeting with the MMS the next day. Often issues that absorb a lot of the STRAC only time may be completely resolved during the STRAC only session, or the issues are sufficiently narrowed and refined so as not to occupy much of the combined MMS and STRAC meeting's time, therefore allowing a lot more ground to be covered in a shorter period of time. There are plenty of times that a lot of discussion between the delegations may be reflected in a single request or comment the next day in the combined MMS & STRAC meeting. In the simplest terms the STRAC only meeting is often a weeding out, or narrowing and refining of the issues, concerns, or discussions that overall benefits the MMS by occupying less of their time, while still getting to the crux of the discussion, or sparing them the discussion altogether.

Wyoming's delegation believes that the STRAC & MMS working relationship is better served by MMS not subjecting itself to the above discussed vetting process. However, the Wyoming delegation cannot imagine that the way we conduct our selves would be changed by MMS attending the STRAC only meeting the day before, and since it would not affect anything as far as we are concerned we could support MMS's attendance, if the MMS wished to have a representative at the STRAC only meeting. We propose one qualification, there may be times when the MMS representative would be asked to momentarily leave the room for a STRAC only discussion.

Sincerely,

Steve Dilsaver
Administrator
Mineral Audit Division

Cc: Lisa Dockter

CHIEF WASHAKIE

SHOSHONE & ARAPAHO TRIBES
MINERALS COMPLIANCE
P.O. BOX 830
FORT WASHAKIE, WYOMING 82514
307-332-7835 307-856-9449
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CHIEF BLACK COAL

June 21, 2006

Patrick Milano
Minerals Management Service
P.O. Box 25165, MS 390B2
Denver, CO 80225-0165

RE: Attendance at STRAC Meetings

Dear Mr. Milano,

During the last STRAC meeting in Albuquerque, Phil Sykora requested STRAC delegations to address the following three questions. I am addressing this letter to you with a Cc to Lisa Dockter, as Phil Sykora will be retiring soon. I'm sure you will share this with all parties involved. The Tribes appreciate the opportunity to address their views on STRAC ATTENDANCE.

1) Is there a continuing need for States and Tribes to meet with the MMS, as a group or an entity?

YES. The purpose of these meetings is for partners of the cooperative agreements, i.e.: States, Tribes and the MRM, MMS, to coordinate efforts in order to achieve the common goal of "conduct(ing) inspections, audits, and investigations" pursuant to FOGRMA, RSFA, and CFR. The Tribes believe that all entities benefit from the MRM, MMS, States and Tribes convening to discuss common audit issues. It is a meeting of the minds, where peers learn from one another's experiences, as well as share their questions and concerns. In this way, we are all able to stay up to date on changes in Federal/Indian policies and practices.

2) If there is a need to continue meeting with the MMS as a group, would such a need be better served by regional group meetings?

NO. Regionalizing STRAC meetings would defeat the purpose of STRAC, as outlined in number 1. If there are regional issues (or say, Indian issues...), these can be addressed by way of teleconferences or breakout sessions at the STRAC meetings. This would be a more efficient use of time, rather than regional meetings. But for the most part, the issues that are addressed during STRAC

involve all 202 and 205 contracts, and it is important that we have the opportunity to communicate as an entire, non-fractionalized group.

Peer reviews are a good example of something that needs to be addressed by the entire STRAC group. And in regard to 'peers,' delegations benefit far more by having the opportunity to share their professional experiences with a broad collection of states and tribes, rather than a small, regional group.

3) Could MMS attend the STRAC only portion of the STRAC meetings?

YES. I don't know why any MMS person would want to subject themselves to such torture! But seriously, much of the STRAC only day is spent ironing out details and prioritizing issues to be brought to the attention of the MMS. Issues are refined so as to not occupy much of the combined MMS and STRAC meeting's time. There are plenty of times that a lot of discussion between the delegations may be reflected in a single request or comment the next day in the combined MMS & STRAC meeting.

Now, without contradicting the preceding comments, the Tribes believe that having an MMS representative present during the STRAC only session would not affect the quality or productivity of the meeting; and as far as the Tribes are concerned, we could support an individual representative from the MMS attending the STRAC only session.

Thank you for this opportunity to voice our thoughts on STRAC ATTENDANCE.

Sincerely,

Heidi M. Badaracco

Heidi M. Badaracco
Audit Manager

Cc: Lisa Dockter

State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Utah State Tax Commission

PAM HENDRICKSON
Commission Chair

R. BRUCE JOHNSON
Commissioner

PALMER DEPAULIS
Commissioner

MARC B. JOHNSON
Commissioner

RODNEY G. MARRELLI
Executive Director

June 23, 2006

Phil Sykora, Program Director
Compliance & Asset Management
Minerals Management Service
P. O. Box 25165, MS 390B2
Denver CO 80225-0165

Dear Phil:

This letter is in response to your request at the last STRAC/MMS meeting in Albuquerque on May 3, 2006. You requested (1) justification for having STRAC meetings; (2) having regional meetings in place of STRAC meetings; and (3) having an MMS representative attend the STRAC only session. Each item will be discussed below.

1. Justification for STRAC meetings

In 1983 Secretary Watt had the Advisory Committee on Minerals Accountability hold hearing concerning royalty issues. That committee recommended that the Federal Government employees working in minerals accountability should meet with the States and Tribes performing royalty audits of Federal leases on a quarterly basis to discuss common issues. The first quarterly meeting was held in 1984. In 1986 the State and Tribal Royalty Audit Committee (STRAC) was established. Common issues and areas of concern have been discussed at STRAC meetings. This has become a valuable tool in administering the various delegations. It gives MMS an opportunity to provide all delegations with the same information at the same time. Everyone has an opportunity to ask questions and get clarification at the same time; thus, eliminating MMS having to repeat the information 17 times. STRAC provides MMS with a list of items that they would like MMS to address. MMS provides the names of all the presenters and often adds additional items to the agenda. This also provides an opportunity to receive information from other agencies; i.e., BLM. STRAC meetings provide delegations with the opportunity to be kept abreast of all the current applicable legislation, proposed regulation changes, guidelines, contract concerns, new computer tools, system changes, MMS' administrative changes, MMS' strategic plan, current training opportunities, and numerous other items that help us fulfill our cooperative agreements and fiduciary responsibility to our various jurisdictions.

2. Regional meetings in place of STRAC meetings

If the majority of the items discussed at STRAC meetings were only applicable to a small number of the delegations, then regional meetings would be appropriate. However, the

majority of the items discussed at STRAC meetings are applicable to every delegation. Instead of one STRAC meeting, this would require numerous regional meetings. This would not be cost effective. Also, information given at the first regional meeting could have the potential of being disseminated to other delegations inaccurately.

3. MMS attending the STRAC only session.

The STRAC only session allows the various delegations an opportunity to discuss areas of common concern in an open environment with their peers. During this session more delegations voice their opinions about common issues and concerns. Based on other delegations experience and knowledge, some of these issues and concerns are resolved in the STRAC only session. Other items can be condensed and consolidated for the STRAC/MMS session and presented by STRAC officers. This allows the meeting with MMS to be more productive. Having an MMS representative present at the STRAC only session would inhibit some delegations from expressing their opinions. Keeping open communications between all delegations is an essential ingredient for a successful organization.

In summary, Utah would like the current meeting format to be maintained with a STRAC only session, STRAC/MMS session and then a STRAC wrap-up session. These meetings provide us all with a platform to foster camaraderie, enhance our working relationship, and to fulfill MMS' and STRAC's fiduciary responsibilities. Thank you for providing us with an opportunity to address these issues.

Respectfully,

Inge-Lise

Inge-Lise Goss, CPA
Federal 205 Program Manager

cc: Patrick Milano

THE NAVAJO NATION

Minerals Department
P.O. Box 1910
Window Rock, Arizona 86515
Ph.# (928)871-6587/6588, Fax #(928)871-7095

June 28, 2006

Ms. Lucy Querques Denett
Associate Director
Minerals Revenue Management
Minerals Management Service
1849 C Street, Room 4223
Washington, D.C. 20240

Re: STRAC Meetings

Dear ~~Ms. Denett~~ Lucy:

During the State and Tribal Royalty Audit Committee (STRAC) and Minerals Management Service (MMS) meeting held in Albuquerque, New Mexico, on May 3-4, 2006, the state and tribal delegations were asked to provide their thoughts on whether the format of the STRAC/MMS meetings should continue to provide for a "STRAC only" session. The following comments represent the viewpoint of the Navajo Nation Minerals Department (Nation).

It is important to first acknowledge that the states, tribes and MMS share a common fiduciary responsibility with regard to quality minerals royalty management. We must also acknowledge that there will be certain policy and regulatory issues that are distinct to our respective governments and moreover, that the respective positions taken on such issues are in the interest of the respective governments we represent.

The purpose and intent of the "STRAC only" portion of the STRAC meeting agenda is simply to allow some discussion time for state and tribal delegations to share thoughts and ideas with regard to royalty management and compliance efforts in preparation for further discussion of the matters with MMS. States and tribes are often requested by MMS to provide input and/or feedback on issues and it is productive and efficient to do so under this meeting format. While it may be perceived that the "STRAC only" sessions serve as being counter-productive in terms of building trust, cooperation, and understanding among the states, tribes, and MMS, we want to assure you that this is neither the intent nor the purpose.

The Nation believes that establishing a positive government-to-government working relationship is accomplished through trust, cooperation and understanding of all parties involved. However, in the case of relationships with Indian tribes, the U.S. government must also acknowledge its responsibilities as trustee of the mineral assets of Indian tribes.

We view trust responsibility and our capacity to meet directly with our trustee with far greater importance than continuing debate on whether "STRAC only" sessions are worthwhile.

As such, the Nation does not hold a position with regard to eliminating the "STRAC only" portions of the STRAC/MMS meetings in the future. However, we feel that the MMS should be considerate of the occasional need for states and/or tribes to discuss their respective governmental views on controversial and/or proprietary subject matter in confidence. Finally, the Nation also requests that the MMS share the same position with regard to the Nation's access to MMS meetings wherein pertinent policy, regulatory, and administrative issues that have impact on the Nation are discussed.

If you have any questions, please call me at (928) 871-6587.

Sincerely,

for Akhtar Zaman, Director
Minerals Department

c: Phil Sykora, Program Director, Compliance and Asset Management, MMS/MRM
Perry Shirley, Assistant Director, Minerals Department, Navajo Nation
Rowena Cheromiah, Audit Manager, Minerals Audit Program, Minerals Department

Congress of the United States

Washington, DC 20515

August 31, 2006

The Honorable Johnnie Burton
Director
Minerals Management Service
1849 C Street, NW
Washington, D.C. 20240

Dear Director Burton:

We are writing to register our strong objection to the Minerals Management Service's (MMS's) August 9, 2006, announcement that it is sharply restricting the activities of the State and Tribal Royalty Audit Committee (STRAC). STRAC is an organization of States and Tribes that, under agreements with the Secretary of Interior, audits leases within the respective jurisdictions to ensure proper payment of royalties from oil, gas, and solid mineral companies. Under these new restrictions, States and Tribes cannot meet as a group without MMS being present, only one meeting per year will be held, and the agenda for that meeting will be set by MMS. According to our information, Associate Director Lucy Denett unilaterally determined that STRAC meetings are "no longer worthwhile."

Let us be perfectly clear. Our review of the history of STRAC and the events prior to Ms. Denett's announcement leads to but one conclusion: MMS is retaliating against STRAC for voicing its concerns to Congress about dysfunctions in the royalty management program. When she made the announcement, Ms. Dennett declared that it was "not retaliation." Yet the evidence indicates the contrary -- that MMS is attempting to undermine STRAC's effectiveness and chill any criticism by an entity that has vast audit expertise and hands-on experience with MMS's programs and performance and has used its expertise to alert Congress to problems in MMS's programs. Retaliation against those who bring legitimate concerns about systemic problems at a federal agency to the attention of Congress is not acceptable.

As MMS is well aware, STRAC was organized in the early 1980s, not by Interior, but by jurisdictions with an interest in ensuring that minerals revenues were fully and fairly collected by a federal agency that had a history of disregarding State and Tribal interests. STRAC has been meeting as a group, prior to jointly meeting with MMS, for nearly 25 years. Indeed, this MMS edict was issued after the 83rd STRAC meeting.

For nearly 25 years, STRAC has been providing independent advice, including its consensus views on MMS's programs, proposals, and performance, to the Department of Interior, the Interior Inspector General, the Government Accountability Office, and the U.S. Congress. For nearly 25 years, MMS has recognized that the costs of STRAC meetings are reimbursable by the federal government. Indeed, this has been instrumental in ensuring that all jurisdictions that want to participate can do so.

Not once previously has any Administration ever attempted to silence STRAC, despite the equally long history of STRAC critiques of MMS. Yet now, apparently in response to

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STRAC raising concerns about MMS's compliance review program, MMS has decided to retaliate by sharply limiting STRAC's ability to meet as a group and set its own agenda. It is noteworthy that STRAC raised these issues to Congress only after years of receiving no credible response from MMS to these concerns.

We understand that STRAC has generously agreed to meet three rather than four times per year because of your budgetary concerns, but it is our understanding that many of the contracts between MMS and the Tribes and States contain language such as the following:

> The costs of attending State and Tribal Royalty Auditing Committee (STRAC) quarterly meetings are directly related to the performance of this Agreement and are reimbursable provided that the meetings are not scheduled for the first 30 days of the Federal Government's fiscal year (October 1 through October 31).

This language makes it clear that MMS has contracted with the States and Tribes to reimburse the costs for four meetings a year. MMS's refusal to honor this commitment appears to be a breach of contract. Even if you were not subject to a legal obligation, however, the federal government's interest in coordinating closely with the States and Tribes to administer these important programs demands that you continue to fully support STRAC's historic role and full range of activities.

Thus, we call upon you to reverse your decision and continue to honor the agreed-upon schedule and freedom for STRAC to set its own agenda. If you do not reverse your decision, we request a specific explanation as to why you have taken this action and how you view it as justifiable. If you do not provide us with an adequate justification, we intend to refer this matter to the Department of Interior Inspector General. We expect MMS's cooperation in assuring that these meetings, under the agreed to schedule, continue for the indefinite future and with no interference by MMS.

Thank you for your attention to this matter.

Sincerely,

CAROLYN B. MALONEY
Member of Congress

MAURICE HINCHEY
Member of Congress

GEORGE MILLER
Member of Congress

HENRY A. WAXMAN
Member of Congress

RAÚL GRIJALVA
Member of Congress

COMMITTEE ON GOVERNMENT REFORM

CHAIRMAN TOM DAVIS

SUBCOMMITTEE ON ENERGY AND RESOURCES

CONGRESSMAN DARRELL E. ISSA, CHAIRMAN

FOR IMMEDIATE RELEASE:
November, 1, 2006

CONTACT: (202) 225-6427
Larry Brady – Larry.Brady@mail.house.gov

Davis and Issa Announce Government Accountability Office Investigation of MMS Royalty Collection System

Washington, DC- House Government Reform Chairman Tom Davis (R-VA) and Subcommittee on Energy and Resources Chairman Darrell Issa (R-CA) today announced that the Government Accountability Office has accepted their request to examine the accuracy and effectiveness of the Minerals Management Service's royalty collection system. "We must ensure that the American people get the money from oil and gas royalties that they are entitled to receive from production on public lands, which the Department of Interior manages in trust," said Davis.

The Chairmen's request to GAO is a natural follow-on to the Committee's investigation of the Department of Interior and MMS regarding missing price thresholds from offshore leases in 1998 and 1999. According to GAO and the Committee's investigation, the lack of price thresholds has already cost the government $2 billion in foregone royalties, and may cost the taxpayer upwards of $10 billion over the life of the leases. "In addition to problems in management of royalty collection from deepwater production, we have reason to believe the shortcomings identified in the investigation may also be impacting the royalty collection from onshore production and on Indian lands," said the Chairmen.

Since the investigation was initiated in February of this year, the Committee has been contacted numerous times regarding alleged deficiencies in MMS management, reporting by oil and gas companies, government information technology, and the collection of royalty payments.

"While they may seem straightforward at first glance, royalty reporting and collection are complex undertakings," stated Issa. "GAO has the capacity and expertise to carry out a

comprehensive and unbiased review of MMS and reporting by oil and gas producers holding public leases. Chairman Davis and I look forward to working with GAO as their investigation moves forward," he declared.

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A copy of the original request to GAO is available on the Subcommittee's website http://reform.house.gov/ER/.

TOM DAVIS, VIRGINIA,
CHAIRMAN

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ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

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DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 10, 2006

The Honorable David M. Walker
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

As you are aware, the Government Reform Committee and its Subcommittee on Energy and Resources are investigating why the Minerals Management Service of the Interior Department excluded price thresholds from deepwater leases entered between the Department and oil and gas companies in 1998 and 1999. The Government Accountability Office (GAO) estimates that the missing price thresholds have cost the American people nearly $2 billion to date and will cost nearly $8 billion more over the life of the leases. Because of the large amount of money involved, a natural follow up to this investigation is an overall examination of the effectiveness and accuracy of the royalty collection system managed by the Minerals Management Service.

We request that the Government Accountability Office analyze the accuracy of royalties collected on oil, condensate, and natural gas produced under leases of federal and Indian lands. Specifically, we request that GAO:

1. Review the extent to which existing policies and procedures for monitoring, verifying, and reporting oil, condensate, and natural gas production on federal and Indian lands are sufficient to accurately collect royalties due the federal government.
2. Identify any policies, procedures, and engineering practices employed by the federal government and lease operators that could lead to under or over-reporting of oil, condensate, and natural gas production.

3. Identify potential policy and engineering solutions to weaknesses identified in the previous questions based upon best practices employed in the United States or other countries.

4. Analyze the cost and effectiveness of information technology systems developed and employed by the Minerals Management Service to gather production data and conduct compliance audits. This analysis should include:

    a. A review of contracts entered into by the Minerals Management Service and other parties to develop information technology systems, whether these systems met the specifications required by the contract, and, if applicable, why systems did not meet any specifications.

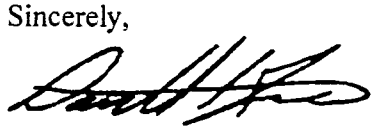
    b. A comparison of the effectiveness of national systems to collect such data and other systems employed by state and territorial auditing entities, if such systems exist.

    c. A review of the extent to which information technology systems developed by MMS contain automated functions that enable auditors to systematically analyze production volumes reported by lessees with other data bases containing similar information.

5. Analyze the compliance and enforcement efforts of the Minerals Management Service related to royalty collection, including a comparison of the frequency of enforcement actions, such as issue and demand letters, over time.

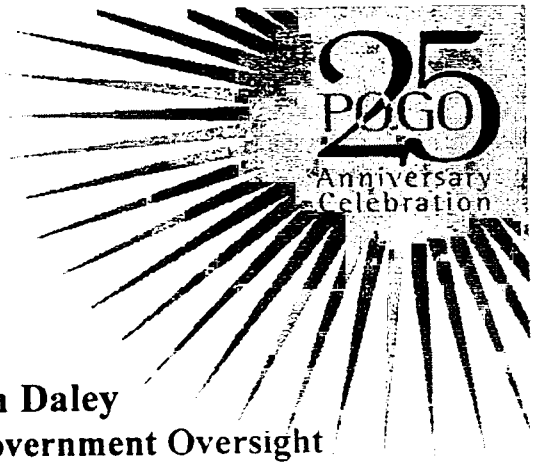
Thank you for your attention to these questions and we look forward to your results. Please direct questions to Larry Brady, Subcommittee Staff Director at (202) 225–6427.

Sincerely,



Darrell Issa, Chairman
Subcommittee on Energy and Resources

Project On Government Oversight
Exposing Corruption Exploring Solutions www.POGO.org



Written Testimony of Beth Daley
Director of Investigations, Project On Government Oversight
to the House Government Reform Committee

Interior Department: A Culture of Managerial Irresponsibility and Lack of Accountability?
September 14, 2006

The Project On Government Oversight (POGO) applauds the efforts of House Government Reform Chairman Tom Davis and House Energy and Resources Subcommittee Chairman Darrell Issa to take a much-needed look at the Department of Interior's oil and gas leasing and royalty collections. In addition, we applaud the efforts of Ranking Member Henry Waxman and Committee member Representative Carolyn Maloney who have conducted investigations and led many initiatives over the years to ensure that the oil and gas industry pay their fair share for royalties on federal and Native American leases.

We sincerely hope that yesterday's and today's hearings are the beginning of more Congressional oversight to come, particularly given the history of these issues and indicators today that point to the need for much more vigorous efforts to protect Native Americans and the taxpayers from waste, fraud, abuse.

Founded in 1981, POGO is a nonpartisan and independent nonprofit organization that investigates and exposes corruption and other misconduct in order to achieve a more accountable federal government. POGO is committed to honest, accountable, and open government.

Department of Interior (DOI) Inspector General Earl Devaney's testimony yesterday outlined in part how an "institutional culture of managerial irresponsibility and lack of accountability" – as the Subcommittee put it – allowed a complacent Minerals Management Service (MMS) to fail to collect royalties owed to the taxpayer. In POGO's experience spanning more than a decade of investigating in this topic area, aggressive Congressional and watchdog oversight has played a central role in ensuring that the MMS adequately protects the financial interests of the federal government and Native Americans.

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The Oil and Gas Industry: a History of Fraud

In the 1990's, POGO issued a series of investigative reports documenting how the oil industry had shortchanged the government by as much as several billion dollars in oil royalties. Some of that money was ultimately recovered as a result of a False Claims Act lawsuit filed by POGO and whistleblowers as well as by audits conducted by MMS. In 1998 to 2001, companies reached settlements totaling roughly $500 million with the Justice Department in lawsuits alleging that they shortchanged on oil and gas royalties owed to tribes and the federal government.[1]

In 2002, POGO identified more than $11 billion in lawsuit settlements that the oil and gas industry had reached with states, tribes, the federal government, and private parties concerning royalty underpayments.[2] Dozens of cases involving gas and oil royalty underpayments illustrate that a variety of players in the oil and gas industry may be engaged in widespread oil and gas royalty fraud.

Auditing and Enforcement: How is MMS Doing?

Since 1981, the Minerals Management Service has operated an auditing and compliance division which conducts audits and oversight of mineral leases. Collections from the auditing and compliance division of MMS have declined in recent years. In the four years from 2002 to 2005, MMS's auditing and compliance program collected an average $48 million annually, less than half the average $115 million collected annually in the division's first 20 years.[3]

The decline in funds collected has occurred on the heels of changes in the way the MMS compliance programs provide accountability and oversight over royalty collections. Since 2000, MMS has altered its priorities, shifting resources away from auditing to a computerized checking system based upon information provided from the industry, known as "compliance review." In FY 2000, $22 million was spent on auditing and $12 million was spent on compliance review. By comparison, in FY 2005, the priorities were reversed: just $12 million was spent on auditing while $22 million was being spent on compliance review.[4]

The most recent budget from MMS indicates that since 2001 it has reduced its auditing and compliance

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[1] "Unocal to Pay U.S. More Than $21 Million for Underpayment of Oil Royalties," Justice Department Press Release, December 3, 2001 , and Shell Oil to Pay United States $56 million for Underpayment of Gas Royalties, September 28, 2000. http://www.usdoj.gov/opa/pr/2001/December/01_civ_624.htm & http://www.usdoj.gov/opa/pr/2000/September/571civ.htm

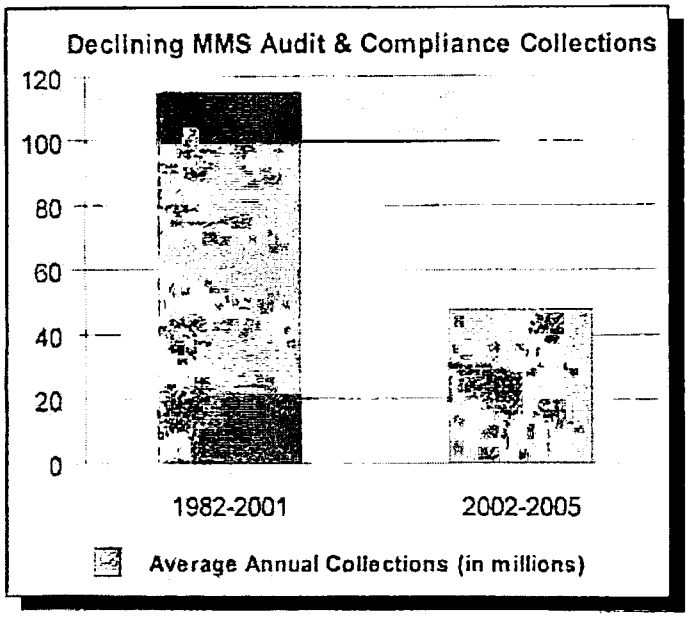
[2] Federal Natural Gas Royalty Underpayment Litigation, Project On Government Oversight, January, 2002. http://pogo.org/p/environment/ea-020101-gas.html

[3] In deriving this figure, POGO analyzed auditing and compliance revenue collections from FY 2002 through FY 2005 then compared that to collections for the twenty-year period from FY 1982 to FY 2001. Auditing and compliance revenue collections from FY 1998 to FY 2001 were larger due to collections made in part as a result of POGO's investigations, outside litigation, and effective audits performed by MMS.

[4] Letter to Representative Carolyn Maloney from MMS Director Johnnie Burton, May 17, 2006.

staff by 65 full-time employees, or 26% of its then-total staff of 250.[5] While POGO supports efforts to make the government more efficient, cut backs in the number of auditors at this particular juncture is hard to justify given the evidence of underpayments which surfaced in the late 1990s.

MMS argues that the growing use of Royalty-in-Kind has minimized royalty uncertainty and resulted in the need for fewer audits. This may or may not be true. An independent analysis of this issue would ensure that MMS' assumptions on this point are correct.



In addition, as will be discussed later, a variety of whistleblowers have raised substantial questions about whether the Interior Department is meeting its full potential in overseeing royalty collections.

In response to questions about how many random and referral audits are conducted, MMS replied in a letter to Representative Carolyn Maloney (D-NY): "While we remain committed to the strategies, MMS has not yet made full use of random audits and referrals as means to improve our compliance process. As we continue to adapt and refine our processes, we expect to make greater use of these approaches in the future."[6]

MMS added: "During FY 2002, MMS initiated 13 such random audits – 1 Indian, 9 offshore, and 3 onshore. The MMS has 49 more such random audits underway or planned for FY 2006-2007, including 1 Indian, 15 onshore, and 33 offshore...Additional random audits are performed periodically as resources are available. For example in FY 2003, 15 Federal onshore properties were selected for audit randomly from those states without delegated compliance and audit authority."[7] One unresolved question is whether this minimal amount of audit activity has a deterrent effect against possible fraud for the 27,000 producing federal and Indian mineral leases under MMS' jurisdiction.

Since 2000, the MMS has not published on its web site its annual "Report on Royalty Management and Delinquent Account Collection Activities," which had previously outlined the agency's activities to audit, monitor, and enforce collection of royalties for products taken from federal and Indian lands. Congress should consider requesting that the MMS revive the annual web publication of this document so that

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[5] Budget Justifications and Performance Information Fiscal Year 2007, U.S. Department of Interior Minerals Management Service. http://www.mms.gov/PDFs/2007Budget/FY2007BudgetJustification.pdf

[6] Letter to Representative Carolyn Maloney from MMS Director Johnnie Burton, May 17, 2006.

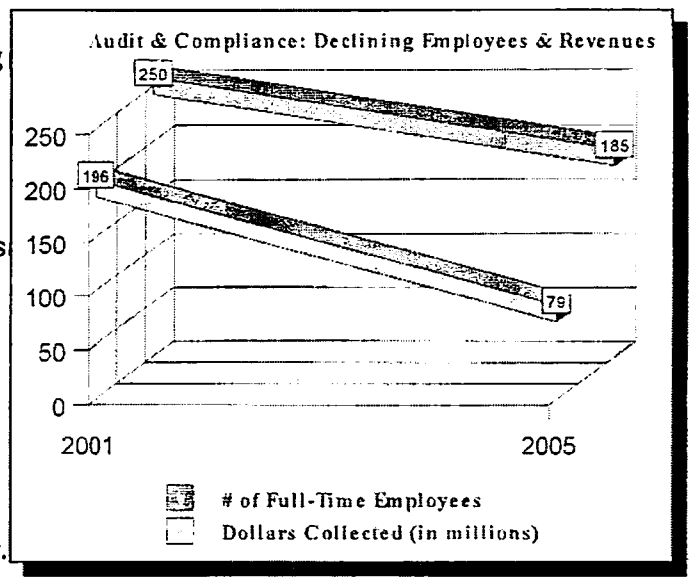
[7] Ibid.

appropriate oversight can be conducted.

Congress should also examine incentives which are being used in the auditing and compliance division of MMS. Are MMS' employees rewarded for actually finding underpayments? Or are they rewarded for fulfilling meaningless quotas? Preliminary information received by POGO suggests that the bonus systems could be altered to be more closely aligned to outcomes that benefit the taxpayer. Bonuses for MMS increased in 2005 with 15 Senior Executives receiving $77,000 or an average of $5,000 each.

Whistleblowers, States, Tribes Raise Concerns: Is Anyone Listening?

A variety of industry and government whistleblowers, states, and tribes have come forward to express concerns about oil and gas royalty underpayments and the MMS' commitment to exposing and correcting those underpayments. In recent years, two senior Interior Department auditors were fired after they sought to improve royalty collections. Retaliation against whistleblowers may be part of a wider cultural problem within the agency of silencing voices who would seek to strengthen the agency's ability to fairly collect what is owed from the oil and gas industry.



In September 2004, Bobby Maxwell, a senior auditor in MMS' Offshore Auditing and Compliance, filed a False Claims Act lawsuit alleging that Kerr-McGee under reported the value of the oil it had drilled from federal lands from 1999-2003. That lawsuit has now passed all its legal hurdles and is poised to go to trial in federal court in November, 2006. POGO applauds the efforts of Mr. Maxwell, an auditor with MMS since 1983 who had received numerous awards for his federal service. Mr. Maxwell was fired by the MMS just a few weeks after his False Claims Act lawsuit was unsealed and made public. Mr. Maxwell's case suggests that MMS may not be issuing demands to pay to oil and gas companies in cases where there are substantial audit findings. In correspondence to Congress, MMS has indicated that despite its maintenance of data on audits and compliance reviews, it "does not maintain statistics on the numbers or amounts of orders [referring to orders to pay issued to companies] issued."[8]

In addition, attention should be paid to the firing of whistleblower Kevin Gambrell, the former director of the Federal Indian Minerals Office in Farmington, New Mexico from 1996 to 2003. Mr. Gambrell

[8] Ibid.

was a talented and successful auditor within MMS until he was pushed out for raising concerns about whether MMS was fulfilling its duty to collect royalties for Indians. While in his position, Mr. Gambrell was able to renegotiate settlements between MMS and the oil industry so that Navajos would receive eight times more than MMS had determined was owed. According to Mr. Gambrell, MMS had not relied on audits to determine what the oil industry owed the Navajos. In February 2003, Mr. Gambrell began disclosing his concerns to the Court-appointed Special Master overseeing the Indian Trust Fund. In September 2003, MMS fired Mr. Gambrell.

In a June 2006 segment on PBS, Mr. Gambrell said: "I think the American taxpayers are losing billions of dollars....I don't think the American people should walk away from this. I think they need to really question the government that is currently auditing oil and gas royalties and make sure that they do it correctly. I think there needs to be independent review, I mean separate from the government, a review of the agencies that collect royalties, manage the oil and gas properties. There needs to be better oversight and there needs to be independent audits of these agencies."[9]

Oil industry tycoon Jack Grynberg has also filed a False Claims Act lawsuit, this one alleging more than a dozen ways that companies can underpay gas royalties, particularly by manipulating the volumes of gas downward. Mr. Grynberg estimates that oil and gas companies may end up owing $35 billion as a result of his lawsuit.[10]

Native Americans are also concerned. In a May 2006 *Washington Post* article, Roger Fragua, deputy director of the Council of Energy Resource Tribes said: "We are convinced that there is serious underreporting of production and serious underpayment of royalties owed to the tribes...The federal government, at least in this administration, is not protecting our interests. So we are looking for ways to go after the companies ourselves."[11]

In 2006, the Minerals Management Service has stifled criticism from states and Indian tribes which have questioned the wisdom of replacing auditing with computer checks, called "compliance review" in a series of letters.[12] At a meeting of state and Indian auditors in August 2006, the MMS informed the group that it was eliminating the ability of the states and tribes to meet independently, a move that some felt was designed to gut the organization and silence its criticisms A September 2006 letter from concerned members of Congress concluded: "MMS is retaliating against STRAC [State and Tribal Royalty Audit Committee] for voicing its concerns to Congress about dysfunction in the royalty

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[9] "Crude Awakening," PBS NOW, June 16, 2006. http://www.pbs.org/now/shows/224/indian-oil-royalties.html

[10] "Independent Oilman Takes on Oil Giants," National Public Radio, May 31, 2006. http://www.npr.org/templates/story/story.php?storyId=5441272

[11] "Firms Harvesting Energy From Public Land May Owe U.S.: Under the False Claims Act, Groups Sue for More Fees," Washington Post, May 7, 2006. http://www.washingtonpost.com/wp-dyn/content/article/2006/05/06/AR2006050600905.html

[12] Letter to Lucy Querques Dennett, Associate Director, Minerals Management Service from State and Tribal Royalty Audit Committee, February 2, 2006. http://www.pogo.org/m/ep/ep-StateandTribal-02202006.pdf

management program."[13]

State and tribal participation in audits was authorized by Congress in 1982 after congressional findings that Interior was operating the royalty program as an "honor system," under which federal lessees (oil companies) were allowed to report and pay whatever they wanted. An independent commission, whose findings Congress adopted, told Interior to implement independent cross checks of industry representations and to avoid blind acceptance of industry "bookkeeping."[14]

POGO urges incoming Interior Secretary Dirk Kempthorne to change the dynamic at the Interior Department described by Inspector General Devaney where those responsible for the failures to do their job and collect what is owed the American taxpayer are held accountable. However, we would urge Secretary Kempthorne to take that suggestion one step further and seek out and reward whistleblowers who bring forward evidence of negligence, waste, fraud, or corruption. Firings such as that of Mr. Gambrell and Mr. Maxwell have a chilling effect on employees at the MMS, re-enforcing a culture where wrong-doing is covered up rather than addressed.

Finally, POGO urges the Congress and Secretary Kempthorne to investigate the concerns of states and tribes and do everything possible to ensure that their concerns are being adequately addressed by MMS.

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[13] Letter to the Honorable Johnnie Burton, Director, Minerals Management Service, from members of Congress August 31, 2006. http://www.pogo.org/m/ep/ep-08312006-Burton.pdf

[14] "Comments on Proposed Federal Oil Valuation Rule," Project On Government Oversight, November 10, 2003. http://www.pogo.org/p/environment/el-031101-oil.html

STATE and TRIBAL ROYALTY AUDIT COMMITTEE

State of Alaska • Blackfeet Nation • State of California • State of Colorado • Fort Peck Tribes
Jicarilla Apache Tribe • State of Louisiana • State of Montana • Navajo Nation • State of New Mexico
State of North Dakota • State of Oklahoma • Shoshone & Arapaho Tribes • Southern Ute Indian Tribe • State of Texas
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Former Chair, Ex Officio:
Joe Vintz

September 27, 2006

Ms. Lucy Querques Denett
Associate Director
Minerals Management Service
U.S. Department of the Interior
1849 C Street NW, MS 4230
Washington, DC 20240

Dear Ms. Denett:

The purpose of this letter is to follow-up on several points that were discussed during the teleconference held on September 12, 2006, between the State and Tribal Royalty Audit Committee officers (including at large members Steve Dilsaver and Perry Shirley), yourself, as well as other Minerals Management Service (MMS) staff.

In retrospect, we feel a person to person meeting, as opposed to a teleconference, would have been more beneficial in terms of communicating and understanding specifically the points being made by the individuals participating in the discussion. As such, we wish to reiterate our request to meet with you in Denver in October 2006. We also request that MMS not proceed with any final decisions that may impact STRAC's ability to fulfill its obligations under its Cooperative Agreements with MMS, and more importantly, the royalty audit and investigation activities mandated by the Royalty Simplification and Fairness Act of 1996 and the Federal Oil and Gas Royalty Management Act of 1982. Specifically, those decisions concern the frequency and structure of STRAC meetings, the STRAC Peer Review Program, and STRAC's future participation in MMS policy development, and audit and investigation related matters.

STRAC wishes to clarify that we do not feel that there are any compelling reasons to change the current frequency of the STRAC meetings with MMS, which is now established three times annually with the MMS hosting a Denver meeting once each year. However, we concur that the structure of our meetings with MMS could be improved upon, in terms of agenda development, topics, and presentation of topics.

During the teleconference discussion, a new term referred to as a "National" meeting was mentioned. While this matter may simply be viewed as a terminology matter, we will regard our regularly scheduled meetings with MMS as STRAC meetings. We believe that a minimum of one STRAC meeting a year with the MMS will not suffice. As we are all aware, the environment in which we perform our audit and investigative activities is ever changing in terms of federal, state and Indian tribal rules and regulations, policies, laws, case law, industry, accounting systems, audit issues, etc. The STRAC and MMS meetings fulfill the communication, coordination, cooperation, and consultation that is absolutely necessary for meaningful partnerships and government-to-government working relationships to exist. Too often over the past years, royalty payors have complained about the lack of communication and coordination among the states, tribes and MMS regarding audit and investigation activities. Likewise, states and tribes have a legitimate stake in MMS' decisions concerning its Royalty Management Program and the STRAC meetings provide the means to discuss and make appropriate decisions when necessary.

We also fail to understand the rationale provided for resorting to "Regional" meetings, in lieu of STRAC meetings. A majority of audit issues are not regional. It is important that we have a central point of discussion for such matters where all states, tribes, and MMS audit staff can discuss these matters in a cohesive manner.

We look forward to continuing our discussion on matters related to STRAC meetings, including locations and frequency, during our meeting with you in October. Additionally, we also would like to discuss STRAC's Peer Review program and our future participation in MMS task groups wherein decisions are made on such matters relevant to system audit and investigation work and policy affecting royalty valuation.

If you have any questions regarding this matter, please call me at (970) 563-5559.

Sincerely,

Lisa Dockter

Lisa Dockter
Chairperson
State and Tribal Royalty Audit Committee

xc: STRAC Membership

STATE and TRIBAL ROYALTY AUDIT COMMITTEE

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Jicarilla Apache Tribe • State of Louisiana • State of Montana • Navajo Nation • State of New Mexico
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Lucy Querques Denett
Associate Director
Minerals Management Service
Washington, DC 20240

Dear Ms. Denett:

On behalf of the State and Tribal Royalty Audit Committee (STRAC), we are writing to request information on the Minerals Management Service's (MMS's) "compliance review" program.

At the recent STRAC/MMS meeting in Salt Lake City, STRAC was told that its individual jurisdictions would be "required to request" authority to conduct compliance reviews as part of their contracts with Interior. Currently, our jurisdictions' contracts delegate authority to conduct "audits" of leases within their respective borders; a compliance review is not an audit.

There is no statute or regulation under which our jurisdictions can request the authority to conduct compliance reviews, despite the fact the MMS's program has been in place since 2001. MMS officials and staff at the meeting were in hopeless disagreement regarding the authority for delegation of the compliance review function. Mr. Sykora disagreed with the Contracting Office and MMS managers. States and Tribes cannot be paid for work that cannot be delegated under the law, which was also acknowledged by MMS.

For well over two years, STRAC has asked MMS to provide it with statistics and other data regarding the quality and efficiency of compliance reviews to no avail. STRAC needs this information so that it can advise its jurisdictions on whether conducting compliance reviews is worthwhile. As you know, MMS used to publish statistics on the revenue collections attributable to its separate approaches, *e.g.*, exceptions processing. MMS ceased these publications in 2001, the year the compliance review process was initiated. At the Salt Lake meeting, MMS did make a presentation involving a few anecdotal compliance reviews, approximately four, but these raised more questions than they answered.

Accordingly, we must renew our request for the information that we have repeatedly told MMS is necessary. This includes:

- The total dollars collected since 2001 *as a direct result* of the compliance review process, broken down in terms of offshore, 8(g), onshore, Tribal and Allotee leases. This should exclude collections since 2001 attributable to the previous audit program and, particularly, audits conducted by States and Tribes;

- The cost/benefit of conducting compliance reviews;

  The number of random audits conducted under the compliance review process, broken down in terms of offshore, 8(g), onshore, Tribal and Allottee leases;

- The number of audit referrals conducted under the compliance review process, broken down in terms of offshore, 8(g), onshore, Tribal and Allotee leases;

- The number of random or referral audits that revealed further underpayments of royalties, the type of violations involved and the effort made by MMS to compile the type of violations into its compliance review process;

- The number of orders issued by MMS *as a direct result* of the compliance review process, broken down in terms of offshore, 8(g), onshore, Tribal and Allotee leases. This should exclude orders issued since 2001 attributable to the previous audit program and, particularly, orders issued as a result of audits conducted by States and Tribes; and

- A breakdown of MMS's appropriated or offline dollars since 2001 allocated to compliance reviews, random or referral audits, Accenture, other private consultants or entities (such as Inovis); quality reviews, training, preparation of congressional reports and strategic plans, SES promotions, and bonuses.

- Average labor hours needed to perform a compliance review

As you know, many STRAC jurisdictions question the merit of compliance reviews. For example, some think that these reviews are little more than partial data entry verification efforts similar to exceptions processing. In fact, some delegations have found that without an effective exception verification process since the re-engineering efforts, there are many more reporting errors. Others think that the flaws in MMS's new automated compliance system, which you recently referred to as "over re-engineering", has lead to serious deficiencies in compliance reviews. Others think that compliance reviews are simply a means to squeeze States and Tribes out of the program. Similarly, some others

– with a substantial number of so-called "strategic" properties – fear that requiring them to conduct compliance reviews will risk their ability to create more dollars for their jurisdictions, which will threaten their program evaluations.

In MMS's recent "Strategic Business Planning Initiative", the agency pledged to improve its cooperation with States and Tribes. Yet, these jurisdictions remain without the data necessary to enhance cooperation between them and MMS. STRAC jurisdictions need the above information if MMS truly desires them to support the agency's goals.

STRAC would appreciate receiving the information requested as soon as possible and no later than the next scheduled STRAC/MMS meeting in New Mexico.

Thank you, in advance, for your cooperation.

Sincerely,

Lisa Dockter

Lisa Dockter,
STRAC Chair
State and Tribal Royalty Audit Committee

STATE and TRIBAL ROYALTY AUDIT COMMITTEE

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Former Chair, Ex Officio.
Joe Vintz

February 21, 2006

The Honorable Richard W. Pombo
Chairman, Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman

This letter is to clarify points addressed by Ms. Johnnie Burton, Director of the U.S. Department of Interior's Minerals Management Service (MMS), in her letter to you dated January 24, 2006. The Director's letter was an attempt to address issues raised in an article published in the *New York Times* on January 24, 2006, under the title As Profits Soar, Companies Pay U.S. Less for Gas Rights.

The State and Tribal Royalty Audit Committee (STRAC) is an organization comprised of eleven (11) states and nine (9) Indian tribes that, under agreements with the Secretary, audit leases within their respective jurisdictions to ensure proper payment of royalties from oil, gas and solid mineral companies. The agreements are authorized under Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (FOGRSFA). STRAC has provided accountability for the money owed to their jurisdictions in a cost efficient manner. STRAC also has considerable knowledge regarding MMS's computer systems, its prior audit programs and its current "compliance review" initiative. For that reason, most STRAC members would like to provide you with the following information.

1. The article questioned the MMS's auditing practices. In order to cover a larger percentage of the royalties paid, MMS has geared its compliance efforts away from conducting audits in accordance with Government Auditing Standards (GAS) to completing compliance reviews. A compliance review is an analysis designed to determine the reasonableness of company-reported royalty and production data on properties. They do not involve independent verification of the accuracy of the reported information. In other words, compliance reviews do not involve getting underneath the

reported information to look at company books, records (*e.g.*, invoices, run tickets) to confirm whether the company reported correctly on any of its reports.

2. A compliance review incorporates steps that, under normal circumstances, should be completed through automated verification. MMS' new computer system was to provide tools for automated verification for production volumes and royalty rate. The computer system originally delivered does not have automated verification capabilities. As a result, since November 2001 the compliance reviews have been performed manually, using data downloaded and manually input into Excel. We understand that the MMS is currently developing an online compliance module with the tools being made available to the delegations during the summer of 2007. Very little coordination has occurred between the States/Tribes and the MMS on this module and it is unclear how effective the tools will be based upon questionable MMS data and limitations of sharing data across land ownerships. We would recommend that the MMS initiate an Independent Validation and Verification (IVV) contract to ensure that the module will work.

3. As initially designed in the new computer system, with the input of States and Tribes, the "company profiles" – part of the "automated" compliance system – would have included data from SEC reports. SEC reports can be of value to a compliance process. Although there was other evidence of oil undervaluation, SEC reports helped expose that companies were actually receiving NYMEX prices for production and sometimes NYMEX plus bonuses. MMS in fact relied on this information in its evaluation of the flaws in the oil rules.

4. Several STRAC delegations have received in writing from the MMS that they are to do compliance reviews and reduce the number of audits because MMS has "shifted a large portion of its audit resources to compliance review work". In fact, in January 2006, MMS informed STRAC that its jurisdictions would be "*required to request*" the compliance review function in our future contracts. In the request format provided by MMS, the compliance review is referred to as automated verification. Jurisdictions were to request this additional function with no additional funding. If no additional funding is provided, part of the audit function will have to be sacrificed. This is on top of some STRAC organizations already losing some audit positions due to MMS reallocating funds.

5. In order for STRAC organizations to determine the efficiency and effectiveness of compliance reviews, STRAC on numerous occasions has requested that MMS provide statistics. MMS still has not provided STRAC with information regarding how much it has collected as a direct result of the compliance review program, hours per review, and the cost/benefit analysis (see attached). MMS used to publish separate statistics on the collections attributable to its various collection systems, *e.g.* audit, exceptions processing, financial compliance, *etc.* MMS stopped publishing these statistics in 2001, the year it obtained a new computer system and started compliance reviews.

6. The 2005 "peer review", referred to in Ms. Burton's letter did not include an audit or opinion on the validity of the compliance review process. It did not review the economy or efficiency of the compliance review process. It only covered audits.

7. Although MMS made some improvements in the federal oil regulations by adopting NYMEX/WTI prices, the current Administration has not applied these changes to Indian leases, despite repeated public promises that this was a "priority" because of the Trust obligation. A new rule for Indian leases has been stalled for 5 years.

STRAC jurisdictions aggressively strive to fulfill their fiduciary responsibilities. If used properly, compliance reviews can be an effective supplement to our primary responsibility to complete GAS audits on properties selected by States and Tribes based on their independent audit judgment and experience. Given limited resources compliance reviews can be used as an efficient way to determine if "second tier" properties as determined by States and Tribes are in reasonable compliance or if they should be selected for a GAS audit. STRAC still needs to ensure their various jurisdictions they are receiving the highest value permitted by the regulations for natural resources. This cannot be accomplished by forsaking GAS audits for compliance reviews. STRAC needs additional funding in order to ensure their fiduciary responsibility to their various jurisdictions and the American people can be fulfilled. Your consideration of our request will be greatly appreciated.

If you have any questions, please contact us. STRAC's next meeting is currently scheduled for May 2-4, 2006 in Albuquerque, New Mexico. We welcome the attendance of you or your staff.

Sincerely,

Lisa Dockter

Lisa Dockter
Southern Ute Indian Tribe
STRAC Chair