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Considerations Impacting the Future of the Small Refiner RIK Program

Background

With the current small oil refiner RIK contracts nearing the end of their term, several considerations exist which, depending upon decisions reached, will have a significant impact on future of this program. The intent of this document is to attempt to identify those considerations for further evaluation and discussion. The primary considerations include:

Existing Regulations

The language in the existing rulemaking (30 CFR 208) governing the RIK program contains several provisions which hinder logical business practice and effective program operations. For example, current provisions governing administrative fees, transportation allowances, operator delivery requirements, notification time frames, resolution of delivery imbalances and gravity bank adjustments, as presently structured, unnecessarily complicate administration of the program.

RIK Contracts

The existing RIK contract language is, for the most part, general, non specific and in some instances, contradictory. Of particular concern is the absence of any reference or provision addressing the value of RIK oil. In addition, recent concerns have been raised regarding the legality of transportation allowances under RIK contracts and the affect of the Contract Disputes Act on any appeals arising as a result of the contract.

Determination of Need

With one notable exception, RMP has never conducted a structured, documented Determination of Need. As a result of the work accomplished in preparing the RIK Phase II Report, RMP now has a defined approach and mechanism with it can employ in conducting such an assessment, followed by the appropriate surnaming and approval process. While the Determination of Need process has been defined, RMP has yet to first implement it. Accordingly, the initial effort holds the potential that learning refinements, process modifications and unanticipated delays may be encountered in our attempts to accomplish the task.

RIK Oil valuation

Historically, RMP has utilized values submitted by the reporter in preparing RIK invoices issued to the refiners. As recent events confirm any future RIK program will not doubt contain much more in the way of specific provisions addressing the value the Government must receive for it's royalty oil. Accordingly, a significantly increased reliance and interdependence must occur between ARD and RED in such areas as contract development, lease selection, valuation monitoring and adjustment. In addition, significant revisions in the monthly RIK invoicing process will be necessary to accommodate the revised valuation methodology.

Identifying Oil Offered for Sale

In the past, the process employed to select which leases would be offered in an RIK sale relied primarily upon volume considerations. Little or no consideration was given to logistical or pipeline access issues. In addition, no monitoring process was utilized to periodically assess changes by lease in the volumes of oil initially offered. Consequently, issues associated with refiner access to transportation systems to move their oil and inclusion of leases under contract producing stripper-well volumes emerged. In addition, the initiation of several RIK pilot studies necessitates that this issue be given full consideration in any future RIK sale. Also, certain aspects of RSFA present complications in this area.

Current and Planned RIK Pilots

Currently, no less than four separate RIK Pilot studies are either underway or planned. Lessons learned from the pilots and any beneficial changes implementable in the existing small refiner oil RIK program are future context and, in all probability, would not be implementable any time earlier than 12-18 months down the road.

RIK and Forgiveness Legislation

Legislative proposals mandating 1) the government take it's royalty share in-kind and 2) providing ratification to refiners for past RIK invoice amounts paid are currently under consideration on the Hill. What impact either of these proposals might have on the structure or operation of the current small refiner RIK Program is unknown.

Discussion

A variety of factors, both internal and external to RMP could easily have a profound impact on the structure, concept and administration of the small refiner RIK oil program. In the near term, or the next 6-9 months, the current contracts will expire by their own terms. Questions surrounding whether RMP will be prepared to soon thereafter conduct another RIK sale have arisen internally. Unknown at this time is the interest of existing refiners, as well as other currently non-participating refiners, in an on-going small refiner oil RIK program. If there is interest, how soon after expiration of the current contracts would these refiners want to participate? If a Determination of Need were conducted in the fall of 1998, it is hard to imagine that it would conclusively demonstrate that small refiners are presently encountering difficulty in acquiring sufficient quantities of oil at reasonable prices given the current status of the oil and gas industry.

While some of the factors described here are beyond the control of RMP to directly influence and others have yet to mature to a stage where a clear set of recommendations emerge, other factors such as rulemaking and RIK contract revisions could now be initiated. However, such actions could be overtaken by policy, political or operational developments rendering such efforts moot. Nevertheless, consideration should be given to announcing a 1 year hiatus in the program running from June 1999 to May 2000. Starting very near term, (November 1998) a thorough evaluation, revision and retooling of the program could be initiated based on known needs. This time frame will also provide an opportunity for pilot results to reach maturity and any resulting recommendations incorporated in the revised program. Such an approach could provide much needed time to revise and strengthen this program without the pressure of preparing for another near term RIK sale. The approach would also allow us the opportunity to retool this program on the basis of logical processes and good business process as opposed to what we have now which necessitates daily fire fighting and policy formulation on the fly.