

## Barton, Jayne

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**From:** Burhop, Shirley  
**Sent:** Thursday, November 20, 2003 5:23 PM  
**To:** Johnson, Brian C; Ellwood Soderlind; F David Loomis; George Staigle; Glenn Kepler; Kirumakki, Nagaraja; Nancy Rodriguez; Perry Shirley; Teel, Sara; Terence Fisher  
**Subject:** Meeting on November 20

Present were: Shirley Burhop (FedCAM)  
Dave Loomis and Dana Summers (CO)  
George Staigle (via phone) (ND)  
Terry Fisher (via phone) (Shoshone Arapahoe)  
Sara Teel (CE)  
Nancy Rodriguez (via phone) (NM)  
Brian Johnson (IndCAM)

### Items discussed:

1. Deadline of December 31. Due to the holidays and upcoming STRAC meeting, everyone believes this is unachievable. I am to ask Debbie if we can extend to January 31, 2004.
2. Brian asked if we really need to develop guidance concerning coal. As he sees no reference to "marketing affiliate" in the coal regs, he wonders why there's an issue. No one present was familiar enough with coal to have an answer. I would like Glenn and Brian (and perhaps Ellwood and Perry?) to discuss and explain to the rest of us why coal valuation is impacted by the Fina decision.
3. How far do we want to go in producing an output? Do we want to develop a pro-forma audit program? No. Just guidance on how to apply the benchmarks. The output will be Paper Port slides put together as a booklet with appropriate guidance papers as appendices.
4. Dave Loomis mentioned that Karen Conway has developed a paper as a result of the Fina decision explaining how to apply the benchmarks to gas (processed and unprocessed). He believes this may be a basis for what we want to develop for oil. He will distribute it to all of us, hopefully on Friday, Nov. 21.
5. We agreed that we may need to develop only general guidance for the products (oil, gas, and coal, if necessary) without distinguishing between Federal and Indian. The only difference we thought might be relevant is the need to cover dual accounting for Indian gas.
6. I will schedule another telecon the week of December 1, after we've all had time to review Karen Conway's paper. Terry will try to schedule some time at STRAC. Terry will determine time and place, depending on the STRAC agenda. Looks like Friday morning, after the STRAC only session might be a good time, depending on everyone's travel plans. (We can telecon in anyone who won't be there.)

Tracking:	Recipient	Read
	Johnson, Brian C	Read: 11/20/2003 5:47 PM
	Ellwood Soderlind	
	F David Loomis	
	George Staigle	
	Glenn Kepler	
	Kirumakki, Nagaraja	Read: 11/21/2003 6:46 AM
	Nancy Rodriguez	
	Perry Shirley	
	Teel, Sara	Read: 11/21/2003 7:52 AM
	Terence Fisher	

## Barton, Jayne

---

**From:** Burhop, Shirley  
**Sent:** Thursday, November 20, 2003 5:24 PM  
**To:** Gibbs Tschudy, Deborah  
**Subject:** FW: Meeting on November 20

Please note item 1 - extension of the deadline to Jan. 31. What's driving the Dec. 31 deadline?

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**Tracking:**

**Recipient**  
Gibbs Tschudy, Deborah

**Read**  
Read: 11/20/2003 5:52 PM

## **Barton, Jayne**

---

**From:** Gibbs Tschudy, Deborah  
**Sent:** Thursday, November 20, 2003 5:58 PM  
**To:** Burhop, Shirley  
**Subject:** RE: Meeting on November 20

Thanks for the update, Shirley. Jan. 31 is fine.

We do need guidance on applying the coal valuation benchmarks because under the Fina decision, the auditors will not be able to go to the affiliate's arm's-length resale to determine the value of coal sold to an affiliate - they will have to apply the benchmarks. We did develop a policy paper on sales of coal to affiliates in 1995 or 1996 similar to what we did for oil and gas. That may be a useful starting point. Please talk to Bob Davidoff about Mike Throckmorton being part of your team as you need input from Solids.

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## Barton, Jayne

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**From:** Burhop, Shirley  
**Sent:** Friday, November 21, 2003 10:01 AM  
**To:** Gibbs Tschudy, Deborah  
**Subject:** RE: Meeting on November 20

Glenn Kepler has been appointed as a member of the team, but was not available for this week. Do you think Mike is a better choice?

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**Tracking:**

**Recipient**

Gibbs Tschudy, Deborah

**Read**

Read: 11/21/2003 12:05 PM

## Barton, Jayne

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**From:** Burhop, Shirley  
**Sent:** Friday, November 21, 2003 10:02 AM  
**To:** Johnson, Brian C; Ellwood Soderlind; F David Loomis; George Staigle; Glenn Kepler; Kirumakki, Nagaraja; Nancy Rodriguez; Perry Shirley; Teel, Sara; Terence Fisher  
**Subject:** FW: Meeting on November 20

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Johnson, Brian C	Read: 11/21/2003 10:58 AM
Ellwood Soderlind	
F David Loomis	
George Staigle	
Glenn Kepler	
Kirumakki, Nagaraja	Read: 11/21/2003 12:40 PM
Nancy Rodriguez	
Perry Shirley	
Teel, Sara	Read: 11/21/2003 11:08 AM
Terence Fisher	

## Barton, Jayne

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**From:** Gibbs Tschudy, Deborah  
**Sent:** Friday, November 21, 2003 12:05 PM  
**To:** Burhop, Shirley  
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No, Glenn will do well for you.

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**Barton, Jayne**

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**From:** Rodriguez, Nancy  
**Sent:** Friday, December 05, 2003 11:29 AM  
**To:** Soderlind, Ellwood; Burhop, Shirley; Johnson, Brian C; Loomis, F David; Staigle, George; Kepler, Glenn; Kirumakki, Nagaraja; pshirley@frontiernet.net; Teel, Sara; Fisher, Terence  
**Subject:** RE: Dec. 1 meeting

I would not be available on December 15th or 16th, but am available after that. Please advise as to when this meeting will occur.

Thanks,

Nancy Rodriguez  
205 Federal Royalty Audit Supervisor  
New Mexico Taxation & Revenue Dept.  
Phone: (505) 827-9843  
Fax: (505) 827-9888

-----Original Message-----

**From:** Ellwood Soderlind [mailto:ESoderlind@wyaudit.state.wy.us]  
**Sent:** Wednesday, December 03, 2003 7:30 AM  
**To:** Shirley.Burhop; Brian.C.Johnson@mms.gov; Ellwood Soderlind; dloomis@spike.dor.state.co.us; georgestaigle.mms@midconetwork.com; Glenn.Kepler; Nagaraja.Kirumakki; nrodriguez@state.nm.us; pshirley@frontiernet.net; sara.teel@mms.gov; tfisher@washakie.net  
**Subject:** RE: Dec. 1 meeting

Shirley:

Would it be possible to meet on December 15th or the 19th instead of the 18th? That week is already a mess and I would like to attend in person.

Ellwood

-----Original Message-----

**From:** Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
**Sent:** Tuesday, December 02, 2003 1:16 PM  
**To:** Brian.C.Johnson@mms.gov; esoderlind@wyaudit.state.wy.us; dloomis@spike.dor.state.co.us; georgestaigle.mms@midconetwork.com; Glenn.Kepler@mms.gov; Nagaraja.Kirumakki@mms.gov; nrodriguez@state.nm.us; pshirley@frontiernet.net; sara.teel@mms.gov; tfisher@washakie.net  
**Subject:** Dec. 1 meeting

In attendance were:

Shirley Burhop  
Raj Kirumakki  
Sara Teel  
Ellwood Soderlind  
Dave Loomis  
Karen Conway  
Dana Summers

By phone:

Perry Shirley  
Nancy Rodriguez  
Terry Fisher

We discussed the paper Karen Conway had prepared regarding following the benchmarks to

value processed and unprocessed gas. Everyone agreed that it was a great start and that we would prepare similar documents for Federal oil, Indian oil and gas, and coal. This document could then serve as the basis for preparing power point slides to be used for the training.

We discussed a number of issues that need to be covered in the training:

1. ~~X~~ \_\_\_\_\_ 2+5
2. ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5
3. ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5
4. ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5
5. ~~X~~ \_\_\_\_\_ 2+5
6. ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5
7. ~~X~~ \_\_\_\_\_ 2+5
- ~~X~~ \_\_\_\_\_ 2+5

8. We will need to address Federal oil under the June 2000 rule, since many of the same issues apply, particularly the matter of determining location and quality differentials.

Terry believes that in order to find comparable arm's length prices in the field or area, Tribes will need to know prices on allotted and Federal lands. So MMS would have to do the work.

Karen raised the issue of marketable condition and the Xeno case. In the training, we will need to discuss this. Auditors need to obtain contracts to determine if additional services were provided that need to be included in gross proceeds.

Next steps:

Karen will prepare a paper similar to her gas benchmark paper on Federal oil.

Karen will incorporate legal cases into both the gas and oil papers.

Ellwood will prepare a similar paper for Federal coal.

(Note: we don't know if we need to cover Indian coal. I need to discuss with Bob Davidoff, Glenn Kepler.) I will ask Brian Johnson if he can adapt Karen's papers to Indian gas and oil.

Raj will start working on gathering examples to be used in the training.

Timeline:

December 18: Accomplish the above tasks.

December 24: Incorporate any comments or suggestions from the group.

January 9: Develop power point slides (based on the papers).

January 16: Review slides as a group and incorporate any comments or changes.

January 20: Forward slides and papers to Ken Vogel and Geoff Heath. (We will forward the papers to Ken for comment as they are completed.) January 30: Incorporate any comments or changes.

Those of us who are at STRAC will plan to meet on Friday morning, December 12, after STRAC adjournment (probably 9:00 or 9:30). If others would like to be tied in by phone then, please let me know.

We will also plan to meet the third week of December. I will try to schedule a meeting for Thursday, Dec. 18.

If anyone has any corrections or clarifications to the above, please "reply to all".  
Thanks.

## Barton, Jayne

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From: Conway, Karen  
Sent: Tuesday, December 02, 2003 2:28 PM  
To: Burhop, Shirley  
Subject: RE: Dec. 1 meeting

Hi Shirley, I am unable to go to the STRAC meeting for the Friday conference and was wondering if I could teleconference in from the MMS, Building 85 with Raj? Dave said that he would appreciate it if I could do that.

Thanks,  
Karen Conway  
Senior Revenue Agent  
Colorado Dept. of Revenue  
Mineral Audit Section  
(303) 355-0400 Ext. 788

-----Original Message-----

From: Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
Sent: Tuesday, December 02, 2003 2:20 PM  
To: dsummers@spike.dor.state.co.us; kconway@spike.dor.state.co.us  
Subject: FW: Dec. 1 meeting

Sorry - should have addressed it to you two, too.

> -----Original Message-----

> From: Burhop, Shirley  
> Sent: Tuesday, December 02, 2003 1:16 PM  
> To: Brian Johnson; Ellwood Soderlind; F David Loomis; George Staigle;  
> Glenn Kepler; Nagaraja Kirumakki; Nancy Rodriguez; Perry Shirley; Sara  
> Teel; Terence Fisher  
> Subject: Dec. 1 meeting

> In attendance were:

> Shirley Burhop  
> Raj Kirumakki  
> Sara Teel  
> Ellwood Soderlind  
> Dave Loomis  
> Karen Conway  
> Dana Summers

> By phone:

> Perry Shirley  
> Nancy Rodriguez  
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- > ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > 3. ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > 4. ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > 5. ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > 6. ~~X~~ ~~\_\_\_\_\_~~ 2+5
- > 7. ~~X~~ ~~\_\_\_\_\_~~ 2+5
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> others would like to be tied in by phone then, please let me know.  
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> We will also plan to meet the third week of December. I will try to  
> schedule a meeting for Thursday, Dec. 18.  
>  
>  
> If anyone has any corrections or clarifications to the above, please  
> "reply to all". Thanks.

**Barton, Jayne**

---

**From:** Conway, Karen  
**Sent:** Tuesday, December 02, 2003 3:11 PM  
**To:** Burhop, Shirley  
**Subject:** RE: Dec. 1 meeting

Thanks, let me know who I need to contact at BLD 85 on Friday.

-----Original Message-----

**From:** Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
**Sent:** Tuesday, December 02, 2003 3:10 PM  
**To:** kconway@spike.dor.state.co.us  
**Subject:** RE: Dec. 1 meeting

That will be good. I'll figure out where to call or who should call me next week.

-----Original Message-----

**From:** Conway, Karen  
**Sent:** Tuesday, December 02, 2003 2:28 PM  
**To:** Burhop, Shirley  
**Subject:** RE: Dec. 1 meeting

Hi Shirley, I am unable to go to the STRAC meeting for the Friday conference and was wondering if I could teleconference in from the MMS, Building 85 with Raj? Dave said that he would appreciate it if I could do that.

Thanks,  
Karen Conway  
Senior Revenue Agent  
Colorado Dept. of Revenue  
Mineral Audit Section  
(303) 355-0400 Ext. 788

---

-----Original Message-----

**From:** Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
**Sent:** Tuesday, December 02, 2003 2:20 PM  
**To:** dsummers@spike.dor.state.co.us; kconway@spike.dor.state.co.us  
**Subject:** FW: Dec. 1 meeting

Sorry - should have addressed it to you two, too.

> -----Original Message-----

> **From:** Burhop, Shirley  
> **Sent:** Tuesday, December 02, 2003 1:16 PM  
> **To:** Brian Johnson; Ellwood Soderlind; F David Loomis; George Staigle;  
> Glenn Kepler; Nagaraja Kirumakki; Nancy Rodriguez; Perry Shirley; Sara  
> Teel; Terence Fisher  
> **Subject:** Dec. 1 meeting

>  
> In attendance were:  
> Shirley Burhop  
> Raj Kirumakki  
> Sara Teel  
> Ellwood Soderlind  
> Dave Loomis  
> Karen Conway

> Dana Summers

>

> By phone:

> Perry Shirley

> Nancy Rodriguez

> Terry Fisher

>

> We discussed the paper Karen Conway had prepared regarding following the  
> benchmarks to value processed and unprocessed gas. Everyone agreed that  
> it was a great start and that we would prepare similar documents for  
> Federal oil, Indian oil and gas, and coal. This document could then serve  
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>

> 1. ~~X~~ \_\_\_\_\_ 2+5

>

> 2. ~~X~~ \_\_\_\_\_ 2+5

>

> ~~X~~ \_\_\_\_\_ 2+5

>

> 3. ~~X~~ \_\_\_\_\_ 2+5

>

> ~~X~~ \_\_\_\_\_ 2+5

>

> 4. ~~X~~ \_\_\_\_\_ 2+5

>

> 5. ~~X~~ \_\_\_\_\_ 2+5

>

> 6. ~~X~~ \_\_\_\_\_ 2+5

>

> ~~X~~ - 2+5

>

> 7. ~~X~~ \_\_\_\_\_ 2+5

>

> 8. We will need to address Federal oil under the June 2000 rule, since  
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> Terry believes that in order to find comparable arm's length prices in the  
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> to determine if additional services were provided that need to be included  
> in gross proceeds.

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> Next steps:

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> oil.

> Karen will incorporate legal cases into both the gas and oil papers.

> Ellwood will prepare a similar paper for Federal coal.

> (Note: we don't know if we need to cover Indian coal. I need to discuss



**Barton, Jayne**

---

**From:** Fisher, Terence  
**Sent:** Tuesday, December 02, 2003 4:33 PM  
**To:** Burhop, Shirley; Johnson, Brian C; Soderlind, Ellwood; Loomis, F David; Staigle, George; Kepler, Glenn; Kirumakki, Nagaraja; Rodriguez, Nancy; pshirley@frontiernet.net; Teel, Sara  
**Subject:** Re: Dec. 1 meeting  
**Importance:** High

Shirley, As I mentioned, I will help Brian as much as possible. T  
----- Original Message -----

**From:** <Shirley.Burhop@mms.gov>  
**To:** <Brian.C.Johnson@mms.gov>; <esoderlind@wyaudit.state.wy.us>; <dloomis@spike.dor.state.co.us>; <georgestaigle.mms@midconetwork.com>; <Glenn.Kepler@mms.gov>; <Nagaraja.Kirumakki@mms.gov>; <nrodriguez@state.nm.us>; <pshirley@frontiernet.net>; <sara.teel@mms.gov>; <tfisher@washakie.net>  
**Sent:** Tuesday, December 02, 2003 1:15 PM  
**Subject:** Dec. 1 meeting

- > In attendance were:
- > Shirley Burhop
- > Raj Kirumakki
- > Sara Teel
- > Ellwood Soderlind
- > Dave Loomis
- > Karen Conway
- > Dana Summers
- >

> By phone:

- > Perry Shirley
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- >

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- > 3. ~~X~~ \_\_\_\_\_ 2+5
- > 4. ~~X~~ \_\_\_\_\_ 2+5
- > ~~X~~ \_\_\_\_\_ 2+5
- > ~~X~~ 2+5  
> ~~X~~ 2+5  
> ~~X~~ \_\_\_\_\_ 2+5

- >
- > 5. ~~X~~ \_\_\_\_\_ 2+5
- > ~~X~~ \_\_\_\_\_ 2+5

- >
- > 6. ~~X~~ \_\_\_\_\_ 2+5

- >
- > 7. ~~X~~ \_\_\_\_\_ 2+5
- > ~~X~~ \_\_\_\_\_ 2+5
- > ~~X~~ \_\_\_\_\_ 2+5

> 8. We will need to address Federal oil under the June 2000 rule, since many

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- > Karen raised the issue of marketable condition and the Xeno case. In the training, we will need to discuss this. Auditors need to obtain contracts to determine if additional services were provided that need to be included in gross proceeds.

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> to all". Thanks.  
>  
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**Barton, Jayne**

---

**From:** Soderlind, Ellwood  
**Sent:** Wednesday, December 03, 2003 7:30 AM  
**To:** Burhop, Shirley; Johnson, Brian C; Soderlind, Ellwood; Loomis, F David; Staigle, George; Kepler, Glenn; Kirumakki, Nagaraja; Rodriguez, Nancy; pshirley@frontiernet.net; Teel, Sara; Fisher, Terence  
**Subject:** RE: Dec. 1 meeting

Shirley:

Would it be possible to meet on December 15th or the 19th instead of the 18th? That week is already a mess and I would like to attend in person.

Ellwood

-----Original Message-----

**From:** Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
**Sent:** Tuesday, December 02, 2003 1:16 PM  
**To:** Brian.C.Johnson@mms.gov; esoderlind@wyaudit.state.wy.us; dloomis@spike.dor.state.co.us; georgestaigle.mms@midconetwork.com; Glenn.Kepler@mms.gov; Nagaraja.Kirumakki@mms.gov; nrodriguez@state.nm.us; pshirley@frontiernet.net; sara.teel@mms.gov; tfisher@washakie.net  
**Subject:** Dec. 1 meeting

In attendance were:

Shirley Burhop  
Raj Kirumakki  
Sara Teel  
Ellwood Soderlind  
Dave Loomis  
Karen Conway  
Dana Summers

By phone:

Perry Shirley  
Nancy Rodriguez  
Terry Fisher

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~~X \_\_\_\_\_ 2+5~~
4. ~~X \_\_\_\_\_ 2+5~~  
~~X \_\_\_\_\_ 2+5~~

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- ~~X~~ \_\_\_\_\_ 2+5
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**Barton, Jayne**

---

**From:** Gibbs Tschudy, Deborah  
**Sent:** Wednesday, December 03, 2003 7:54 AM  
**To:** Burhop, Shirley; Williams, Mary  
**Subject:** RE: Dec. 1 meeting

Thank you for the update, Shirley. It sounds like you're off to a great start!

-----Original Message-----

**From:** Burhop, Shirley  
**Sent:** Tuesday, December 02, 2003 1:23 PM  
**To:** Williams, Mary; Gibbs Tschudy, Deborah  
**Subject:** FW: Dec. 1 meeting

FYI

-----Original Message-----

**From:** Burhop, Shirley  
**Sent:** Tuesday, December 02, 2003 1:16 PM  
**To:** Brian Johnson; Ellwood Soderlind; F David Loomis; George Staigle; Glenn Kepler; Nagaraja Kirumakki; Nancy Rodriguez; Perry Shirley; Sara Teel; Terence Fisher  
**Subject:** Dec. 1 meeting

In attendance were:

- Shirley Burhop
- Raj Kirumakki
- Sara Teel
- Ellwood Soderlind
- Dave Loomis
- Karen Conway
- Dana Summers

By phone:

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5. ~~X~~ \_\_\_\_\_ 2+5
6. ~~X~~ \_\_\_\_\_ 2+5

- 6. ~~X~~ \_\_\_\_\_ 275
- 7. ~~X~~ \_\_\_\_\_ 275

8. We will need to address Federal oil under the June 2000 rule, since many of the same issues apply, particularly the matter of determining location and quality differentials.

Terry believes that in order to find comparable arm's length prices in the field or area, Tribes will need to know prices on allotted and Federal lands. So MMS would have to do the work.

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**Barton, Jayne**

---

**From:** Kirumakki, Nagaraja  
**Sent:** Wednesday, December 03, 2003 8:41 AM  
**To:** Burhop, Shirley; Johnson, Brian C; Soderlind, Ellwood; Loomis, F David; Staigle, George; Kepler, Glenn; Rodriguez, Nancy; Shirley, Perry; Teel, Sara; Fisher, Terence  
**Cc:** Johnson, Ralph  
**Subject:** RE: Dec. 1 meeting

While we may not want to exactly define terms such as: 1. Significant quantities, 2. comparability, 3. like-quality gas, 4. Market or Market served, and 5. Field or area, we should make an attempt present some examples of what is not a comparable A/L contract or what is not a significant quantity or what is not a like-quality gas for a particular situation. These examples will help to understand concept better.  
Raj

-----Original Message-----

**From:** Burhop, Shirley  
**Sent:** Tuesday, December 02, 2003 1:16 PM  
**To:** Brian Johnson; Ellwood Soderlind; F David Loomis; George Staigle; Glenn Kepler; Nagaraja Kirumakki; Nancy Rodriguez; Perry Shirley; Sara Teel; Terence Fisher  
**Subject:** Dec. 1 meeting

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5. ~~X~~ \_\_\_\_\_ 2+5
6. ~~X~~ \_\_\_\_\_ 2+5

X ~~\_\_\_\_\_~~ 2+5

7. X ~~\_\_\_\_\_~~ 2+5

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## Barton, Jayne

---

From: Soderlind, Ellwood  
Sent: Wednesday, December 03, 2003 8:59 AM  
To: Burhop, Shirley  
Subject: RE: Dec. 1 meeting

Thank you. December 19 will be great.

Ellwood

-----Original Message-----

From: Shirley.Burhop@mms.gov [mailto:Shirley.Burhop@mms.gov]  
Sent: Wednesday, December 03, 2003 8:49 AM  
To: esoderlind@wyaudit.state.wy.us  
Subject: RE: Dec. 1 meeting

Yes. Either would do. I'll try for the 19th, since the 15th will just be one business day after the 12th.

-----Original Message-----

From: Soderlind, Ellwood  
Sent: Wednesday, December 03, 2003 7:30 AM  
To: Burhop, Shirley; Johnson, Brian C; Soderlind, Ellwood; Loomis, F David; Staigle, George; Kepler, Glenn; Kirumakki, Nagaraja; Rodriguez, Nancy; pshirley@frontiernet.net; Teel, Sara; Fisher, Terence  
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**McPhail, Rochelle**

---

**From:** Vogel, Kenneth  
**Sent:** Monday, June 30, 2003 6:12 PM  
**To:** Hamilton, Cathy  
**Subject:** Fina -is this what you want?

**Importance:** High

On June 27, 2003, the Court of Appeals for the District of Columbia Circuit decided Fina Oil and Chemical Co. v. Norton (No. 02-5241). This case was an appeal from a decision of the District Court for the District of Columbia that upheld a decision by the Interior Board of Land Appeals. The appeals court reversed the decision of the district court. MMS had ordered Fina to pay on the gross proceeds of an affiliate of the actual lessee under the provisions of the 1988 gas valuation rules that required payment of royalties on no less than the gross proceeds accruing to the lessee. The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties. In Fina's case this was Fina Oil and Chemical Co. or Petrofina Delaware, inc., but not their affiliate Fina Natural Gas Co. (FNGC), which purchased the gas from the producers (and others) and resold it. Therefore the court found that the proper valuation would be under the benchmarks.

This ruling mainly affects federal gas production and Indian oil production not sold at arm's-length. X — S

X  
X — S  
S For federal oil after June 2000, the currently applicable regulations require payment on either a market basis or the affiliates gross proceeds, so the Fina decision will not impact this period.

For Indian gas, the regulations in effect since 1999 allow for the use of market based index values greater than the average price. For this period, there should be no significant affect from the Fina decision. For Indian oil, the discussion of federal oil as it relates to pre-May-2000 production applies to all production.

**McPhail, Rochelle**

---

**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 11:54 AM  
**To:** Vogel, Kenneth  
**Subject:** RE: Fina -is this what you want?

Hi Ken, yes, this is good. Lucy OK'd and I'm sending to the DC folks here as our statement, if asked. Thx. Cathy

-----Original Message-----

**From:** Vogel, Kenneth  
**Sent:** Monday, June 30, 2003 6:12 PM  
**To:** Hamilton, Cathy  
**Subject:** Fina -is this what you want?  
**Importance:** High

On June 27, 2003, the Court of Appeals for the District of Columbia Circuit decided Fina Oil and Chemical Co. v. Norton (No. 02-5241). This case was an appeal from a decision of the District Court for the District of Columbia that upheld a decision by the Interior Board of Land Appeals. The appeals court reversed the decision of the district court. MMS had ordered Fina to pay on the gross proceeds of an affiliate of the actual lessee under the provisions of the 1988 gas valuation rules that required payment of royalties on no less than the gross proceeds accruing to the lessee. The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties. In Fina's case this was Fina Oil and Chemical Co. or Petrofina Delaware, inc., but not their affiliate Fina Natural Gas Co. (FNGC), which purchased the gas from the producers (and others) and resold it. Therefore the court found that the proper valuation would be under the benchmarks.

This ruling mainly affects federal gas production and Indian oil production not sold at arm's-length. X — S

X

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\_\_\_\_\_ S For federal oil after June 2000, the currently applicable regulations require payment on either a market basis or the affiliates gross proceeds, so the Fina decision will not impact this period.

For Indian gas, the regulations in effect since 1999 allow for the use of market based index values greater than the average price. For this period, there should be no significant affect from the Fina decision. For Indian oil, the discussion of federal oil as it relates to pre-May 2000 production applies to all production.

**McPhail, Rochelle**

---

**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 11:56 AM  
**To:** Cruickshank, Walter; Querques Denett, Lucy; Triebsch, George; Herdt, Lyn; Humphries, Nicolette  
**Subject:** FW: Fina -is this what you want?  
**Importance:** High

Hi -- below is our proposed statement on the Fina decision.

-----Original Message-----

**From:** Vogel, Kenneth  
**Sent:** Monday, June 30, 2003 6:12 PM  
**To:** Hamilton, Cathy  
**Subject:** Fina -is this what you want?  
**Importance:** High

On June 27, 2003, the Court of Appeals for the District of Columbia Circuit decided *Fina Oil and Chemical Co. v. Norton* (No. 02-5241). This case was an appeal from a decision of the District Court for the District of Columbia that upheld a decision by the Interior Board of Land Appeals. The appeals court reversed the decision of the district court. MMS had ordered Fina to pay on the gross proceeds of an affiliate of the actual lessee under the provisions of the 1988 gas valuation rules that required payment of royalties on no less than the gross proceeds accruing to the lessee. The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties. In Fina's case this was Fina Oil and Chemical Co. or Petrofina Delaware, inc., but not their affiliate Fina Natural Gas Co. (FNGC), which purchased the gas from the producers (and others) and resold it. Therefore the court found that the proper valuation would be under the benchmarks.

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McPhail, Rochelle

From: Herdt, Lyn  
Sent: Tuesday, July 01, 2003 12:54 PM  
To: Hamilton, Cathy; Cruickshank, Walter; Querques Denett, Lucy; Triebsch, George; Humphries, Nicolette  
Subject: RE: Fina -is this what you want?

I want to make sure I am reading the second paragraph correctly.

I read it to mean that the Fina decision would affect:

- 1. Federal oil:
  - a) Only production sold prior to the June 2000 federal oil rule. This category has been addressed through qui tam settlements. X \_\_\_\_\_ S
  - b) X \_\_\_\_\_ S  
The 2000 rule addresses this lessee/affiliate issue. "For federal oil after June 2000, the currently applicable regulations require payment on either a market basis or the affiliates gross proceeds, so the Fina decision will not impact this period."
- 2. Indian Oil:
  - a) All previous and future oil production. X \_\_\_\_\_ S
- 3. Federal Gas:
  - a) Fina would impact all past and future Federal gas production because the existing gas rule has the same definition as the old oil rule — "The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties." X \_\_\_\_\_ S
- 4. Indian Gas: Existing indian gas rule allows for use of market based values.
  - a) "The Indian gas regulations in effect since 1999 allow for the use of market based index values greater than the average price. For this period, there should be no significant affect from the Fina decision."

Question: Did the pre-2000 Federal oil rule use the same "definition" of lessee as is in the existing Federal gas rule, on which this decision is based? I would guess yes and that is why we believe the Fina decision will affect pre-June 2000 Federal oil. If not, why do we believe this Fina decision will affect pre-June 2000 Federal oil?

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202 208-3918 (Fax)  
202 258-1702 (Cell)

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Sent: Tuesday, July 01, 2003 11:56 AM  
To: Cruickshank, Walter; Querques Denett, Lucy; Triebsch, George; Herdt, Lyn; Humphries, Nicolette  
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**McPhail, Rochelle**

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**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 12:56 PM  
**To:** Vogel, Kenneth  
**Cc:** Querques Denett, Lucy  
**Subject:** FW: Fina -is this what you want?

Ken, would you please answer Lyn's questions below? Thanks, Cathy

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**From:** Herdt, Lyn  
**Sent:** Tuesday, July 01, 2003 12:54 PM  
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**Sent:** Tuesday, July 01, 2003 11:56 AM  
**To:** Cruickshank, Walter; Querques Denett, Lucy; Triebisch, George; Herdt, Lyn; Humphries, Nicolette  
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Querques Denett, Lucy

From: Vogel, Kenneth  
Sent: Tuesday, July 01, 2003 5:35 PM  
To: Hamilton, Cathy  
Cc: Querques Denett, Lucy; Herdt, Lyn  
Subject: RE: Fina -is this what you want?

Settlements close issues; we cannot collect more and companies cannot get refunds after settlement. We did not base our findings on affiliate sales (except perhaps Texaco for California). In any case the oil benchmarks are different and legitimately we can use (but not depend on) affiliate sales under the first benchmark. X \_\_\_\_\_ S

-----Original Message-----

From: Hamilton, Cathy  
Sent: Tuesday, July 01, 2003 10:56 AM  
To: Vogel, Kenneth  
Cc: Querques Denett, Lucy  
Subject: FW: Fina -is this what you want?

Ken, would you please answer Lyn's questions below? Thanks, Cathy

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From: Herdt, Lyn  
Sent: Tuesday, July 01, 2003 12:54 PM  
To: Hamilton, Cathy; Cruickshank, Walter; Querques Denett, Lucy; Triebisch, George; Humphries, Nicolette  
Subject: RE: Fina -is this what you want?

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202 208-3918 (Fax)  
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-----Original Message-----

**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 11:56 AM  
**To:** Cruickshank, Walter; Querques Denett, Lucy; Triebsch, George; Herdt, Lyn; Humphries, Nicolette  
**Subject:** FW: Fina -is this what you want?  
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Hi -- below is our proposed statement on the Fina decision.

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**To:** Hamilton, Cathy  
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McPhail, Rochelle

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From: Hamilton, Cathy  
Sent: Tuesday, July 01, 2003 5:39 PM  
To: Vogel, Kenneth  
Subject: RE: Fina -is this what you want?

Thanks, Ken!

-----Original Message-----

From: Vogel, Kenneth  
Sent: Tuesday, July 01, 2003 5:35 PM  
To: Hamilton, Cathy  
Cc: Querques Denett, Lucy; Herdt, Lyn  
Subject: RE: Fina -is this what you want?

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From: Hamilton, Cathy  
Sent: Tuesday, July 01, 2003 10:56 AM  
To: Vogel, Kenneth  
Cc: Querques Denett, Lucy  
Subject: FW: Fina -is this what you want?

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From: Herdt, Lyn  
Sent: Tuesday, July 01, 2003 12:54 PM  
To: Hamilton, Cathy; Cruickshank, Walter; Querques Denett, Lucy; Triebisch, George; Humphries, Nicolette  
Subject: RE: Fina -is this what you want?

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**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 11:56 AM  
**To:** Cruickshank, Walter; Querques Denett, Lucy; Triebsch, George; Herdt, Lyn; Humphries, Nicolette  
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**Querques Denett, Lucy**

**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 5:40 PM  
**To:** Cruickshank, Walter; Triebisch, George; Humphries, Nicolette  
**Cc:** Querques Denett, Lucy  
**Subject:** FW: Fina -is this what you want?

fyi

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**From:** Vogel, Kenneth  
**Sent:** Tuesday, July 01, 2003 5:35 PM  
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**Sent:** Tuesday, July 01, 2003 12:54 PM  
**To:** Hamilton, Cathy; Cruickshank, Walter; Querques Denett, Lucy; Triebisch, George; Humphries, Nicolette  
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**McPhail, Rochelle**

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**From:** Herdt, Lyn  
**Sent:** Wednesday, July 02, 2003 6:26 AM  
**To:** Vogel, Kenneth; Hamilton, Cathy  
**Cc:** Querques Denett, Lucy  
**Subject:** RE: Fina -is this what you want?

Ken, I'll give you a call today. I'm still not clear on a number of issues I raised and a conversation with you might make it easier for me to understand the various issues.

Lyn

Lyn Herdt  
Minerals Management Service  
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Warning: This EMail is intended only for the use of the individual(s) to whom it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable laws.

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**From:** Vogel, Kenneth  
**Sent:** Tuesday, July 01, 2003 5:35 PM  
**To:** Hamilton, Cathy  
**Cc:** Querques Denett, Lucy; Herdt, Lyn  
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  - a) All previous and future oil production. ~~X~~ \_\_\_\_\_ 5
3. Federal Gas:
  - a) Fina would impact all past and future Federal gas production because the existing gas rule has the same definition as the old oil rule — "The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties." ~~X~~ \_\_\_\_\_ 5
4. Indian Gas: Existing Indian gas rule allows for use of market based values.
  - a) "The Indian gas regulations in effect since 1999 allow for the use of market based index values greater than the average price. For this period, there should be no significant affect from the Fina decision."

Question: Did the pre-2000 Federal oil rule use the same "definition" of lessee as is in the existing Federal gas rule, on which this decision is based? I would guess yes and that is why we believe the Fina decision will affect pre-June 2000 Federal oil. If not, why do we believe this Fina decision will affect pre-June 2000 Federal oil?

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-----Original Message-----

**From:** Hamilton, Cathy  
**Sent:** Tuesday, July 01, 2003 11:56 AM  
**To:** Cruickshank, Walter; Querqus Denett, Lucy; Triebisch, George; Herdt, Lyn; Humphries, Nicolette  
**Subject:** FW: Fina -is this what you want?  
**Importance:** High

Hi -- below is our proposed statement on the Fina decision.

-----Original Message-----

**From:** Vogel, Kenneth  
**Sent:** Monday, June 30, 2003 6:12 PM  
**To:** Hamilton, Cathy  
**Subject:** Fina -is this what you want?  
**Importance:** High

On June 27, 2003, the Court of Appeals for the District of Columbia Circuit decided Fina Oil and Chemical Co. v. Norton (No. 02-5241). This case was an appeal from a decision of the District Court for the District of Columbia that upheld a decision by the Interior Board of Land Appeals. The appeals court reversed the decision of the district court. MMS had ordered Fina to pay on the gross proceeds of an affiliate of the actual lessee under the provisions of the 1988 gas valuation rules that required payment of royalties on no less than the gross proceeds accruing to the lessee. The court held that the term lessee was clearly defined in the statute and the regulations and included only the person (the particular corporation) to whom the lease was issued or who was assigned the obligation to pay royalties. In Fina's case this was Fina Oil and Chemical Co. or Petrofina Delaware, inc., but not their affiliate Fina Natural Gas Co. (FNGC), which purchased the gas from the producers (and others) and resold it. Therefore the court found that the proper valuation would be under the benchmarks.

This ruling mainly affects federal gas production and Indian oil production not sold at arm's-length.

~~X~~ \_\_\_\_\_ 5

~~X~~ \_\_\_\_\_ 5  
~~X~~ \_\_\_\_\_ 5 For federal oil after  
June 2000, the currently applicable regulations require payment on either a market basis or the  
affiliates gross proceeds, so the Fina decision will not impact this period.

For Indian gas, the regulations in effect since 1999 allow for the use of market based index values  
greater than the average price. For this period, there should be no significant affect from the Fina  
decision. For Indian oil, the discussion of federal oil as it relates to pre-May 2000 production applies  
to all production.