



United States Department of the Interior



MINERALS MANAGEMENT SERVICE

Royalty Management Program

P.O. Box 25165

Denver, Colorado 80225-0165

IN REPLY
REFER TO:

AD/OIRA/MS-3010

SEP 17 1993

Dear Payor:

The State of Oklahoma has established a Commission on Marginally Producing Oil and Gas Wells (Commission). Per Section 703 of Title 52 of the Oklahoma Statutes, the Commission is to be funded by a fee levied on each barrel of petroleum liquid and each ten thousand cubic feet of natural gas, including casing head gas, produced from each well in the State of Oklahoma. The act establishing the Commission and requiring the fee became effective October 1, 1992.

This fee is not payable from, and should not be assessed on that portion of production from, or allocated to, Federal or Indian leases in the State of Oklahoma including those leases owned by the Five Civilized Tribes of Oklahoma, or their individual members, which corresponds to the percentage of royalty reserved under the lease. Federal and Indian royalty interests are not subject to taxation by the State of Oklahoma, Montana v. Blackfeet Tribe of Indians, 471 U.S. 759, 766 (1985); Graves v. New York, 366 U.S. 466, 477 (1934); South Carolina v. Baker, 485 U.S. 505, 523 (1988). Amounts previously withheld from Federal and Indian royalties to pay this fee should be paid to the appropriate Federal and Indian royalty interest owners and corrected Reports of Sales and Royalty Remittance (MMS Forms-2014) must be submitted to MMS in accordance with existing procedures. Further, consistent with established law, in the event that a Federal or Indian lessee is reimbursed by its purchasers for any of these fees, such reimbursement would be part of the lessee's gross proceeds and, therefore, subject to royalty, see 30 CFR 206.101 and 30 CFR 206.151.

This letter constitutes notice to lessees and other royalty payors of MMS's interpretation regarding the effect of the Oklahoma fees upon Federal and Indian royalty interest. This letter does not constitute an order or decision subject to administrative appeal pursuant to 30 CFR Part 290.

For further information regarding this matter please contact Mr. Paul Tyler at (405) 945-6040 or toll-free at 1-800-354-7015.

Sincerely,

RICHARD J. SHAW
Associate Director

James W. Shaw
Associate Director for
Royalty Management