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July 21, 2014

Office of Natural Resources Revenue
Building 85
Room A-614
Denver Federal Center
West 6th Avenue at Kipling Street
Denver, Colorado 80225
Attn: Mr. Armand Southall

Re: Marathon Oil Company Comments on Proposed Rule to Amend Civil Penalty Regulations, RIN-1012-AA05

Submitted via: <http://www.regulations.gov> and Overnight Courier Service

Dear Mr. Southall:

On May 20, 2014, the Office of Natural Resources Revenue (“ONRR”) issued a Proposed Rule entitled “Amendments to Civil Penalty Regulations.”¹ This rule would establish a comprehensive set of new civil penalty regulations applicable to royalty reporting and payment by oil and gas lessees (and other lessees) on federal lands onshore and on the Outer Continental Shelf, and on Indian leases.

Marathon Oil Company (“Marathon Oil”) is an international, independent energy company engaged in exploration and production and oil sands mining. Based in Houston, Texas, the Company has a strong portfolio of assets in key resource basins around the world, including operations in Colorado, Louisiana, North Dakota, Oklahoma, Texas, Wyoming and the Gulf of Mexico. As a federal lessee, Marathon Oil paid approximately \$208 million dollars in federal royalties in 2013.

Marathon Oil appreciates the opportunity to submit comments on this Proposed Rule, and also joins in the comments submitted by the American Petroleum Institute (“API”).

Thirty years ago, Congress expressly denied the agency the level of administrative discretion that ONRR seeks now to create.² Instead, Congress carefully constructed an ascending hierarchy of civil penalties, and limited the pinnacle of that scheme, §1719(d), to certain narrowly

¹ 79 Fed. Reg. 28,862 (May 20, 2014).

² As the Senate Report explained, “the Committee feels strongly that administrative discretion should not be the principal mechanism through which the severity of punishment is matched to the seriousness of the offense.” S. REP. NO. 97-512, at 17. The House Report similarly rejected ONRR’s proposed approach and instead provided “lesser penalties for failure to comply with a term of an oil and gas lease, . . . regulations or orders” other than a narrow set of articulated violations. H. REP. NO. 97-859, at 34.

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circumscribed, criminal-type “knowing or willful” violations. In 1996, Congress reinforced its legislative intent through the FOGSMA amendments enacted in the Federal Oil and Gas Royalty Simplification and Fairness Act (“RSFA”), Pub. L. 104-185 (1996), which amendments reflect a fairer and more moderate approach to enforcing accurate royalty reporting than ONRR’s Amendments to Civil Penalty Regulations.

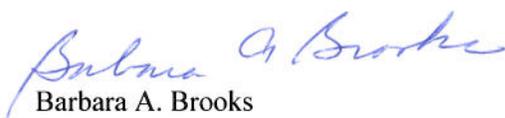
ONRR fails to justify or explain how the present regulations are inhibiting it from enforcing royalty laws. ONRR states that, “We collected an average of \$1,022,462 in civil penalties annually for fiscal years 2007 through 2011,” not mentioning its reported collections of \$1,474,565.97 through March for fiscal year 2014, \$7,239,334.08 in fiscal year 2012 and \$1,940,712.19 in fiscal year 2013.³

ONRR’s existing civil penalty regulations are closely aligned with the FOGSMA and should not be replaced with rules allowing unfettered administrative enforcement discretion. There is no question that the proposed “technical rule” would simplify ONRR’s current enforcement efforts, but ONRR is incorrect to estimate that there would be “no royalty impacts on industry.”⁴ The “cost” to industry of ONRR’s proposed denial of due process is incalculable. The “cost” to the nation may be the disincentive to lessees, particularly smaller entities, from producing on federal lands, Indian lands, and the Outer Continental Shelf in the first instance. Congress specifically warned against this result.⁵

For the reasons stated above and in API’s comments, Marathon Oil respectfully submits that the Proposed Rule should not be adopted because it is unwarranted, unlawful and potentially counterproductive.

Thank you for your time and attention to Marathon Oil’s comments on ONRR’s Proposed Rule. Please do not hesitate to contact me at 5555 San Felipe Street, Houston, Texas 77056 or 713-629-6600 if you have any questions.

Sincerely,



Barbara A. Brooks
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Marathon Oil Company

³ 79 Fed. Reg. 28,871; <http://www.onrr.gov/compliance/civil-penalties.htm>.

⁴ *Id.*

⁵ Congress was concerned about “the need to avoid a situation in which exposure to very severe penalty liability for relatively minor or inadvertent violations of necessarily complex regulations becomes a major disincentive to produce oil or gas from lease sites on federal or Indian lands.” S. REP. NO. 97-512, at 17.