WORC

Western Organization of Resource Councils

26 July 2011

Hyla Hurst
Regulatory Specialist, Office of Natural Resources Revenue
P.O. Box 25165, MS 61013C
Denver, CO 80225

RE: ONRR-2011-0004 "Federal and Indian Coal Valuation advance notice of proposed rulemaking"

The Western Organization of Resource Councils (WORC) is a regional network of seven grassroots community organizations with 9,700 members and 45 local chapters in 7 states, including Colorado, Wyoming, Montana and North Dakota, with significant federally owned coal reserves. Our members farm and ranch on the lands overlain by coal deposits and neighboring existing coal mines and experience numerous impacts due to coal mining, transport, and processing. WORC has established a longstanding interest in federal coal leasing policy, and WORC's member groups have actively engaged in advocacy directed at executive, legislative, and judicial branches of the federal government for over 35 years.

WORC is pleased to offer comments and concerns as the Office of Natural Resources Revenues commences a rule-making process on valuation of coal produced from federal lands for royalty purposes. We recognize that this is early in the process. Our comments are broad and not detailed at this juncture, and mainly underscore some important principals in relation to wise stewardship, accountability, and transparency in the management of the public's resources.

1) We support the recommendation of the Royalty Policy Committee that careful analysis must be done to properly value federal coal when so much coal now is held in vertically integrated energy companies or cooperatives that do not operate at arm's length. We believe this is a growing issue and will monitor the rulemaking to ensure that the mechanisms are in place to price the public's coal to reflect fair market value when assessing royalties. We also will be looking for ways to ensure the process is transparent and can be readily reviewed and audited.
2) WORC supports arm's length gross proceeds sales prices as the basis for accurate royalty rates. We are concerned that setting a dollars-per-

220 S. 27th Street, Suite B, Billings, MT 59101
(406) 252-9672 FAX (406) 252-1092 E-mail: billings@worc.org http://www.worc.org

energy content unit could lend itself to abuse, and question whether it wouldn't be more subject to fluctuations and accounting challenges than the gross proceeds value. Certainly, if such a path is taken, it should be indexed and frequently adjusted to reflect the constantly changing energy market, which has been highly volatile in recent years, and probably will remain so.

3) We take note of a growing export market for U.S. coal from all regions and would argue that it is important to have the mechanisms in place to fully account for the rising value of the coal if these markets continue to grow as predicted. It can be assumed that exports will contribute to increasing prices for the public's coal and any rules changes for royalty valuation should be able to quickly incorporate the increased value to the public.
4) As a matter of policy, WORC opposes deductions from the gross proceeds of the coal for things like washing expenses, beneficiation, or special transportation costs when determining royalty value. Those costs belong in the business plan of the mining companies, the coal hauling railroads, and the ultimate end users of the coal. Such deductions from the gross value of minerals have long been a slippery slope leading ultimately to evading taxes and/or royalties by the mining industry. Deductions from gross proceeds at the point of sale also effectively absorb and conceal the true cost of the commodity at the public's expense. In addition, in the case of coal that is mined for export, deduction of these costs means that the American taxpayer is subsidizing the sale of coal to foreign companies and nations, which WORC cannot support.

Thank you again for providing the opportunity to comment on this rulemaking. WORC plans to continue to follow and contribute as this public process moves forward.

Sincerely,

Ellen Pfister
WORC Coal and Climate Change Team Chair