

Office of the Governor

May 8, 2015

Armand Southall
Regulatory Specialist
Office of Natural Resources Revenue
U.S. Department of the Interior
P.O. Box 25165, MS 61030A
Denver, CO 80225

Re: Docket ID No. ONRR-2012-0004 (RIN 1012-AA13) – Consolidated Federal Oil and Gas and Federal and Indian Coal Valuation Reform Rule

Dear Mr. Southall,

I appreciate the opportunity to comment on the Office of Natural Resources Revenue's (ONRR) proposed Consolidated Federal Oil and Gas and Federal and Indian Coal Valuation Reform Rule (proposal). The proposal implements numerous changes to royalty valuation methods for federal coal, oil and natural gas. Wyoming has significant federal lands and minerals. Development of these resources is ongoing. For the reasons outlined below, I ask the ONRR to re-issue this proposal after comments have been considered and incorporated.

Significantly, this proposal will replace the current system for valuation of coal royalties in transactions that are not arm's-length. While these transactions represent a fraction of Wyoming's coal production, this type of sale may increase in the future. The current process consists of a series of benchmarks. Companies that utilize the benchmark system comply with the law, pay royalties owed and are audited regularly. Changes to the current process should be aimed at a more efficient and more transparent process for companies to value non-arm's length sales and for auditors to audit these sales.

The proposal does not achieve this goal. It is complex and dictates business models for coal companies. It does not provide parity between companies that want to vertically integrate and companies that utilize third party buyers. A simplified method needs to be developed to find value in non-arm's length sales and this method should support the supply of low-cost Powder River Basin coal to overseas interests. The current proposal does not achieve these outcomes and should be revised.

When royalty values are presumed inaccurate, a "default provision" comes into play under this proposal. This default provision will allow the ONRR to use any method it deems appropriate to find a royalty value. This is subjective, creates uncertainty and places too much authority with the agency. There is no clear indication of when it would be used. It is important to have a fallback valuation method. In the past, a company, the ONRR and a state have worked for a mutually agreed method to value royalties in non-arm's length sales. This has ensured fairness, a

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proper balance and that accurate royalties are paid on federal mineral development. The proposal needs to incorporate a fallback system that achieves fairness, accuracy and balance.

For captive mines and coal cooperatives, the royalty value for coal is proposed to be established from the sales price of electricity from a power plant after allowing for certain deductions. This is complex and will be difficult for companies and the ONRR to implement. A much easier process, for example, is a cost method. Royalty value would be based on the cost to mine coal adding a return on investment. This provision particularly affects Wyoming where a number of the coal power plants in state receive coal from captive mines.

This proposal eliminates the extraordinary allowance. The extraordinary allowance affects two gas processing plants in the U.S. – Lost Cabin and Shute Creek – both located in Wyoming. These processing plants receive an extraordinary allowance because their circumstances are extraordinary. These plants process few liquids and have few liquids to apply against processing costs. They primarily supply carbon dioxide. The output of these plans is important to Wyoming and the nation. Removal of this allowance is estimated to cost \$18 million per year. The extraordinary allowance should be maintained.

This proposal is an effort to find better processes. I support this effort. It needs work and I believe the ONRR should re-issue the proposal after considering comments.

Sincerely,



Matthew H. Mead
Governor

MHM:mdm

cc: The Honorable Mike Enzi, U.S. Senate
The Honorable John Barrasso, U.S. Senate
The Honorable Cynthia Lummis, U.S. House of Representatives