GREENPEACE

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To Whom It May Concern:

Comments on Federal Oil Valuation Final Rulemaking

Greenpeace believes that for reasons of environmental responsibility and fiscal prudence, the Minerals Management Service (MMS) should take a clear stand on oil valuation that prevents integrated oil companies from using their size and power to avoid paying fair prices to the American people.

Greenpeace endorses the four principles outlined by the Project on Government Oversight for the oil valuation rule:

1. Rather than rely on defining the transaction, which is very complicated, define the seller -- either as a major integrated company or independent as defined by in IRS code 613A(c)or as in Representative Maloney's bill, H.R.3932. Allow independents to pay royalties on gross proceeds and require majors to pay royalties on index. Period.

2. Rather than rely on percentage ownership and controlling interest for the definition of "affiliate" for arms-length transactions, simply look to see if there is any economic interest in another company. If there is, royalties should be paid on index and not on gross proceeds. The current move to water down the definition of "affiliate" weakens the strength and certainty of the "arms-length" definition.

3. If MMS decides to retain the affiliate language, require companies to open-up their books when they sell below market prices to prove they don't have balancing arrangements. The proposed Rule continues to rely on MMS taking companies to court, which results in litigious stalemates with few positive results. I want to emphasize that this recommendation is a poor substitute to simply requiring the majors to pay index.

4. MMS should reinstate language in the Final Rule that would specifically require companies to disclose their overall balancing agreements (subject to audit) shifting the burden from MMS back to the companies. Again, this auditing requirement is made necessary by the complication of allowing the majors to pay royalties based on gross proceeds.

The result of this process must not be a signal to the industry that deception and delay will be rewarded. Such a message is both fiscally and environmentally dangerous. Not only will encourage further attempts to underpay the American people for their common resources, but it encourages the oil industry to use similar tactics on environmental issues. Cost is already used all too frequently to exclude environmentally beneficial alternatives from Draft Production Plans and to avoid consideration under the NEPA process. If not only cost, but misrepresentation of cost, is a way to avoid protection of the environment, further damage will occur in this environmentally risky industry.

Beyond the message that further delay or concessions would send, the continued abuse of the existing rule constitutes a subsidy to fossil fuel producers. When subsidies are provided energy choices that damage human and environmental health, such as oil and gas, they become more attractive to consumers and the harms they cause to society are multiplied. Burning fossil fuels is causing long-term damage to the Earth's climate system, and when fossil fuel use is subsidized the damage is increased and solutions seem less attractive. This subsidy forces the public as a whole to accept underpayment for commonly held resources,

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while a small sector of society benefits. Subsidies to environmentally damaging energy sources are increasingly controversial. The World Bank, Organization for Economic Cooperation and Development (OECD), the United Nations Development Programme (UNDP), and the *Economist* and other influential financial publications have all called for their removal or reduction.

The long-term impact is more subtle, but more dangerous. By making large investments in leases and capital expenditures more attractive, MMS promotes a transfer of investment capital to fossil fuel exploration. By encouraging extraction, MMS lowers average oil prices and encourages investment in energy-intensive production and wasteful fossil fuel consumption. In short, MMS policy entrenches fossil fuel dependency throughout the economy. By refusing to continue this pattern alone, the MMS would increase investments in other areas, including alternative energy and conservation.

The consequences of these investment patterns are visible throughout our economy. They take the form of wasteful production processes, flattened urban grids, and dependence on fossil fuels. The attendant environmental problems of climate change, air pollution, traffic congestion and solid waste disposal are side effects of lowering the price of fossil fuel extraction and ought to be considered as environmental impacts. The solutions to these problems are well understood, but are undermined by the attractiveness of investments that are protected against market risks by public subsidy.

While the full responsibility for such effects cannot be placed on the oil valuation rule, this rule does provide a critical test of the government's ethical position. When the case is clear, and the MMS' central mandate of providing the American people with fair value for their resources is at stake, will it take the high road, or cave once again to an unsustainable industry? We hope that it will choose the ethical path, and urge you to enact the principles we have endorsed in the final rule on establishing oil value for royalties on Federal leases.

Sincerely,

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