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RE: 30 CFR Part 206, Establishing Oil Value for Royalty Due on Indian Leases

The following comments stem from comments made at the Public Workshop held on Tuesday February 8, 2000, bldg. 85.

It was suggested, to simplify the rule, that instead of determining value three different ways, that gross proceeds be eliminated, and the two remaining calculations (Spot price based and Major Portion) be used to determine value thereby reducing the administrative burden.

As a representative of the Ute Indian Tribe (Tribe) I am making comment relative to the impact of this suggestion on the Tribe.

(1) Possible detrimental impact on the Tribe.

The proposed rule states, in part, under Determining Value that the MMS proposes to use the greater of the following three calculations to determine value:

1. Spot price-based value, adjusted for location differential and transportation costs.
2. Actual gross proceeds received.
3. Major portion at the 75 percent level.

In most cases the spot price value was the highest of the three values... In some cases, the adjusted spot price was lower than the major portion price. This occurred in some months for the Ute Indian Tribe because the oil and condensate produced in the Uinta Basin have a high paraffin or wax content. This high-paraffin crude generally commands a premium...

It could therefore be detrimental, relative to others, for the Tribe to agree to the elimination of gross proceeds. Only if appropriate adjustments to the spot price were devised, to reflect the paraffin's value, would I possibly be willing to agree with this comment/suggestion.

(2) Eliminating gross proceeds implies an elimination of major portion.

For the MMS to determine the value at which 75 percent plus one barrel of oil was sold for the major portion calculation; it uses the gross proceeds unit values arrayed from the lowest price to the highest price.

If you eliminate the gross proceeds piece, you are, in effect, eliminating the major portion piece also, as there would be no gross proceeds to determine the major portion. This then, in reality, reduces the value comparison from three calculations to one, which takes away more from the rule than was apparent when the comment/suggestion was first made.

The elimination of major portion goes against most Indian lease terms, and would leave a degree of uncertainty that I am uncomfortable with.

For the foregoing reasons I am not in favor of the suggestion to eliminate the gross proceeds piece of the three calculation methods proposed in the rule.