



The Pittsburg & Midway Coal Mining Co.

A Chevron Company

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May 27, 1997

VIA FACSIMILE - 303-231-3194

David S. Guzy, Chief
Rules and Procedures Staff
Royalty Management Program
Minerals Management Service
P.O. Box 25165, MS 3101
Denver, Colorado 80225-0165

Re: Proposed Rulemaking, Delegation of Royalty Management Functions to States
Published in 62 F.R. 19967 (April 24, 1997)

Dear Mr. Guzy:

The Pittsburg & Midway Coal Mining Co. (P&M) appreciates the opportunity to comment on the subject proposed rulemaking (Rulemaking). P&M operates five coal mines in four different states. Three mine areas contain federal coal leases. One of these mines, the McKinley Mine in New Mexico, is comprised of a tribal lease, along with federal and private coal leases. Royalties and other lease payments are made to MMS for the producing federal leases. P&M is a member of the National Mining Association, an organization which commented on this Rulemaking. P&M also participates in activities with the Colorado Mining Association, which also commented on this Rulemaking. P&M incorporates by reference the comments of NMA and CMA pertaining to this Rulemaking. P&M opposes this Rulemaking and encourages MMS to amend or withdraw it.

The Rulemaking proposes to authorize MMS to delegate to states certain functions under the Federal Oil and Gas Royalty Simplification Act of 1996 (RSFA). Those functions are set forth in the RSFA section 3 amendments to Section 205 of the Federal Oil and Gas Royalty Management Act of 1982. MMS is without statutory authority to delegate most of the functions to the states for solid minerals. The amendments to the RSFA may authorize the delegation to states of certain functions pertaining to some types of oil and gas leases, but there is no authority to apply these provisions to coal and other solid minerals.

MMS' authority to delegate to states any portion of the Secretary's royalty management responsibilities for federal coal leases and other solid minerals arises exclusively under Title I of the Department of the Interior and Related Agencies Appropriations Act of 1992, Public Law 102-154, November 13, 1991, 105 Stat. 1001 (codified at 30 U.S.C. § 196). The Appropriations Act describes the only functions that

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MMS may delegate as "the conduct of audits, investigations and inspections." In this Rulemaking, MMS proposes to expand these functions beyond the finite list provided by Congress, to include:

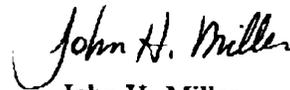
1. receiving and processing production and royalty reports;
2. correcting erroneous report data;
3. performing automated verifications; and
4. issuing demands, orders to perform restructured accountings, and other functions.

As mentioned, P&M operates federal coal leases in several different states. This Rulemaking would enhance the potential for conflict and inconsistencies in the performance of royalty management functions by state. Further, the proposed functions to be delegated to the states are not authorized by federal law. The 12-month statutory deadline contained in the RSFA would not apply to solid mineral leases, as same are not covered by that act.

Section 227.100(c) should be deleted from the proposed Rulemaking as the RSFA only applies to oil or gas on federal lands or the Outer Continental Shelf. P&M opposes the further amendment of Parts 228 and 229 of these regulations without notice and comment from the public, as suggested in Section II, Indian Lands, of the Rulemaking. While the goal of writing regulations in plain English is notable, many times the meaning and interpretation of a regulation changes when it is modified for plain English. MMS must make all rulemaking changes by notice and comment under the Administrative Procedures Act. Unilateral regulatory changes by MMS are not proper or lawful.

For these reasons, P&M opposes the Rulemaking, and encourages MMS to amend or withdraw it.

Sincerely,


John H. Miller

cc: Ms. Jolanta Barton