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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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July 17, 2007

The Honorable Stephen Allred
Assistant Secretary
Land and Minerals Management
Department of the Interior
1849 C St. NW
Washington, DC 20240

Dear Assistant Secretary Allred:

We write regarding an issue raised in the Minerals Management Service's (MMS's) Fiscal Year 2008 budget request to Congress, which has served to further heighten our concerns about the agency's management of its minerals leasing and royalties collection programs. In particular, the MMS budget justification submitted earlier this year requests an additional \$940,000 for an "adjustment line monitoring initiative." The agency's budget suggests that oil and gas companies may be improperly claiming millions of dollars in royalties by retroactively changing the numbers in their original payment reports – sometimes 15 years or more after the fact – through an action known as "line adjustments."

As stated in the budget justification:

"Though accurate measures of improper adjustments are not currently available, due to the manually intensive nature of gathering such data, a sample analysis of adjustments made during FY 2005 determined that some companies were adjusting royalties they had previously paid as far back as 1989. Further analysis of this same sample identified more than 10,000 adjusting lines for dates after the three-year compliance cycle was completed. Of these, more than 2,000 were negative recoupments and were outside of the RSFA-allowed statute of limitations. A cursory review of this sample appears to show improper company royalty recoupments of more than \$10 million." [Emphasis added.]

Unfortunately, this is not a new problem. A 1990 background paper issued to Congress by the Office of Technology Assessment (*The Royalty Management Program's Auditing and Financial System: Technical Issues*, July 1990) makes clear that as far back as two decades, MMS struggled with "chronic" line adjusters. It was proposed that Congress enact a six-year deadline on line adjustments, which was included in the Royalty Simplification and Fairness Act of 1996 (RSFA) (30 USC 1721a).

Aside from establishing a deadline, the statute provides that the six-year period may be further limited if there is “(t)he intentional misrepresentation or concealment of material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.” (30 USC 1724). The RSFA also added a new provision to the Federal Oil and Gas Royalty Management Act requiring that “the Secretary or the delegated State *shall impose* assessments on a person who chronically submits erroneous reports under this Act.” (30 USC 1725; emphasis added). However, the FY 2008 MMS budget justification indicates these statutory provisions may be falling short of ensuring accurate royalty collection.

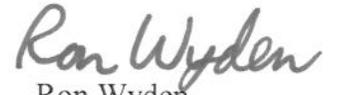
We have appreciated the Department’s responsiveness in discussing this topic with staff. In our ongoing effort to determine whether legislative changes may also be warranted in order to facilitate ease of federal royalty collection, we request that you provide the following information by August 7, 2007:

1. While the budget states that accurate measures of improper line adjustments are not yet available, this information is critical to identifying the scope of the problem. Please describe the Department’s plan – including its timeline – for quantifying these improper adjustments, dating back to the effective date of the Royalty Simplification and Fairness Act of 1996. At the conclusion of the Department’s review, will the Department be able to provide the Committee with the following information? And if not, why not?:
 - a. The number of improper line adjustments per year, including the number that have occurred outside the six-year deadline;
 - b. The aggregate dollar value of improper line adjustments per year;
 - c. A list of the companies the Department has determined made improper line adjustments; the number of improper adjustments per year for each company; and the total sum of each company’s improper recoupments; and
 - d. A list of all “assessments” levied by the Secretary or the States pursuant to 30 USC 1725, for the chronic submission of erroneous line adjustments, since enactment of RSFA.
2. Please explain the Department’s plan to recover funds from past improper line adjustments, dating back to enactment of RSFA. What actions is the Department taking to recover these funds? How much of the \$10 million identified in the 2008 budget justification – from one sample of Fiscal Year 2005 adjustments – has thus far been recovered?
3. Please explain the Department’s plan to prevent improper line adjustments in the future. Is the FY 2008 budget the first time since 1996 that MMS has requested additional resources from Congress to solve the problem of improper line adjustments? If not, please identify the earlier requests.
4. Please explain how improper line adjustments will be factored into the overall MMS compliance strategy for determining which companies or leases are audited. Should discovery of improper line adjustments trigger an audit? If not, why not?

Thank you for your assistance. We look forward to a prompt response. If you have any questions about this request, please call Angela Becker-Dippmann of the Committee staff, at (202) 224-5269.

Sincerely,


Jeff Bingaman
Chairman


Ron Wyden
Chairman
Subcommittee on Public
Lands and Forests