

Minerals Management Advisory Board

Royalty Policy Committee

Summary of Meeting

March 27, 2001

The Royalty Policy Committee (RPC) of the Minerals Management Advisory Board convened its twelfth meeting at the Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, Louisiana 70130 on March 27, 2001. In accordance with the provisions of Public Law 92-463, the meeting was open to the public.

Members/Alternates Present:

Karen Anderson, Ronald Cattany, John Clark, Pete Culp,¹ Wendy Daboval, David Darouse, Lucy Querques Denett,² David Harrison, William Hartzler, Lee Ellen Helfrich, Eddie Jacobs, Thomas Kitsos,³ David Landry, Charles Mankin, Brian McGee, Tammy Naron, Tom Peckham, Robert Price, Spencer Reid, Hugh Schaefer, Tom Shipps, Perry Shirley, Pary Shofner, and Brad Simpson.

Minerals Management Service Employees Present:

Walter Cruickshank, Barbara Desiderio, Milt Dial, Debbie Gibbs Tschudy, Marsha Greyeyes, Anita Gonzales-Evans, Gary Goeke, Marty Grieshaber, Cathy Hamilton, Terry Holman, Cheri Hunter, Dian Lawhon, Mike Miller, Todd McCutcheon, Chris Oynes, John Russo, Donald Sant, Lois Smith, Phil Sykora, and Jan Therkildsen.

Others Present:

George Butler, Don Lynch, Dave Loomis, Charles Roybal, Richard Huwaldt, George Staigle, C.E. Osinace, Mary Helen Yarborough, Pat Kent, Pam Williams, Warren Migvez, Joanie Rowland, Roger Good, Ben Dillon, Marreen Lorenzette, Greg Winneke, and Carla Wilson.

WELCOMING AND OPENING REMARKS

Presented by Perry Shirley

UPDATES FROM TOM KITSOS (Acting Director, MMS):

Mr. Kitsos provided an update of current programs and DOI's participation in the Energy Task Force.

¹ Ex officio member representing the Bureau of Land Management

² Associate Director for Minerals Revenue Management, Minerals Management Service, ex officio member, RPC Executive Secretary, and Designated Federal Officer.

³ Ex officio member representing the Minerals Management Service

UPDATES FROM LUCY QUERQUES DENETT:

Ms. Denett, Associate Director MRM, provided an update of the Minerals Revenue Management reengineering reorganization, the new RIK Office, status of the new financial system implementation, and business processes.

A question and answer session followed the presentations.

MOTION TO ADD APPEALS TO THE AGENDA

Mr. Harrison motioned to add appeals to the agenda; seconded by Mr. Cattany. In the discussion that followed Ms. Helfrich expressed concern that the appeal regulations were on hold and the current status is unknown. Ms. Denett stated that the issue was not included following an Agenda Subcommittee discussion because there were no new developments to discuss. Mr. Cruickshank added that in putting the rule on hold, MMS committed internally to provide the entire history of the rule-making process and constituents' positions on the various issues. Ms. Helfrich stated she would prefer to have had some advanced notice of what's going to be on the agenda so that, as a new member, she could have been prepared to address it.

Vote: Seventeen in favor. Three opposed. Motion passed.

APPROVAL OF THE SEPTEMBER 7, 2000, MINUTES

Motion was made that the minutes be accepted with noted changes (in 2 places on page 5, change "coal finds" to "coal fines").

Motion seconded.

Vote: Motion passed unanimously.

REVIEW AND APPROVAL OF REVISED BYLAWS.

There was a great deal of discussion about various parts of the bylaws, but the following are items where changes were formally addressed. MRM is to make some necessary administrative changes: RMP to be changed to MRM, and when speaking of the AD/MRM, "her" to be changed to "her or his."

Motion to change ' III: Membership Selection and Appointment. From "The Secretary may appoint four persons to represent the public," to "The Secretary may appoint up to four persons to represent the public." Motion Seconded.

Vote: Nineteen in favor. One opposed. Motion passed.

Motion to accept bylaws as amended. Motion seconded.

Vote: Nineteen in favor. None opposed. Motion passed.

Motion to recommend to the Secretary that the charter be changed so that the bylaws can be amended (in ' III: Membership Selection and Appointment) to add the phrase “and may possess knowledge of the mineral or energy industry” in the third bullet. Motion seconded.

Vote: Fifteen in favor. Three opposed. Motion passed.

(Bylaw provisions originating from the Charter can only be changed by the Secretary.)

Motion to recommend to the Secretary that the charter be changed so that the bylaws can be amended (in ' III: Membership Selection and Appointment). Request change from “An appointment to the Committee may be revoked if a member fails to attend two consecutive meetings,” to “An appointment to the Committee may be revoked if a member, or designated alternate, fails to attend two consecutive meetings.” Motion seconded.

Vote: Nineteen in favor. None opposed. Motion passed.

ACCOUNTING RELIEF FOR MARGINAL PROPERTIES – SUBCOMMITTEE FINAL REPORT

John Clark presented the subcommittee’s final “consensus report”, noting that “consensus report” means that those listed have neither agreed nor disagreed but believe they can support the recommendations to their organization.

Regarding the previous proposal that “if MMS denied the request because a state denied the request, then it was a final decision of the Department and not subject to administrative appeal,” there was a concern that it was not a joint determination. The subcommittee recommended that States should have the option of “opting in” or “opting out” of the rule, after which MMS would publish notice in the Federal Register. This would be an annual determination by the state, and if a state does not notify MMS, it would mean they are opting out of both “notice based” and “approval based” provisions.

The subcommittee recommended that the base period, for determining whether a property qualifies for relief, be July 1 – June 30, and that a property must qualify yearly. The subcommittee recommended two relief options:

- Notice based – Annual cumulative reporting for properties producing 1000 BOE’s or less annually (however, if a property is sold, relief terminates and royalties become due immediately).
- Approval Based – Other relief including anything a lessee might think of that might be deemed relief. For these types of relief, MMS would have 120 days to approve or disapprove (in

consultation with the states). If nothing is received from MMS within that 120 day timeframe) it constitutes approval.

A discussion and question and answer period followed presentation of the subcommittee's final report.

Motion: Accept the report as presented. Motion Seconded

Vote: Seventeen in favor. One opposed. Motion passed.

Motion: Forward the report as presented to the Secretary for consideration. Motion seconded.

Vote: Seventeen in favor. One opposed. Motion passed.

OTHER LEASABLE SOLID MINERALS SUBCOMMITTEE FINAL REPORTS

Debbie Gibbs Tschudy gave a report on this Subcommittee on behalf of Steve Reynolds, who was unable to attend. Since the last RPC meeting, the Sodium/Potassium Subcommittee met once, on March 15th. She noted that the subcommittee agreed to the following: Those on RPC who were very inquisitive at the last RPC meeting may attend the next Sodium/Potassium Subcommittee meeting in June in Las Vegas, in order to provide them feedback on the areas where the Subcommittee needs to focus so that hopefully the next time the Subcommittee comes to the RPC, recommendations will be more easily received.

This subcommittee will inform all RPC members when the date and place is set. However, the Subcommittee mentioned five potential RPC candidates to attend the meeting: Hugh Schaefer, Ron Cattany, Bill Hartzler, Steve Williams, and perhaps Wendy Daboval.

The MMS is also constructing a side-by-side comparison of the draft sodium/potassium rules compared to the current oil, gas and coal regulations so that the Subcommittee members, including their honored guests, can appreciate the similarities and the differences in order to reach resolution. The Subcommittee agreed to expand the membership of the Subcommittee to include more companies and the State of Utah.

The Subcommittee also adopted new voting requirements. Those requirements are, absent a consensus, no recommendation will be made to the full Committee. If no consensus can be reached at their next meeting, the Subcommittee may decide to report back to the RPC its findings, difficulties, areas of agreement and disagreement, and then request the Subcommittee be terminated.

COAL

Ron Cattany reported that the Coal Subcommittee has met four times since last September. The topics have included administrative updates, the Wyoming Study Project, the MMS valuation regulations, the MMS solid minerals reengineering initiative, proprietary data, the Debt Collection Act, the approved appeals process, and advance royalties. Mr. Cattany distributed the Subcommittee's updated list of activities.

Two issues that the Subcommittee brought forward to the RPC for potential action included:

- Status of coal waste piles – In 1998, the RPC forwarded a request to the Secretary that the Solicitor render an opinion as to certain categories of ownership related to coal waste piles in the State of Utah. No opinion has yet been rendered. The Coal Subcommittee recommends that the RPC forward a follow-up letter to the new Secretary of the Interior requesting the Solicitor's opinion be issued as soon as possible. Mr. Cattany noted that Lucy Querques Denett had mentioned during her earlier remarks that an opinion may be coming soon. Mr. Cattany stated that if there is not a response by the next RPC meeting, then he believes the RPC would like some formal forwarding once again of the 1998 recommendation to the secretary.
- Appeals Subcommittee Recommendation. Though the Appeals issue was added to the agenda later in the day, the Coal Subcommittee wanted to go on record that they believe the March 1997 RPC recommendations to the Secretary on the appeals process – though not adopted by the Secretary – continue to be valid. The Coal Subcommittee would support the RPC submitting those recommendations to the new Secretary of the Interior for consideration.

The Coal Subcommittee has been in existence for four years and their intention is to continue to work with MMS in looking at ways to streamline valuation reporting and audit processes.

ENVISIONING A SUSTAINABLE NATIONAL ENERGY POLICY

Carla Wilson, Director of Policy and Initiatives for the Independent Petroleum Association of Mountain States (IPAMS), presented a summary of IPAMS' published policy development.

Her presentation was followed by a question and answer session.

OFFSHORE GOM ACTIVITIES

Chris Oynes, Regional Director, Gulf of Mexico, Offshore Minerals Management, MMS, presented some trends in the Gulf of Mexico, with particular emphasis on production in deepwater. He also briefly discussed the lease sale to be held the following day -- Sale 178, in the Central Gulf of Mexico. And he noted the potential upcoming Eastern Gulf sale in December – Sale 181, which is the subject of considerable controversy. He also noted that MMS is in the final stages of considering whether to approve the general use of Floating Production, Storage and Offshore Loading (FPSO) in the Gulf of Mexico.

His presentation was followed by a question and answer session, with particular interest on the effects of the Deepwater Royalty Relief Act of 1996 (DWRRA).

Mr. Kitsos noted that the most of 1995-2000 production data Mr. Oynes had presented relates to pre-DWRRA leases. He also noted that under DWRRA, MMS had seen a lot of leasing and additional exploratory work, which will impact future production.

ADMINISTRATION'S PRIORITIES

This agenda item was covered during Tom Kitsos' opening remarks. Items of note:

- The President gave Vice-President Cheney the task of establishing a task force on energy.
- The OCS Policy Committee created a subcommittee to address natural gas energy issues. MMS expects this Subcommittee's report in May.

ENERGY LEGISLATION

Congressional staff was unable to attend the meeting. Walter Cruickshank briefed the Committee about two bills that have recently been introduced – S. 389 (National Energy Security Act of 2001) and S. 597 (Comprehensive and Balanced Energy Policy Act of 2001).

S. 389 was introduced with primary response from Senator Murkowski of Alaska, the Chairman of the energy and national Resources Committee, and Senator Lott, who is the leader of the Republican Party in the Senate. Mr. Cruickshank, focusing mainly on oil and gas provisions, outlined items of interest to MMS including: 1) reinstatement of the royalty suspension volumes that were in the original DWRRA, 2) additional incentives aimed at Arctic oil and gas exploration, 3) a royalty-in-kind provision, 4) a section dealing specifically with the Strategic Petroleum Reserve, 5) a section dealing with states taking over a number of BLM authorities, and 6) a part addressing "Royalty Reinvestment in America."

S. 597 was introduced by Senator Bingaman, who is the ranking Democrat on the Energy and Natural Resources Committee, and by Senator Daschle, who is the leader of the Democratic Party in the Senate. There are only a couple of sections pertaining directly to MMS: 1) under Regulatory Review and Studies, a provision calling for a study of policies to address volatility in domestic oil and gas investments; and 2) a provision dealing with Lease Sale 181 in the eastern Gulf of Mexico – recommending the sale be held, but eliminating a number of tracts offshore Alabama. There's also a section in this bill calling for the Department of Energy and Interstate Oil and Gas Compact Commission (IOGCC) to evaluate opportunities for increasing oil and gas production on state and private lands.

Tom Shipps noted that very little was addressed in Senator Murkowski's bill regarding Indian issues. He requested that if, in the course of MMS discussions it appears appropriate, he does

believe there are at least a couple of avenues with respect to Indian resources where limitations on exploitation of Indian resources might be discussed. One is regarding the National Environmental Policy Act (NEPA) – which places constraints upon actions of federal officials in approving oil and gas leasing arrangements made by Indian tribes. Mr. Shipps believes it is an inappropriate context for the public to participate in the kind of sovereign discussions that tribal government leaders make with respect to development of their lands. Mr. Shipps suggested that, through an amendment of the Indian Mineral Development Act of 1982 (IMDA) or the Indian Mineral Leasing Act, these requirements could be addressed in a way that could speed up the process with respect to exploration of tribal lands.

The second issue Mr. Shipps addressed was also with respect to the IMDA, related to a statutory minimum time period of 30 days between the date that the Secretary of Interior indicates its intent to approve a negotiated agreement with Indian tribes and the date on which final approval of that agreement is issued. That time period is a minimum time period, but Mr. Shipps believe there is a period up to an additional 180 days within which the Secretary can delay making that decision. Mr. Shipps suggested that this 180 day time period could be amended or removed.

Walter Cruickshank noted down Mr. Shipps comments, and stated that if this comes up either in the context of the energy bill or the administration's own deliberation of the energy policy, MMS would make them aware.

APPEALS

Hugh Schaefer noted that near the end of the previous meeting, several members left. The Committee held a vote regarding the Secretary's decision with respect to the proposal from the RPC to reform the royalty appeal process. Those present voted to convey to the Secretary their disagreement with his findings and conclusions, and that they wanted it brought to the full Committee the next time.

Mr. Schaefer noted that though the appeals rule is on hold, he believed that due to the change in administration in Washington, the Committee's previous actions regarding appeals should be conveyed to the Secretary.

A lively discussion followed. Walter Cruickshank provided a quick background and history of all that had occurred related to the appeals issue. He also stated that MMS is committed to briefing new management on this history.

Motion: To ask the Secretary to consider the report of the RPC on a revision to the royalty appeals rule. Motion seconded.

Vote: Fourteen in favor, three opposed. Motion passed.

A brief discussion followed the vote. Mr. Schaefer noted that the tenor of the motion was that the full record goes forward (including transcript of the last meeting and how many for, against, abstained on that vote).

REENGINEERING UPDATE

Phil Sykora, Manager MRM's Information Technology Center, provided an update on reengineering. He noted his recent designation as the MRM Reengineering Project Manager, following Milt Dial's move to RIK. Each and every MRM manager has been directly involved with the reengineering project. He gave a brief overview of reengineering components: structures, schedule, and contractual relationships.

RPC members requested information on the various compliance iterations. Mr. Sykora indicated that the specifics for iteration 3 had not yet been determined. However, MRM committed to making information about iterations 1 and 2 available on the MMS website.

FINANCIAL SYSTEM UPDATE

Mike Miller, Manager, MRM Financial Management, gave a presentation on the status and future direction of MRM Financial Systems. His presentation was followed by a lengthy and spirited question and answer session.

There was discussion about the Chronic Erroneous Reporting Rule (provision of the Royalty Simplification and Fairness Act of 1996). Mr. Miller noted that MMS will be addressing this rule by the end of next year. Ms. Querques Denett noted the RPC may be requested to form a subcommittee to address this issue.

The Committee asked for copies of recent letters to States, Tribes and Industry on new reporting formats. Mr. Miller committed to making sure MRM provided them with copies.

WYOMING RIK PILOT EVALUATION

Martin Grieshaber, MMS Policy and Management Improvement, presented information about the recent review and analysis of the Wyoming Oil RIK Pilot. During his presentation the RPC asked several questions.

Mr. Grieshaber briefed the RPC on:

- The bid evaluation process.
- How MMS analyzed in-kind receipts that we received as compared to the in value revenues for the same time period.

- Process changes MMS had made so that RIK would work more effectively.
- Reasons companies told MMS they did not participate in RIK, and what MMS could do to improve the problems.
- The reconciliation process that MMS has used to verify accurate volumes and revenues.
- Administrative efficiencies associated with RIK, both in MMS and in industry.

In the Wyoming pilot, MMS decided to sell crude from the Powder River and the Bighorn basins, two basins that provide approximately two-thirds of the federal production in Wyoming. The pilot analysis studied the first 18 months of the pilot, from October 1998 to March 1999.

NEXT RPC MEETING

Mr. Shirley tentatively scheduled the next meeting for September 18, 2001 in Denver. The meeting adjourned at 5:30 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Lucy Querques Denett, Executive Secretary

Perry Shirley, Chairperson

These minutes will be formally considered by the RPC at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.