

**STATEMENT OF WALTER D. CRUICKSHANK  
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UNITED STATES DEPARTMENT OF THE INTERIOR  
COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED AGENCIES  
HOUSE OF REPRESENTATIVES**

**April 2, 2009**

Mr. Chairman and Members of the Subcommittee, I want to thank you for the opportunity to testify today about actions taken as a result of recent independent reviews of the Minerals Management Service (MMS) program. We have looked closely at our ongoing operations as a result of these reviews, as well as our own internal reviews, and have acted aggressively to implement the many recommendations contained in these reports. My testimony today will focus on these efforts.

***MMS Background***

The Minerals Management Service (MMS), a Federal agency within the U.S. Department of the Interior (DOI), manages the Nation's oil, natural gas, and other energy and mineral resources on the Federal Outer Continental Shelf (OCS) as well as the mineral revenues generated from the OCS and from onshore Federal and American Indian lands. The MMS is one of America's leading mineral asset managers. Every American benefits from the work of MMS. Energy production managed by MMS provides gasoline that powers our cars, natural gas that heats our homes, and soon, clean power that will come from the offshore renewable energy industry. In addition, taxpayers benefit from the billions of dollars MMS collects annually from energy development activities on Federal lands. A portion of these revenues also benefit specific groups, through the disbursement of collected mineral revenues to states, American Tribes and Indians, the Historic Preservation Fund, the Land and Water Conservation Fund, and the Reclamation Fund.

Within MMS, the Offshore Energy and Minerals Management (OEMM) program regulates OCS activities, including administering OCS leases, monitoring the safety of offshore facilities, and protecting our coastal and marine environments. Through the work of OEMM, MMS manages the oil and gas resources on the 1.7 billion acres of the Nation's OCS, which is believed to contain over 60 percent of the nation's remaining undiscovered technically-recoverable oil and almost 40 percent of its undiscovered technically-recoverable natural gas (MMS National Assessment, 2006). Under a new mandate of the Energy Policy Act of 2005 (EPAAct), MMS is also implementing a program that will allow leasing on the OCS for the development of renewable energy

The Minerals Revenue Management (MRM) program collects, accounts for, and disburses revenues from mineral leases on the OCS and onshore Federal and American Indian lands. The MRM has collected an average of more than \$13 billion annually over the past five years. Each month, approximately 2,100 companies report and pay royalties associated with over 29,000 producing onshore and offshore Federal leases. In addition, MMS collects annual rental revenues on about 37,000 non-producing leases. MMS's responsibility is to ensure that the Federal government is realizing fair-market value for the minerals produced on federal lands and that companies comply with applicable laws,

regulations, and lease terms. This includes ensuring that revenues are correctly reported and paid in a timely manner.

### ***Summary of Recent MRM Accomplishments***

The MRM program has faced increased scrutiny in the last few years, as is appropriate given the assets for which it is responsible. In response, the agency has aggressively implemented numerous recommendations made by the Government Accountability Office (GAO), Office of Inspector General (OIG), and the Royalty Policy Committee Subcommittee on Royalty Management led by former U.S. Senators Bob Kerrey and Jake Garn. Since FY 2003, there have been 67 internal and 30 external reviews of MRM resulting in hundreds of recommendations. I am pleased to report that MMS has implemented the majority of those recommendations as of December 2008. The MMS has corrective action plans in place for all of the outstanding recommendations. Additionally, Secretary Salazar launched an ethics reform initiative that includes a review of the recent investigations and evaluations.

### ***Royalty-in-Kind Program***

The MMS royalty-in-kind (RIK) program began as a pilot program, with the intent of simplifying royalty administration for both the government and producers, reducing costs, and increasing the overall return to taxpayers. In FY 2007, MMS estimated that sales of royalty oil and gas taken in-kind increased the net return to the government by nearly \$63.2 million above what would have been received if the government had taken the oil and gas royalties in value. The FY 2007 revenue benefits included:

- \$56.5 million in increased revenue from sales in open and competitive markets and by paying lower operational costs for transportation and processing;
- \$3.6 million in administrative savings; and
- \$3.1 million from a time value of money benefit.

Recent investigations and reports have raised questions about whether or not the government is actually achieving these revenue benefits from the RIK program. As a result, MMS continues to assess the proper role of the RIK program within its overall revenue management strategy.

In September 2008, the OIG released three investigative reports, one of which covered improprieties that were occurring in the RIK program between January 2002 and July 2006. These reports contained four recommendations. In response, MMS has: 1) taken appropriate administrative corrective actions; 2) enhanced our ethics program and provided specific training to RIK employees; 3) developed a clear, strict code of conduct for all MMS employees; and 4) modified the reporting structure for RIK under the newly approved Asset Management program.

In late 2008, the GAO issued a report titled: *MMS's Oversight of its RIK Program Can Be Improved Through Additional Use of Production Verification Data and Enhanced Reporting of Financial Benefits and Costs* (GAO-08-942R). In this report, the GAO recommended that MMS improve its calculations of the benefits and costs of the RIK program and the information presented to Congress. GAO also recommended that MMS

should “improve verification of natural gas volumes owed to the government by using third-party production information, such as data from OEMM's gas verification system, to verify reported production and royalties owed.” We are in the process of evaluating the feasibility of using gas verification system data to verify RIK natural gas volumes and plan to have this exercise completed by July 2009.

The OIG audited the Royalty Compliance program in FY 2006 at the request of the U.S. Senate Committee on Energy and Natural Resources. The report, titled *MMS's Compliance Process* (C-IN-MMS-0006-2006) addresses concerns raised by the news media and state and tribal auditors about MMS's increasing use of compliance reviews as part of its Compliance and Asset Management (CAM) program. The OIG found that compliance reviews are a legitimate tool for evaluating the reasonableness of company-reported royalties, such reviews allow a broader coverage of royalties while requiring fewer resources than audits, and the reviews should be used in conjunction with audits in a coordinated audit strategy. However, the OIG also found that improvements were needed and recommended that the MMS: 1) Provide reliable data for managing and reporting on CAM program operations; 2) Strengthen the compliance review process; and 3) Improve performance measures to better reflect CAM program operations.

In response to the final OIG report dated December 5, 2006, MRM formally submitted an “Action Plan to Strengthen Minerals Management Service Compliance Program Operations” (Action Plan). The Action Plan documented the improvement actions in direct response to the OIG recommendations. MMS completed all of the 23 Action Items by the targeted completion date of February 2008.

#### ***Royalty Policy Committee Subcommittee Report***

The Royalty Policy Committee (RPC) Subcommittee on Royalty Management (Subcommittee) report was issued on December 17, 2007. In a public meeting on January 17, 2008, the RPC voted to accept the Subcommittee's report. By letter dated January 25, 2008, the RPC Chairman transmitted the report to the Secretary of the Interior.

The Subcommittee concluded that MMS is an effective steward of the MRM program, and that MMS employees are genuinely concerned with fostering continued program improvements. The Subcommittee members unanimously agreed that MMS is the Federal agency best suited to fulfill the stewardship responsibilities for Federal and Indian leases.

The report contains 110 recommendations, including 36 recommendations related to collections and production accountability from both onshore and OCS operations; 31 regarding the RIK Program; 27 on audit compliance and enforcement; 10 related to coordination, communication, and information sharing among MMS, the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA); and six on OCS royalty relief and ethics.

The report's recommendations span the responsibilities of all three Departmental bureaus involved in royalty management - MMS, BLM, and BIA. Of the 110 recommendations, MMS is solely responsible for 70 and BLM is solely responsible for 16. The remaining 24 recommendations require coordination among the bureaus and the Department. At the direction of Secretary Salazar, the OIG is in the process of assessing the progress and

effectiveness of the implementation of the Report's recommendations. I am pleased to report that as of March 2, 2009, 40 of the 110 recommendations have been completed. Of the remaining 70 recommendations, most are underway; a few are in the planning stage. We are confident that continued progress will be made in implementing these remaining recommendations in this calendar year.

### ***Strategic Reorganization of MRM Program***

In response to recommendations from internal and external reviews and ongoing management activities, MMS is in the process of implementing a strategic reorganization of the MRM program. The MRM program is undergoing this reorganization in response to MRM's own Strategic Business Plans and recommendations received from MRM employees, and from GAO, RPC, and OIG reviews. In January 2009, the Department approved MMS's proposal to strategically realign the MRM programs into three core mission organizations:

- 1) Financial and Program Management;
- 2) Audit and Compliance Management; and
- 3) Asset Management.

The goals of the proposed reorganization are to:

- Enhance managerial oversight and provide clear reporting responsibilities in immediate proximity;
- Ensure transparency and effective communication across program operations;
- Provide the audit and compliance program with the flexibility to implement its newly-developed risk-based compliance tool;
- Provide increased visibility and accountability for the state and Indian support programs, including contract administration and outreach programs;
- Better organize the program support functions;
- Realign the asset valuation functions; and
- Fully integrate the RIK tool into the MRM program.

The MMS is currently working to fully implement the reorganization by the end of FY 2009.

### ***Summary of Recent OEMM Accomplishments***

With President Obama identifying clean energy as an issue critical to our Nation's economic future, the Department and MMS are poised to play a vital role as the manager of OCS energy resources, both conventional and renewable. In the summer of 2008, in light of the then-existing energy situation and the lifting of the Presidential Withdrawal, former Secretary of the Interior Kempthorne directed MMS to begin the initial steps for developing a new 5-Year Program. On August 1, 2008, MMS published a *Federal Register* Notice requesting information on whether to start a new program and what areas should or should not be included in a new program. As of October 1, 2008, Congress discontinued its longstanding moratoria on new leasing in the Atlantic and Pacific, making most of the OCS available for consideration of leasing in a new program. Most of the Eastern Gulf of

Mexico and a small portion of the Central Gulf of Mexico are under moratorium until 2022, pursuant to the Gulf of Mexico Energy Security Act.

The Draft Proposed Program (DPP) issued January 16, 2009, is the second step in a multi-year process to develop a new oil and gas leasing program. The DPP seeks public comment on all aspects of a new program, including conventional and renewable energy development and economic and environmental issues in the OCS areas.

On February 10, 2009, Secretary Salazar announced his strategy for developing an offshore energy plan that includes conventional and renewable energy resources. As part of his plan, the comment period for the DPP was extended for an additional 180 days to September 21, 2009, in order to provide additional time for input from states, stakeholders and affected communities. Secretary Salazar also directed the MMS and the U.S. Geological Survey to assemble a report on offshore energy resources along with information regarding sensitive areas and resources in the OCS. As per the Secretary's request, this report is intended to synthesize the vast knowledge base on OCS energy resources and environmental factors in one concise document. Next week, the Secretary will begin a tour to conduct four regional meetings in an effort to gain insight and comment from all stakeholders in OCS energy. These meetings will be in Atlantic City, New Jersey on April 6; New Orleans, Louisiana on April 8; Anchorage Alaska on April 14, and San Francisco, California on April 16.

### **Recent OIG and GAO Audits and Evaluations Related to Offshore**

In Fiscal Years 2008 and 2009, the Department of the Interior OIG and the GAO completed several audits and evaluation reports related to Federal oil and gas leasing -- both onshore and offshore. In FY 2008, the GAO issued a final report on royalty accuracy entitled, *Mineral Resources: Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk* (GAO-08-893R). The GAO report recommended that the Secretary take three actions that involve OEMM:

- Report to Congress any year in which OEMM and BLM have not met their legal and agency requirements for completing production inspections, along with the cause and a plan for achieving compliance;
- Define the terms "lease sites producing or expected to produce significant quantities of oil or gas in any year" and "lease sites which have a history of noncompliance with applicable provisions of law or regulations" for offshore oil and natural gas leases; and
- Direct BLM and OEMM to evaluate both the accuracy and completeness of production inspection data in their databases, including the timeliness of data entry, and to amend relevant policies and procedures as necessary.

In response to these reports, MMS is developing policy to address the GAO's recommendations. This policy is expected to be in place by October 2009. In early FY 2009, the GAO issued their report on diligent development entitled, *Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development* (GAO-09-74). Work is underway to develop a strategy to encourage diligent development and implement the GAO's recommendation. In February 2009, the OIG issued an evaluation report on a

similar topic. Their evaluation report is entitled, *Oil and Gas Production on Federal Leases: No Simple Answer* (C-EV-MOA-0009-2008). The OIG report contained several recommendations, including addressing data exchange issues between BLM and MMS, and developing a clear policy regarding production of oil on Federal leases. Implementation of this recommendation will complement the strategy to encourage diligent development implementing the GAO's recommendation. The target date for presenting actions to Departmental management, and implementing the other recommendations made by the OIG in this report, is FY 2010.

***Conclusion***

Secretary Salazar is committed to restoring the public's trust in MMS and has taken strong actions to enact meaningful reform, to ensure that taxpayers are getting a fair value from the resources they own, to uphold the law, and to ensure that all Department of the Interior employees perform their jobs with the highest level of integrity. The actions taken as a result of these independent reviews of the MMS program are reflective of the Secretary's ongoing commitment to these principles.

Mr. Chairman this concludes my statement. Please allow me to express my sincere appreciation for the continued support that this Committee has provided the MMS. It would be my pleasure to answer any questions you or other members of the Subcommittee may have at this time.