DEPARTMENT OF THE INTERIOR

Geological Survey

Disposal on Onshore Federal Royalty Oil

Notice is hereby given that applications from eligible refiners for the purchase of the United States royalty share of the oil produced from specific onshore Federal leases will be accepted if received by the contracting officials herein designated prior to the close of business in the respective offices on February 25, 1980. Applications received after that time will be rejected automatically without exception. The sources of royalty oil being offered include those now under contract as well as other sources where the royalty portion is taken at present in value rather than in kind. It is anticipated that the contracts awarded as a result of this offering will become effective on June 1, 1980, the date on which the current royalty oil contracts will expire. The new contracts so awarded will be for a 3-year term.

This offering is made pursuant to the regulations set forth in Title 30 CFR 225, and the resultant royalty oil contracts will be awarded in accordance with said regulation, modified to the extent necessary to conform to the decision of the Federal District Court, New Mexico, in *Plateau, Inc. v. Department of the Interior*, and which subsequently was sustained on appeal to the Tenth Circuit Court. The effect of that decision is to alter the criteria previously used in determining which applicants were qualified to purchase royalty oil from onshore Federal leases. Accordingly, the definition of an “eligible refiner,” as it now appears in Title 30 CFR 225.2(a), is no longer appropriate and, for the purpose of this offering and the award of the resultant royalty oil contracts, shall be considered to read as: “Eligible refiner shall mean the owner of an existing refinery or refineries who can demonstrate its inability to acquire, from its own sources of production and/or in the open market, an adequate supply of crude oil to meet the needs of its existing refinery capacity.” All other provisions in Title 30 CFR 225 which refer in any way to the need for an applicant to qualify as a small business refiner pursuant to the rules and regulations of the Small Business Administration similarly are negated. However, the definition of a “preference eligible refiner” (Title 30 CFR 225.2(e)) is not affected by the Plateau decision. The Secretary of the Interior, in the exercise of the discretionary authority granted him by the applicable statute, has elected to continue this geographic preference in the award of onshore Federal royalty oil contracts resulting from this offer. Thus, the needs of those applicants who qualify as “preference eligible refiners” will be accorded a priority over the needs of those applicants who are determined to the “eligible refiners.” Applicants seeking oil for more than one refinery from sources in a single geographic area are encouraged to file separate applications whenever their potential eligibility status would not be the same for each such refinery. For example, an applicant owning two refineries, one in New Mexico and one in Wyoming, and who applies for royalty oil offered by the Area Oil and Gas Supervisor, Casper, Wyoming, should consider the submittal of separate applications since the applicant potentially would be a “preference eligible refiner” as to its refinery in Wyoming but potentially only an “eligible refiner” with respect to the refinery in New Mexico.

In determining the actual needs of each qualified applicant, the Geological Survey (GS) will utilize the certifications of existing, operable refining capacity made by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE). Despite its past practices to the contrary, the GS has determined, at least with respect to this offer, to entertain applications that are based, in part or in total, or new or expanding refinery capacity that is under construction but inoperable at the time of application; however, no royalty oil contract will be awarded on the basis of such pending refinery capacity unless that capacity is certified by ERA as operable prior to the date on which the available royalty oil is to be allocated to the qualified applicants. Absent the GS’s timely receipt of such a certification, no consideration will be given to that portion of an application which is based on new or expanding refinery capacity which is under construction but inoperable at the time when the GS must begin to calculate the allocation for each qualified applicant. The rationale for this position is twofold. First, any royalty oil purchased may not be resold in kind, and, thus, no royalty oil may be awarded in the absence of the ability to process the oil. Secondly, it is considered inappropriate to allocate oil in these circumstances in the hope that the new or expanding refinery capacity will become operable after the allocation but prior to the effective date of the contracts. That would reduce the size of the allocations made to those qualified applicants who clearly can establish a need for their existing, operable refinery capacity. Should the new or expanding refinery capacity not become operable prior to the effective date of the new contracts, any allocations made on that basis must be cancelled, and the involved royalty oil would be unavailable for purchase until the next offering.

There is no standard form of application but the regulations in Title 30 CFR 225.5 do prescribe that all such applications are to be filed in triplicate and must be accompanied by a detailed statement which provides certain information. As modified by the Plateau decision and other above considerations, the detailed statement should include the following:

1. Name and address of the applicant.
2. Location of the refinery or refineries for which royalty oil is sought.
3. The current ERA certified refining capacity of each such refinery.
4. Volume of crude oil currently available to the applicant from its own sources of production or through purchase in the open market by source, amount, and type of grade in the following categories:

a. From the applicant’s owned or controlled sources of production. Include complete information as to any sales of such production to other parties.

b. By purchase in the open market under firm contracts that have a current life of 6 months or more. Specify the expiration date, if any, and the prospect for renewal, including any option to do so.

c. By day-to-day spot purchases or other similar arrangements.

d. By crude oil imports or allocations under other programs administered by DOE, including the buy-sell, and Naval Petroleum Reserve royalty oil programs. Provide information as to exchange agreements connected with such current imports or allocations and as to the disposition of any unused portions of such imports or allocations.

e. By purchase under all Federal royalty oil contracts in effect, both onshore and offshore, and the expiration date of each such contract.

5. Specify the minimum amount and grade of additional crude oil required to meet the applicant’s existing and future refining commitments or the needs of existing, certified operating refinery capacity. If any of said need is based on new or expanding refinery capacity which is inoperable but now under construction that amount must be quantified.

6. The name of the field or fields which are believed to offer a potential source for crude oil or a desirable grade.

7. Transportation facilities available are adjacent to the sources identified in No. 6 which the applicant would propose to utilize to access royalty oil.

8. As to each refinery for which royalty oil is sought, provide tabulation of preceding 12 months of operation or the last 12 months of operation which specifies for each month, the volume and type or grade of crude oil refined and the kind and amount of the principal finished products.

9. Attach copies of recent letters exchanged with all major crude oil suppliers in the field or fields identified No. 6 and/or the general geographic area as well as any other available evidence that would document the applicant's inability to acquire in the open market an adequate supply of crude oil to meet the needs of existing, operable refining capacity.

10. State whether the payment for the royalty oil would be made prior to the month of purchase, at the end of the purchase month, or at the end of the month following the purchase month.

Applicants are advised that, pursuant to the United States Criminal Code (18 U.S.C. 1001), it is a criminal offense to make willfully false statements or representations to any Department or Agency of the United States as to any matters within its jurisdiction.

Applicants are also cautioned to comply fully with the above requirements for application content by providing the necessary level of detail in response to each item. Given the fact that the new contracts are to be awarded effective June 1, 1980, and the time required to complete the major administrative tasks leading to that objective, the schedule will not permit the GS to follow its past practice of according to those applicants who submit incomplete information an opportunity to supplement their applications. Thus, the filing of an application that is defective to a significant degree will be grounds for excluding the application from further consideration. Accordingly, should there be any question as to the acceptability of the intended response to any item in the application, the applicant should consult directly with the office or offices in which it intends to file an application or applications.

It is anticipated that the volume of oil requested by those applicants who subsequently are determined to be qualified to purchase onshore Federal royalty oil will exceed the amount available for sale. In order to provide for an equitable allocation, first among the "preference eligible refiners" and if more of the available royalty oil then remains, among the "eligible refiners," the available royalty oil will be allocated on a qualified applicant number basis as to each such class of refiner. The allocation of royalty oil on this basis would be:

1. Each qualified applicant would receive as its initial base allocation an amount that is equivalent to the total volume of available royalty oil divided by total number of qualified applicants.

2. As applicable, the initial base allocation of each qualified applicant would be adjusted downward to the volume requested in the related application or to that volume determined to be excess operable refining capacity (based on an ERA certification), whichever is the lesser.

3. Any available royalty oil which is eliminated from the initial base allocation of a qualified applicant will be distributed equally among the other qualified applicants, subject to the provisions of No. 2 above, and so forth, until the final base allocation of each qualified applicant is determined individually.

4. It is anticipated that the qualified applicants will consider certain sources of royalty oil to be preferable to others. Accordingly, when the available royalty oil is produced from more than one source, it is likely that a drawing will be held at the allocation meeting to determine the preferential order in which the qualified applicants will be permitted to select the sources from which their final base allocations will be derived. The qualified applicants must recognize in advance, however, that the total volume available from the sources ultimately selected will not equate to their final base allocations and, thus, a further adjustment may be required to assure equity and to avoid, if possible, the splitting of a single source among two or more qualified applicants.

Once the sources to be allocated have been determined, the GS will prepare the contracts on that basis and send them to the qualified applicants for execution. Each successful applicant will also be apprised at that time as to the amount of the initial surety which must be provided to guarantee its performance of the obligations established by the contract. The amount of the surety will be based on the payment plan selected; the volume and value of the royalty oil to be taken during the applicable period of time (30 days if payment is to be made in advance of the purchase month, 60 days if payment is to be made by the end of the purchase month, and 90 days if payment is to be made by the end of the month following the purchase month); and an administrative charge equivalent to one-half of 1 percent of the value of the oil to be taken during said applicable period of time. Applicants must strive to submit the executed contract, the required surety, and the related exchange agreements for approval by the date specified by the contracting officer in his letter transmitting the completed contract for execution. A failure to do so will render it impossible to award the contract effective as of June 1, 1980. Moreover, if an applicant fails to complete all actions leading to the award of a contract by September 1, 1980, the allocation will become a nullity and the involved royalty oil will not be made available for purchase until the next offering. The term of any contract awarded effective July 1, August 1, or September 1, 1980, will be shortened to conform with the expiration date of those contracts which become effective on June 1, 1980.

The form of contract is expected to follow that used in earlier awards of onshore Federal royalty oil, although the GS does intend to review the form prior to the allocation meetings to ascertain whether any modifications are required by reason of changed circumstances. Applicants can obtain a copy of the current contract form by contacting this office or the offices of any of the contracting officials listed herein. Applicants can also obtain more detailed information from latter offices as to the individual sources and volumes of royalty oil being made available in each geographic area. The most critical dates in the administrative process which applicants should keep in mind are the following:

1. The closing date for the GS's receipt of applications is February 25, 1980. All applications received after that date will, without exception, be rejected automatically.

2. The closing date for the GS's receipt of ERA certifications of new or expanding refinery capacity under construction but not operable at the time of application is March 3, 1980. If not received by that date, no consideration will be given to allocating oil on the basis of need for inoperable refining capacity. Applicants who are seeking oil for refiners which have become operable recently and who have yet to receive ERA certification must also provide such a certification by that time, otherwise their applications will not be considered.

3. It is anticipated that the allocation meetings will be held in the office of the below-listed contracting officials during the week beginning March 10, 1980.

4. By April 1, 1980, the contracting officials will mail the completed contracts to the successful applicants and advise them as to the amount of the required surety.

5. Applicants must return the executed contracts, the required surety, and the related exchange agreements for approval by April 25,

1980, if they are to be awarded a contract effective as of June 1, 1980. The submission of all related papers in an approvable condition after that date will defer the award of the royalty oil contract. Moreover, the failure to provide all necessary documents leading to the award of a contract by no later than September 1, 1980, will result in the cancellation of the allocation.

6. By no later than May 1, 1980, the contracting officials of the GS must provide the affected lessees and operators of the involved Federal leases with the required 30-day advance notification of the intent to take the royalty oil in kind.

The total quantity of onshore Federal royalty oil herein offered for purchase by qualified applicants totals in aggregate approximately 43,790 barrels of royalty oil per day. The available royalty oil is produced from Federal leases in six geographic areas, as follows:

Alaska Area

Preference States: Alaska.

Amount and Sources of Available Royalty Oil: Approximately 1,380 barrels of royalty oil per day produced from Federal leases in Alaska.

Contracting Official: Mr. Rodney A. Smith, Alaska Area Oil and Gas Supervisor, P.O. Box 259, Anchorage, Alaska 99510. The telephone number is (907) 271-4301.

Eastern Area

Preference States: Illinois, Kentucky, Minnesota, Mississippi, Tennessee, Wisconsin, and all States eastward to the Atlantic Seaboard, including the District of Columbia.

Amount and Sources of Available Royalty Oil: Approximately 180 barrels of royalty oil per day produced from Federal leases in Michigan and Mississippi.

Contracting Official: Mr. V. L. Pauli, Eastern Area Oil and Gas Supervisor, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006. The telephone number is (202) 634-6654.

Mid-Continent Area

Preference States: Arkansas, Iowa, Kansas, Louisiana, Missouri, Oklahoma, and Texas east of the 100th Meridian.

Amount and Sources of Available Royalty Oil: Approximately 475 barrels of royalty oil per day produced from Federal leases in Louisiana.

Contracting Official: Mr. Floyd L. Stelzer, Mid-Continent Area Oil and Gas Supervisor, 6136 East 32nd Place, Tulsa, Oklahoma 74135. The telephone number is (918) 581-7631.

Northern Rocky Mountain Area

Preference States: Colorado (except as to those lands within the north townships and west ranges of the New Mexico Principal Meridian), Montana, Nebraska, North Dakota, South Dakota, Utah (except San Juan County), and Wyoming.

Amount and Sources of Available Royalty Oil: Approximately 30,000 barrels of royalty oil per day produced from Federal leases in Colorado, Montana, North Dakota, Utah, and Wyoming.

Contracting Official: Mr. C. J. Curtis, Northern Rocky Mountain Area Oil and Gas Supervisor, P.O. Box 2859, Casper, Wyoming 82602. The telephone number is (307) 265-5550.

Southern Rocky Mountain Area

Preference States: Colorado (as to those lands within the north township and western ranges of the New Mexico Principal Meridian), New Mexico, Texas west of the 100th Meridian, and San Juan County, Utah.

Amount and Sources of Available Royalty Oil: Approximately 5,425 barrels of royalty oil per day produced from Federal leases in Colorado, New Mexico, and San Juan County, Utah.

Contracting Official: Mr. J. W. Sutherland, Southern Rocky Mountain Area Oil and Gas Supervisor, P.O. Box 26124, Albuquerque, New Mexico 87102. The telephone number is (505) 766-2841.

Western Area

Preference States: Arizona, California, Idaho, Nevada, Oregon, and Washington.

Amount and Sources of Available Royalty Oil: Approximately 6,330 barrels of royalty oil per day produced from Federal leases in California and Nevada.

Contracting Official: Mr. Bill R. LaVelle, Acting Western Region Oil and Gas Supervisor, Room 106, 1340 West 6th Street, Los Angeles, California 90017. The telephone number is (213) 688-2846.

Eddie R. Wyatt,
Acting Chief, Conservation Division, Geological Survey.

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Determination of Nonavailability of Oil to Small Refiners and Disposal of Federal Royalty Oil

Determination of Nonavailability of Oil to Small Refiners

Pursuant to Section 27 of the OCS Lands Act, as amended, the Secretary of the Interior in consultation with the Secretary of Energy, has determined that small refiners do not have access to adequate supplies of oil at equitable prices. Therefore, the Secretary of the Interior is making OCS royalty oil available for purchase.

Availability of OCS Royalty Oil

Notice is hereby given that applications from small refiners for the purchase of the United States' share of oil produced from Gulf of Mexico OCS and Pacific OCS lands will be accepted until February 25, 1980. Applications received after that time will be rejected automatically without exception. The sources of royalty oil being offered include those now under contract as well as other sources where the royalty portion is now taken in value rather than in kind. It is anticipated that the contracts awarded as a result of this offering will become effective on July 1, 1980, the date on which the current royalty oil contracts will expire. The new contracts so awarded will be for a 3-year term.

This offering is made pursuant to the regulations set forth in Title 30, CFR 225(a), with certain modifications as outlined herein. It is anticipated that, prior to the allocation of any royalty oil under this offering, the Department of Energy (DOE) will issue regulations pertaining to the Acquisition and Disposition of Federal Royalty Interests Taken in Kind set forth in Title 10, CFR 391. Subpart B of Part 391 relates to the disposition of Federal OCS royalty oil. The DOE-proposed regulations provide that the issuance of Part 391 will not affect offering of royalty oil made under 30 CFR 225(a).

However, in order to prevent misunderstanding concerning the applicable regulations, the definition of small refiner for the purpose of this offering and the award of resultant royalty oil contracts shall be considered to be the same as that proposed in 10 CFR 391.102 and reads as follows:

"'Small refiner' means an owner of an existing refinery or refineries who can demonstrate its qualification as a small business concern under the rules of the Small Business Administration, both at the time of application and at the time of award of the contract to purchase such oil. The combined refinery capacity of a small refiner shall be employed in determining if a small refiner has demonstrated its qualification under the preceding sentence."

In accordance with the anticipated DOE regulations, the Geological Survey (GS) will entertain applications that are based, in part or in total, on new or expanding refinery capacity that is under construction but inoperable at the time of application; however, no royalty oil contract will be awarded on the basis of such pending refinery capacity unless that capacity is certified by the Economic Regulatory Administration (ERA) as operable on or before April 1, 1980. Absent the

USGS's timely receipt of such a certification, no further consideration will be given to that portion of an application which is based on new or expanding refinery capacity which is under construction but inoperable.

The following information should be furnished with each application for royalty oil:

A. (1) Name and address.

(2) Location of refinery or refineries.

(3) Affiliation or association with any other refiner of oil or diversified company. Specify exact affiliation or association.

(4) Total number of employees including those employed by affiliated or associated companies.

B. (1) Capacity of each refinery as certified by the ERA.

(2) Crude oil currently available from production or by purchase in the open market, broken down by source, amount, and type or grade into the following categories:

(a) From applicant's own and controlled production. Include information on any current sales of owner or controlled production.

(b) By purchases under firm contracts running 6 months or more.

(c) From day-to-day spot purchases or other arrangements.

(d) From crude oil imported by allocation under the mandatory imports program, include details of current exchange agreements connected with such import allocations and any information concerning the disposition of any unused import allocations.

(e) By purchase under all existing Federal royalty oil contracts, both onshore and offshore, and the expiration date of each such contract.

C. (1) Minimum amount and grade of additional crude oil needed to meet existing and future commitments or the needs of existing certified operating capacity. If any of the stated need is based on new or expanded refinery capacity which is inoperable, that amount must be quantified.

(2) Name of fields which, you believe, offer a potential source of crude oil supply.

D. A tabulation, for the last 12 months of operation, of the amount and grade of crude oil refined each month and kind and amount of the principal finished products.

E. A self-certification that the refinery is a small business concern in accordance with the appropriate guidelines of the Small Business Administration, Title 13 of the code of Federal Regulations, Part 121.3-9.

Applicants are also cautioned to comply fully with all the requirements for applications by providing the necessary level of detail in response to each item. Given the fact that the new contracts are to be awarded effective July 1, 1980, and the time required to complete the major administrative tasks leading to that objective, the schedule will not permit the USGS to follow its past practice of according to those applicants who submit incomplete information an opportunity to supplement their applications. Thus, filing of an application that is defective to a significant degree will be grounds for excluding the application from further consideration. Accordingly, should there be any questions as to the acceptability of the intended response to any item in the application, the applicant should consult directly with the office or offices in which it intends to file an application or applications.

It is anticipated that the volume of royalty oil requested will be in excess of the amount available for sale. In order to provide an equitable allocation of the royalty oil available, first preference for this royalty oil will be given to eligible small refiners who have not received an allocation of onshore royalty oil. The allocation of royalty oil to each qualified refiner will include consideration of the following:

1. Each refiner would receive an equal amount as its base allocation volume; this base is determined by the amount of royalty oil available and the number of eligible refiners.

2. No volume of royalty oil received would exceed the base allocation volume; however, the base volume may be increased by the availability of oil not allocated to eligible first-preference refiners.

3. The sum of the volumes of OCS and onshore royalty oil acquired or being acquired by a refiner will not exceed 60 percent of the combined refinery capacity of that refiner.

4. The amount allocated to a refiner will not exceed the maximum stated need.

5. The final amount of royalty oil allocated to any refiner from all OCS areas plus the amount of royalty oil being received from onshore Federal leases will not exceed the base allocation volume. In the event the amount of onshore royalty oil acquired by a refiner exceeds the base volume of OCS royalty oil allocated, no allocation of OCS royalty oil would be made to such refiner.

6. It is anticipated that the applicants will consider certain sources of royalty oil to be preferable to others. Accordingly, when the available royalty oil is produced from more than one source, it is likely that a drawing will be held at the allocation meeting to determine preferential order in which the qualified applicants will be permitted to select the sources from which their final base allocations will be derived. The qualified applicants must recognize in advance, however, that the total volume available from the sources ultimately selected will not equate to their final base allocations and, thus, that a further adjustment may be required to assure equity and to avoid, if possible, the splitting of a single source among two or more qualified applicants.

Once the sources to be allocated have been determined, the USGS will prepare the contracts on that basis and send them to the qualified applicants for execution. Each successful applicant will also be apprised at the time as to the amount of the initial surety which must be provided to guarantee its performance of the obligations established by the contract. The amount of the surety will be based on the payment plan selected, the volume and value of the royalty oil to be taken during the applicable period of time (30 days if payment is to be made in advance of the purchase month, 60 days if payment is to made by the end of the purchase month, and 90 days if payment is to made by the end of the month following the purchase month), and an administrative charge equivalent to one-half of 1 percent of the value of the oil to be taken during said applicable period of time. During the applicable period of time, applicants must strive to submit the executed contract, the required surety, and the related exchange agreements for approval by the date specified by the contracting officer in his letter transmitting the completed copy for execution. A failure to do so will render it impossible to award the contract effective as of July 1, 1980. Moreover, if an applicant fails to complete all actions leading to the award of a contract by October 1, 1980, the allocation will become a nullity, and the involved royalty oil will not be made available for purchase until the next offering. The term of any contract awarded effective August 1, September 1, or October 1, 1980, will be shortened to conform with the expiration date of those contracts which become effective on July 1, 1980.

The form of contract is expected to follow that used in earlier awards of OCS Federal royalty oil, although the USGS does intend to review the form prior to the allocation meetings to ascertain whether any modifications are required by reason of changed circumstances. Applicants can obtain a copy of a current contract form by contacting this office or the offices of any of the contracting officials listed herein.

The most critical dates in the administrative process which applicants should keep in mind are the following:

1. The closing date for the USGS's receipt of applications is close of business February 25, 1980. All applications received after that date will, without exception, be rejected automatically.

2. The closing date for the USGS's receipt of ERA certification of new or expanding refinery capacity under construction but not operable at the time of application is April 1, 1980. If not received by that date, no consideration will be given to allocating oil on the basis of need for inoperable refining capacity. Applicants who are seeking oil for refineries which have become operable recently and who have yet to receive ERA certification must also provide such a certification by that time; otherwise, their applications will not be considered.

3. It is anticipated that the allocation meetings will beheld in the offices of the below-listed contracting officials during the week beginning April 15, 1980.

4. By May 1, 1980, the contracting officials will mail the completed contracts to the successful applicants and advised them as to the amount of the required surety.

5. Applicants must return the executed contracts, the required surety, and the related exchange agreements for approval by May 23, 1980, if they are to be awarded a contract effective as of July 1, 1980. Submittal of all related papers in an approvable condition after that date will defer the award of the royalty oil contract. Moreover, the failure to provide all necessary documents to the award of a contract by no later than October 1, 1980, will result in the cancellation of the allocation.

6. By no later than June 1, 1980, the contracting officials of the USGS must provide the affected lessees and operators of the involved Federal leases with the required 30-day advance notification of the intent to take the royalty in kind.

The total quantity of OCS Federal royalty oil herein offered for purchase by qualified applicants totals in aggregate approximately 91,000 barrels of royalty oil per day. Of this total amount of royalty oil, approximately 87,000 barrels of oil per day will be available from leases in the Gulf of Mexico. Applications for the purchase of this royalty oil should be submitted to Mr. Milton Dial, Area Oil and Gas Supervisor, Accounting, U.S. Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011. The telephone number is (504) 837-4720.

The remaining 4,000 barrels of royalty oil will be available from Pacific OCS leases. Applications for the purchase of this royalty oil should be submitted to Mr. Fred Schambeck, Area Oil and Gas Supervisor, 1340 West 6th Street, Room 160, Los Angeles, California 70017. The telephone number is (213) 688-2846.

Eddie R. Wyatt,
Acting Chief, Conservation Division, Geological Survey

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