

November 17, 2015

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, DC 20240

Dear Director Kornze:

I am writing to express concerns regarding the Bureau of Land Management's ("BLM") proposed updates to Onshore Orders 3, 4, and 5. Collectively, these orders address the measurement, collection and securing of information relating to produced oil and natural gas on federal lands. I understand the BLM is revisiting these orders under a concern that its verification techniques for produced natural resources are outdated and lacking, and therefore may have resulted in lost royalties.¹

While ensuring transparency and correctness in the calculation of royalties are laudable goals, the BLM's approach has thus far been flawed. In particular, the BLM failed to conduct adequate outreach with interested stakeholders, and the BLM staggered the release of the rules disallowing consideration of the interplay between the Onshore Orders. Without the necessary input from interested parties, the proposed rules could hamper production on federal lands, resulting in less royalty payments for the American people.

One of the main premises for the revisions of the Onshore Orders is that the existing orders "do not reflect newer measurement technologies and standards adopted by industry."² As these revisions are intended to reflect technological development within industry, I am deeply concerned that the BLM did not regularly engage industry stakeholders to ensure that any proposed rule would encompass industry's concerns. Rather, the BLM held just one public forum in Washington, D.C., over the course of April 23 – 24, 2013.³ A single, two-day meeting

¹ Site Security, 80 Fed. Reg. 40768, 40769 (proposed July 13, 2015).

² See U.S. GOV'T ACCOUNTABILITY OFFICE, OIL AND GAS RESOURCES, GAO-15-39, INTERIOR'S PRODUCTION VERIFICATION EFFORTS AND ROYALTY DATA HAVE IMPROVED, BUT FURTHER ACTIONS NEEDED 17 (2015).

³ 80 Fed. Reg. at 40789. It is unclear whether the meetings occurred on April 23 – 24, or 24 – 25, as the proposed rule references both timeframes.

addressing the revisions of three major rules affecting many areas of the nation is woefully insufficient, and prevented adequate participation from those regulated entities located in the western states, where the majority of BLM land is.

Furthermore, the intermittent release of the Onshore Orders hinders the ability of the regulated community to fully address the revisions of the rules in their totality. Indeed, the BLM acknowledged the dependent interplay of the Onshore Orders within the proposed rules themselves, as each of the rules references other Onshore Orders when discussing the “substantive changes” the rules make.⁴ It is crucial that interested stakeholders be allowed to analyze and provide feedback on all of these rules at the same time, and how, when taken together, the consequences of the rules will effect production on federal lands.

In addition, the lack of stakeholder input on particular provisions within the Onshore Order rewrites is unacceptable, as production on federal lands may be threatened. For instance, the proposed Onshore Order 3 revises the way the BLM will approach future *and past* commingling agreements for federal land. The new approach could lead to greater environmental footprints on federal land, and prove to be an economic disincentive towards future production. Although the BLM has provided assurances that no past commingling agreements will be revoked if the environmental or economic impacts will outweigh potential royalty benefits, such assurances are not guarantees, and the inherent arbitrariness of the proposed rule leaves such adverse outcomes possible.⁵

Thus, given the inability of interested stakeholders to highlight their concerns about the proposed rule and the potential effect the revisions will have on future and existing production, the Committee on Natural Resources (“Committee”) requests each of the BLM’s state offices to conduct public forums in their respective states prior to the finalization of any of the onshore orders. The BLM must ensure it has a fair and complete understanding of how its rewrites will impact existing operations and contracts, such as commingling agreements found in Pinedale, Wyoming and Farmington, New Mexico. The Committee agrees that the verification of royalties is crucial; however, without necessary stakeholder input, the BLM risks disrupting existing and future development, thereby harming the royalty revenue stream it is trying to protect.

Sincerely,

Rob Bishop
Chairman

⁴ See, e.g., 80 Fed. Reg. at 40773; Measurement of Oil, 80 Fed. Reg. 58952, 58955 (proposed Sept. 30, 2015); Measurement of Gas, 80 Fed. Reg. 61646, 61651 (proposed Oct. 13, 2015).

⁵ See 80 Fed. Reg. at 40784 (The proposed rule “would require the BLM to review the existing [Commingling and Allocation Approvals] for consistency with the minimum standards and requirements” and “notify the operator in writing of any inconsistencies or deficiencies.”).