

Conversation Contents

Fwd: Meeting Tomorrow?

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Mar 01 2017 14:12:06 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Meeting Tomorrow?

This is kind of funny.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----
From: **Gould, Greg** <greg.gould@onrr.gov>
Date: Wed, Mar 1, 2017 at 2:09 PM
Subject: Re: Meeting Tomorrow?
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Cc: John Mehlhoff <john.mehlhoff@onrr.gov>

Hey Matt,

I'm heading back to DC on Monday for briefings, etc. I know that we are all on the same page, so I wanted to come over to make sure I know exactly what page it is we are on and that we all know the next steps, etc. Mostly just want to check-in and talk. How does that sound? I have a feeling next week will be pretty crazy!

Thanks for all the help!

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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On Wed, Mar 1, 2017 at 1:54 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

Hi Guys: I see we have another meeting tomorrow regarding the valuation rule. What is this one about?

Matt McKeown

Regional Solicitor

Rocky Mountain Region

Office of the Solicitor

U.S. Department of the Interior

755 Parfet St., Suite 151

Lakewood, CO 80215

New Direct Line: 303-445-0625

Conversation Contents

Letter From Rep. Grijalva re: ONRR Valuation Rule

Attachments:

/2. Letter From Rep. Grijalva re: ONRR Valuation Rule/1.1 Grijalva - ONRR Valuation Rule 02.28.17.pdf

"Keable, Edward" <edward.keable@sol.doi.gov>

From: "Keable, Edward" <edward.keable@sol.doi.gov>
Sent: Wed Mar 01 2017 11:52:15 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Greg Gould <greg.gould@onrr.gov>
CC: Amy Holley <Amy_Holley@ios.doi.gov>, Matthew McKeown <Matthew.McKeown@sol.doi.gov>, Matthew Wheeler <matthew.wheeler@sol.doi.gov>, Richard Myers <Richard.Myers@sol.doi.gov>
Subject: Letter From Rep. Grijalva re: ONRR Valuation Rule
Attachments: Grijalva - ONRR Valuation Rule 02.28.17.pdf

FYI, OCL received this letter yesterday. Ed

--

Edward T. Keable
Deputy Solicitor-General Law
Office of the Solicitor
U.S. Department of the Interior
Phone: 202-208-4423
Fax: 202-208-5584
edward.keable@sol.doi.gov

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Wed Mar 01 2017 11:59:39 GMT-0700 (MST)
To: "Keable, Edward" <edward.keable@sol.doi.gov>
Kevin Haugrud <jack.haugrud@sol.doi.gov>, Amy Holley <Amy_Holley@ios.doi.gov>, Matthew McKeown <Matthew.McKeown@sol.doi.gov>, Matthew Wheeler
CC:

<matthew.wheeler@sol.doi.gov>, Richard Myers
<Richard.Myers@sol.doi.gov>

Subject: Re: Letter From Rep. Grijalva re: ONRR Valuation Rule

Thanks Ed, I assume that SOL will prepare the response.

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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--

Edward T. Keable
Deputy Solicitor-General Law
Office of the Solicitor
U.S. Department of the Interior
Phone: 202-208-4423
Fax: 202-208-5584
edward.keable@sol.doi.gov

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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

February 28, 2017

Mr. Jack Haugrud
Acting Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Acting Secretary Haugrud,

One of the most important functions of the Department of the Interior (DOI) is ensuring that companies extracting oil, gas, and coal from public lands pay their fair share of royalties due to the American people. Numerous reports over the past 10 years, including from DOI's Subcommittee on Royalty Management and the Government Accountability Office (GAO), have indicated that the entire system for valuing federal and Indian oil, gas, and coal, and collecting royalties on the sale of those commodities, needs comprehensive reform – to the point that GAO placed DOI's Oil and Gas management on its High Risk List in 2011, where it remains to this day.¹

As part of responding to the dozens of valuation and royalty-collection recommendations from the past decade, on July 1, 2016, the Office of Natural Resources Revenue (ONRR) published a final rule entitled *Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform*, with an effective date of January 1, 2017.² Among other provisions, the rule closed a loophole in the coal valuation regulations that allowed companies to sell coal at reduced prices to their own subsidiaries for the purposes of reducing the amount of royalties owed to the American people.³

Despite the fact that the rule became effective on January 1, 2017, ONRR published a *Federal Register* notice on February 27, 2017, announcing that the effective date of the valuation rule would be postponed indefinitely due to legal challenges pending against the rule, using the authority under 5 U.S.C. 705 of the Administrative Procedures Act (APA).⁴ The legality of this action is highly questionable. I am not aware of any situation where 5 U.S.C. 705 has been successfully invoked *after* the effective date of a rule. It appears that ONRR has used this

¹ Subcommittee on Royalty Management report to the Royalty Policy Committee, *Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*, December 17, 2007; U.S. Government Accountability Office, *HIGH RISK SERIES: An Update*, GAO-11-278, February 2011.

² 81 FR 43338 (July 1, 2016)

³ P. Rucker, *Exclusive: U.S. plans to plug coal royalty loophole padding export profits*, Reuters, October 23, 2014.

⁴ 82 FR 11823 (February 27, 2017)

provision to repeal an active and in-effect regulation in contravention of the notice-and-comment procedures required by the APA.

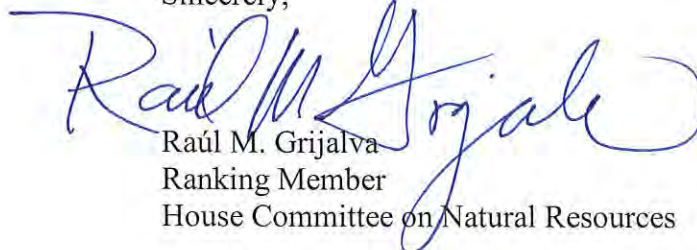
This unwarranted and potentially illegal delay of the valuation rule will not only result in the potential loss of taxpayer revenue; as ONRR itself recognized in a February 22, 2017, memo on this action, many companies have already taken significant steps to comply with the new valuation rule, and “it may be difficult” for companies to change their systems to comply with the prior rule. If future court action dismisses the industry complaints against the valuation rule, companies will be required to convert their systems *again* to the new rule, creating considerable uncertainty and expense for companies operating on public lands.

With the rule in full effect as of January 1, 2017, it became the role of the courts, and not ONRR, to adjudicate the challenges to the valuation rule. The fact that the first royalty reports under the new rule are not due until February 28, 2017, is immaterial; the rule has been in effect for two months, and cannot be unilaterally subverted by ONRR. In the light of this, I would like answers to the following questions at the earliest possible time:

1. Did DOI’s Office of the Solicitor provide a written opinion or memo regarding the legality of postponing the effective date of a rule after the effective date has already passed? If so, please provide a copy of that opinion or memo.
2. Please provide any examples that the Department has of other rules where 5 U.S.C. 705 has been successfully invoked to delay the implementation date of a rule after the effective date has passed.
3. Did DOI’s Office of the Solicitor review the February 22, 2017, memo from ONRR?
4. Please provide the surnaming page of the *Federal Register* notice that was published on February 27, 2017, showing the identity of those officials within DOI who reviewed and approved the notice.

Thank you for your prompt attention to this request.

Sincerely,



Raúl M. Grijalva
Ranking Member
House Committee on Natural Resources

Conversation Contents

**Fwd: Incoming correspondence from Ranking Member Grijalva (HNR Cmte)
re: valuation reg FR notice**

Attachments:

/3. Fwd: Incoming correspondence from Ranking Member Grijalva (HNR Cmte)
re: valuation reg FR notice/1.1 RM Grijalva ltr to DOI on valuation rule pullback -
2-28-17 (1).pdf

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Tue Feb 28 2017 11:01:45 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Incoming correspondence from Ranking Member
Grijalva (HNR Cmte) re: valuation reg FR notice
Attachments: RM Grijalva ltr to DOI on valuation rule pullback - 2-28-17
(1).pdf

FYI.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Jerold Gidner** <jerold.gidner@onrr.gov>
Date: Tue, Feb 28, 2017 at 10:40 AM
Subject: Fwd: Incoming correspondence from Ranking Member Grijalva (HNR Cmte) re:
valuation reg FR notice
To: onrrelt@onrr.gov, bonnie.robson@onrr.gov, Matt McKeown
<matthew.mckeown@sol.doi.gov>, michael.deberard@onrr.gov

Hi - I wanted to make sure you all had a copy of this Congressional incoming re the
valuation rule

Sent from my iPhone

Begin forwarded message:

From: "Gonzales-Evans, Anita" <anita.gonzales-evans@onrr.gov>
To: "Gould, Greg" <greg.gould@onrr.gov>, Jim Steward
<Jim.Steward@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>
Cc: Treci Johnson <treci.johnson@onrr.gov>
Subject: Incoming correspondence from Ranking Member Grijalva (HNR Cmte) re: valuation reg FR notice

Greg, Jim, and Jerry:

I am forwarding you a copy of a letter DOI just received from Ranking Member Raul Grijalva, House Natural Resources Committee regarding the valuation regulation *FR* notice issued on Feb. 27. The congressman has requested responses asap to four questions he included in the letter.

The letter has already been shared with OCL and forwarded to Exec Sec to be entered into the correspondence portal.

Thanks--Anita

--

Anita Gonzales-Evans
Congressional Liaison
U.S. Department of the Interior
Office of Natural Resources Revenue
1849 C Street, N.W.
Washington, DC 20240
(202) 513-0607

Conversation Contents

Fwd: Draft Advance Notice of Proposed Rulemaking (ANPR)

Attachments:

/4. Fwd: Draft Advance Notice of Proposed Rulemaking (ANPR)/1.1 ANPR 2017 02 27 1515.docx

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Tue Feb 28 2017 08:29:23 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Draft Advance Notice of Proposed Rulemaking (ANPR)
Attachments: ANPR 2017 02 27 1515.docx

Welcome back. Confusing or not, this is where we left it after Thursday's meeting, right?

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Wheeler, Matthew** <matthew.wheeler@sol.doi.gov>
Date: Mon, Feb 27, 2017 at 3:40 PM
Subject: Fwd: Draft Advance Notice of Proposed Rulemaking (ANPR)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>

See attached draft ANPR. (b) (5)

(b) (5) I also have a FR notice to repeal the 2017 Consolidated Rule. I sent that back to Bonnie to include a discussion of the applicable executive orders. That document is being updated now, and I will send that to you as soon as I receive it.

(b) (5)

(b) (5)

Let me know your thoughts.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

----- Forwarded message -----

From: **Lunt, Amy** <amy.lunt@onrr.gov>
Date: Mon, Feb 27, 2017 at 3:19 PM
Subject: Draft Advance Notice of Proposed Rulemaking (ANPR)
To: "DeBerard, Michael" <michael.deberard@onrr.gov>
Cc: Peter Christnacht <peter.christnacht@onrr.gov>, Karl Wunderlich <karl.wunderlich@onrr.gov>, "Southall, Armand" <armand.southall@onrr.gov>, Luis Aguilar <luis.aguilar@onrr.gov>, Matt K Williams <Matt.Williams@onrr.gov>, "Gould, Greg" <greg.gould@onrr.gov>, "Mehlhoff, John" <john.mehlhoff@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>, Matthew Wheeler <matthew.wheeler@sol.doi.gov>, Bonnie Robson <bonnie.robson@onrr.gov>

Please review the attached draft ANPR as soon as possible, or by 11:00 AM Denver time tomorrow.

Thank you,

Amy, Peter, and Karl

Amy S. Lunt
Supervisor, Royalty Valuation Team A
Office of Natural Resources Revenue
(303) 231-3746 (office)
(720) 498-3914 (work cell)

This message serves as guidance for determining value for royalties and is not an appealable decision or order under 30 CFR Part 1290, Subpart B. If ONRR issues you an order to pay additional royalties or assesses civil penalties under 30 CFR Part 1241 at a later date based on this guidance, your appeal rights will be provided at that time. While this message is not appealable, ONRR may use this guidance in conducting audits and as a basis for demanding additional royalties.

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[4335-30]

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR-2011-0005; DS63644000 DR2000000.CH7000

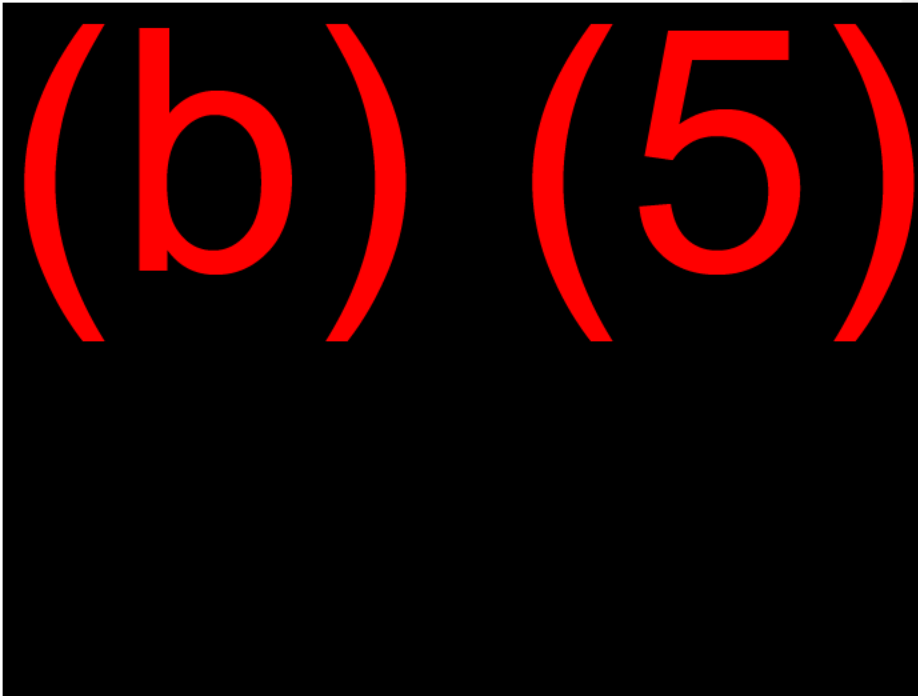
178D0102R2]

RIN 1012-AA01

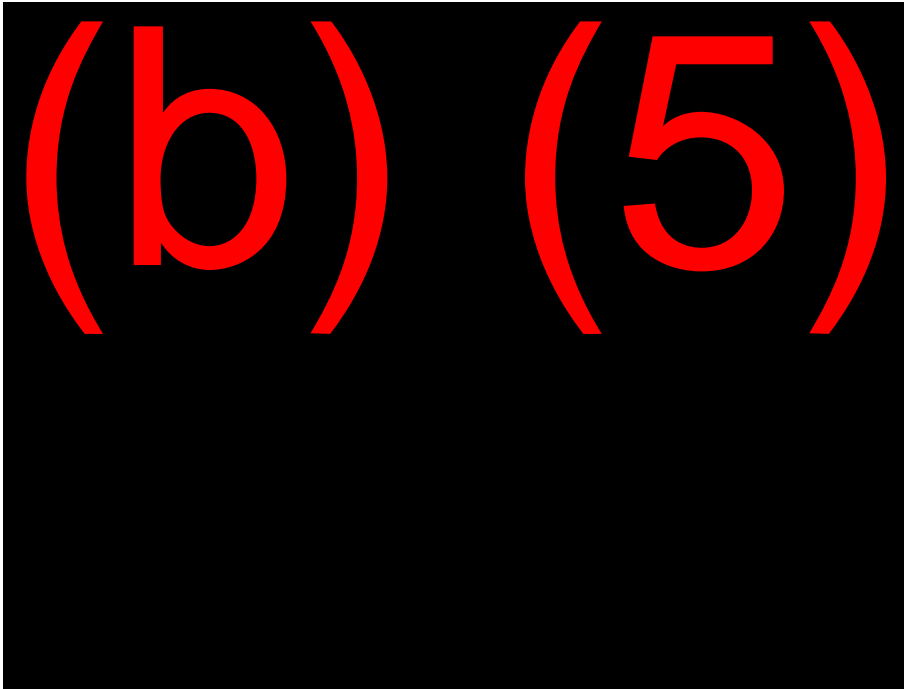
Federal Oil and Gas and Federal and Indian Coal Valuation

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Advance Notice of Proposed Rulemaking (ANPR).



Commented [A1] Insert proposed rule FR cite here



DATES: You must submit your comments by (INSERT DATE __ DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

ADDRESSES: You may submit comments to ONRR on this ANPR by any of the following methods. (Please reference the Regulation Identifier Number (RIN) 1012-AA in your comments).

- Electronically go to <http://www.regulations.gov>. In the entry titled “Enter Keyword or ID,” enter “ONRR-2017-XXXX,” then click “Search.” Follow the instructions to submit public comments. We will post all comments.
- Email comments to _____, Regulatory Specialist, to _____@onrr.gov.

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Date

INSERT CORRECT PERSON HERE

Assistant Secretary for
Policy, Management and Budget

Conversation Contents

Fwd: Docket No. ONRR-2012-0004; 17-03861

Attachments:

/5. Fwd: Docket No. ONRR-2012-0004; 17-03861/1.1
FRN_Stay_FREdits02232017cc.docx

/5. Fwd: Docket No. ONRR-2012-0004; 17-03861/4.1 ONRR 2017-
03861_1042931 (1).docx

"Lawyer, Mark" <mark_lawyer@ios.doi.gov>

From: "Lawyer, Mark" <mark_lawyer@ios.doi.gov>
Sent: Thu Feb 23 2017 10:45:10 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Juliette Lillie <juliette_lillie@ios.doi.gov>, Greg Gould <greg.gould@onrr.gov>
CC: "Williams, Matt" <matt.williams@onrr.gov>, Kerry Rodgers <kerry_rodgers@ios.doi.gov>
Subject: Fwd: Docket No. ONRR-2012-0004; 17-03861
Attachments: FRN_Stay_FREdits02232017cc.docx

FYI. FR made changes to comply with FR requirements for a stay of effective date. The FR will publish on 2/27 if ONRR accepts these changes before 2pm today. It appears ONRR has already accepted edits.

Are you OK with FR edits?

----- Forwarded message -----

From: **Aguilar, Luis** <luis.aguilar@onrr.gov>
Date: Thu, Feb 23, 2017 at 12:26 PM
Subject: Re: Docket No. ONRR-2012-0004; 17-03861
To: "Williams, Matt" <matt.williams@onrr.gov>
Cc: "L. Southall" <armand.southall@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>, "Gidner, Jerold" <jerold.gidner@onrr.gov>, "Rodgers, Kerry" <kerry_rodgers@ios.doi.gov>

Matt,

Attached is the revised version. The suggested edits from the FR are not substantive so we just accepted it. Let us know if you need anything else.

Cheers

Luis Aguilar

*Regulatory Specialist
Appeals & Regulations
Coordination, Enforcement, Valuation, & Appeals*

Phone: 303-231-3418

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On Thu, Feb 23, 2017 at 10:21 AM, Aguilar, Luis <luis.aguilar@onrr.gov> wrote:

All,

Armand and I are working on this edits. These edits are not substantive, we will accept and send a corrected version to Matt.

Luis Aguilar

*Regulatory Specialist
Appeals & Regulations
Coordination, Enforcement, Valuation, & Appeals*

Phone: 303-231-3418

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On Thu, Feb 23, 2017 at 10:11 AM, Williams, Matt <matt.williams@onrr.gov> wrote:

All, please see below for OFR's edits to our FRN. They need our response ASAP to meet our publication schedule.

Regards,

Matthew Williams

*Office of Natural Resources Revenue
Regulatory Liaison | Writer/Editor
1849 C Street N.W., Room 4216, MS 4211
Washington, D.C. 20240
(202) 513-0664*

----- Forwarded message -----

From: **Giles, Kent H. (OFR)** <kgiles@gpo.gov>

Date: Thu, Feb 23, 2017 at 12:06 PM

Subject: Docket No. ONRR-2012-0004; 17-03861

To: "matt.williams@onrr.gov" <matt.williams@onrr.gov>

Cc: "Rosita.ComptonChristian@onrr.gov" <Rosita.ComptonChristian@onrr.gov>

Hello, Matt – markup is attached for your review. The edits conform the format to Federal Register requirements for a stay of a final rule.

If I answer any questions you have, and have your approval of edits before 2:00 PM today, this could publish on Monday, February 27, as requested.

Thanks,

Kent

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

--

Mark Lawyer

Deputy Director - Policy and Regulatory Affairs
Executive Secretariat and Regulatory Affairs
Office of the Secretary
Department of the Interior

Email: mark_lawyer@ios.doi.gov

Voice: (202) 208-5257

Fax: (202) 219-2100

"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Thu Feb 23 2017 10:46:51 GMT-0700 (MST)
To: "Lawyer, Mark" <mark_lawyer@ios.doi.gov>
Kevin Haugrud <jack.haugrud@sol.doi.gov>, Juliette Lillie
<juliette_lillie@ios.doi.gov>, "Williams, Matt"
CC: <matt.williams@onrr.gov>, Kerry Rodgers
<kerry_rodgers@ios.doi.gov>
Subject: Re: Docket No. ONRR-2012-0004; 17-03861

Yes, I'm all set with the edit.

Thanks,

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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*Regulatory Specialist
Appeals & Regulations
Coordination, Enforcement, Valuation, & Appeals*

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Luis Aguilar

*Regulatory Specialist
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Coordination, Enforcement, Valuation, & Appeals*

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Matthew Williams

*Office of Natural Resources Revenue
Regulatory Liaison | Writer/Editor
1849 C Street N.W., Room 4216, MS 4211
Washington, D.C. 20240
(202) 513-0664*

----- Forwarded message -----

From: **Giles, Kent H. (OFR)** <kgiles@gpo.gov>

Date: Thu, Feb 23, 2017 at 12:06 PM

Subject: Docket No. ONRR-2012-0004; 17-03861

To: "matt.williams@onrr.gov" <matt.williams@onrr.gov>

Cc: "Rosita.ComptonChristian@onrr.gov" <Rosita.ComptonChristian@onrr.gov>

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Kent

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

--

Mark Lawyer

Deputy Director - Policy and Regulatory Affairs
Executive Secretariat and Regulatory Affairs
Office of the Secretary
Department of the Interior

Email: mark_lawyer@ios.doi.gov

Voice: (202) 208-5257

Fax: (202) 219-2100

Juliette Lillie <juliette_lillie@ios.doi.gov>

From: Juliette Lillie <juliette_lillie@ios.doi.gov>
Sent: Thu Feb 23 2017 11:06:39 GMT-0700 (MST)
To: "Gould, Greg" <greg.gould@onrr.gov>
"Lawyer, Mark" <mark_lawyer@ios.doi.gov>, Kevin
CC: Haugrud <jack.haugrud@sol.doi.gov>, "Williams, Matt"
<matt.williams@onrr.gov>, Kerry Rodgers
<kerry_rodgers@ios.doi.gov>
Subject: Re: Docket No. ONRR-2012-0004; 17-03861

all. we are calling register to discuss changes. please hold until you hear from us.

Juliette Lillie
Director Executive Secretariat and Regulatory Affairs
U.S. Department of the Interior
1849 C St NW
Washington DC 20240

PH: 202-219-7724

On Feb 23, 2017, at 12:47 PM, Gould, Greg <greg.gould@onrr.gov> wrote:

Yes, I'm all set with the edit.

Thanks,

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

Warning: This message is intended only for use of the individual or entity to which it is addressed and may contain information that is privileged or confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return e-mail.

On Thu, Feb 23, 2017 at 12:45 PM, Lawyer, Mark
<mark_lawyer@ios.doi.gov> wrote:

FYI. FR made changes to comply with FR requirements for a stay of effective date. The FR will publish on 2/27 if ONRR accepts these changes before 2pm today. It appears ONRR has already accepted edits.

Are you OK with FR edits?

----- Forwarded message -----

From: **Aguilar, Luis** <luis.aguilar@onrr.gov>
Date: Thu, Feb 23, 2017 at 12:26 PM
Subject: Re: Docket No. ONRR-2012-0004; 17-03861
To: "Williams, Matt" <matt.williams@onrr.gov>
Cc: "L. Southall" <armand.southall@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>, "Gidner, Jerold" <jerold.gidner@onrr.gov>, "Rodgers, Kerry" <kerry_rodgers@ios.doi.gov>

Matt,

Attached is the revised version. The suggested edits from the FR are not substantive so we just accepted it. Let us know if you need anything else.

Cheers

Luis Aguilar

*Regulatory Specialist
Appeals & Regulations
Coordination, Enforcement, Valuation, & Appeals*

Phone: 303-231-3418

Warning: This message is intended only for use of the individual or entity to which it is addressed and may contain information that is privileged or confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return e-mail.

On Thu, Feb 23, 2017 at 10:21 AM, Aguilar, Luis <luis.aguilar@onrr.gov> wrote:

All,

Armand and I are working on this edits. These edits are not substantive, we will accept and send a corrected version to Matt.

Luis Aguilar

*Regulatory Specialist
Appeals & Regulations
Coordination, Enforcement, Valuation, & Appeals*

Phone: 303-231-3418

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On Thu, Feb 23, 2017 at 10:11 AM, Williams, Matt
<matt.williams@onrr.gov> wrote:

All, please see below for OFR's edits to our FRN. They need our response ASAP to meet our publication schedule.

Regards,

Matthew Williams

*Office of Natural Resources Revenue
Regulatory Liaison | Writer/Editor
1849 C Street N.W., Room 4216, MS 4211
Washington, D.C. 20240
(202) 513-0664*

----- Forwarded message -----

From: **Giles, Kent H. (OFR)** <kgiles@gpo.gov>

Date: Thu, Feb 23, 2017 at 12:06 PM

Subject: Docket No. ONRR-2012-0004; 17-03861

To: "matt.williams@onrr.gov" <matt.williams@onrr.gov>

Cc: "Rosita.ComptonChristian@onrr.gov"

<Rosita.ComptonChristian@onrr.gov>

Hello, Matt – markup is attached for your review. The edits conform the format to Federal Register requirements for a stay of a final rule.

If I answer any questions you have, and have your approval of edits before 2:00 PM today, this could publish on Monday, February 27, as requested.

Thanks,

Kent

Kent H. Giles
Office of the Federal Register
Scheduling Unit
(202) 741-6062

--

Mark Lawyer

Deputy Director - Policy and Regulatory Affairs
Executive Secretariat and Regulatory Affairs
Office of the Secretary
Department of the Interior

Email: mark_lawyer@ios.doi.gov

Voice: (202) 208-5257

Fax: (202) 219-2100

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Thu Feb 23 2017 11:39:34 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Docket No. ONRR-2012-0004; 17-03861
Attachments: ONRR 2017-03861_1042931 (1).docx

Matt/Jack:

(b) (5)

(b) (5)

Matt

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

----- Forwarded message -----

From: **Giles, Kent H. (OFR)** <kgiles@gpo.gov>
Date: Thu, Feb 23, 2017 at 11:14 AM
Subject: RE: Docket No. ONRR-2012-0004; 17-03861
To: "Williams, Matt" <matt.williams@onrr.gov>
Cc: "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>, "L. Southall" <armand.southall@onrr.gov>, Luis Aguilar <luis.aguilar@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, "Gregory (Greg) Gould" <greg.gould@onrr.gov>, "Gidner, Jerold" <jerold.gidner@onrr.gov>, Matthew Wheeler <matthew.wheeler@sol.doi.gov>, "Vincent, Miriam (OFR)" <mvincent@gpo.gov>

Hello, Matt. Federal Register defines the effective date as the date that the change is made in the Code of Federal Regulations. Since the rule that ONRR published July 1, 2016 (81 FR 43338) had an effective date of January 1, 2017, those amendments have been in effect since January 1, 2017.

So the effective date cannot be delayed or postponed at this point; but it can be stayed.(as discussed in pages 2-12 through 2-14 of chapter 2 of the Document Drafting Handbook)

I have cc'd Miriam Vincent of Federal Register Legal Unit to keep our legal staff in the loop.

Thanks,

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

From: Williams, Matt [mailto:matt.williams@onrr.gov]
Sent: Thursday, February 23, 2017 1:05 PM
To: Giles, Kent H. (OFR)
Cc: Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Matthew Wheeler
Subject: Fwd: Docket No. ONRR–2012–0004; 17-03861

Hey Kent,

Please see our Solicitor's response below and advise as to the impact.

Regards,

Matthew Williams

Office of Natural Resources Revenue

Regulatory Liaison | Writer/Editor

1849 C Street N.W., Room 4216, MS 4211

Washington, D.C. 20240

(202) 513-0664

----- Forwarded message -----

From: Wheeler, Matthew <matthew.wheeler@sol.doi.gov>
Date: Thu, Feb 23, 2017 at 1:01 PM
Subject: Re: Docket No. ONRR–2012–0004; 17-03861
To: "Williams, Matt" <matt.williams@onrr.gov>, Robert Eaton <robert.eaton@sol.doi.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>

Why are we making edits to a document that was approved by the Acting Secretary of the Interior?

I have no authority to authorize these edits. That said, Section 705 specifically uses the phrase "postpone the effective date." As an initial matter, "effective date" (the date something takes effect) means something entirely different than "effectiveness" (whether something is effective or not). That change fundamentally departs from the language of the statute, and changes the meaning of the FR notice.

With respect to "postpone" versus "stay", again, the statute (cited in paragraph 2 of the FR notice) uses the term

"postpone." The notice uses both terms interchangeably. Given that the Acting Secretary of the Interior not only approved the language, as is, but also helped draft the language, I would not make that change either. I think its important that the FR notice at least reference the statutory language under which it is taking the action.

Matthew J. Wheeler

U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region

755 Parfet St., Suite 151

Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

Fax: (303) 231-5363

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Here's the OFR copy with their edits.

Regards,

Matthew Williams

Office of Natural Resources Revenue

Regulatory Liaison | Writer/Editor

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If I answer any questions you have, and have your approval of edits before 2:00 PM today, this could publish on Monday, February 27, as requested.

Thanks,

Kent

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Thu Feb 23 2017 13:07:13 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Fwd: Docket No. ONRR-2012-0004; 17-03861

Closing the loop on this. I received the below email shortly after I circulated an email saying I had reached out to both of you. Apparently, Mark Lawyer, working with Matt Williams, agreed to certain changes in the language of FR Notice, as described below. The modified FR notice will be published tomorrow. That is all the information I could get. I have not seen the modified FR Notice. It appears the question presented in my previous email is now moot, as whatever changes were made have already authorized and completed.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region

755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

----- Forwarded message -----

From: **Vincent, Miriam (OFR)** <mvincent@gpo.gov>
Date: Thu, Feb 23, 2017 at 12:00 PM
Subject: RE: Docket No. ONRR–2012–0004; 17-03861
To: "Giles, Kent H. (OFR)" <kgiles@gpo.gov>, "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Cc: "Williams, Matt" <matt.williams@onrr.gov>, "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>, "L. Southall" <armand.southall@onrr.gov>, Luis Aguilar <luis.aguilar@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, "Gregory (Greg) Gould" <greg.gould@onrr.gov>, "Gidner, Jerold" <jerold.gidner@onrr.gov>, "Scott, Moja (OFR)" <msscott@gpo.gov>

Mark&Co. and I agreed to the following changes. They were going to coordinate with Matt on approving the changes:

ACTION: Notification; postponement of effectiveness

DATES: [insert date of pub]

Body – everywhere that “postpone the effective date” was changed to “stay the effectiveness”, use “postpone the effectiveness”.

And move the footnote out of the SUMMARY.

Let me know if you have any questions.

Miriam

Miriam Vincent

Staff Attorney, Legal Affairs and Policy Division

Office of the Federal Register

National Archives and Records Administration

(o) 202.741.6024 (bb) 202.276.3219

From: Giles, Kent H. (OFR)
Sent: Thursday, February 23, 2017 1:58 PM
To: Wheeler, Matthew
Cc: Williams, Matt; Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Vincent, Miriam (OFR); Scott, Moja (OFR)
Subject: RE: Docket No. ONRR–2012–0004; 17-03861

I don't know who at DOI/ONRR contacted and discussed this with Miriam. I am waiting to see the changes myself.

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

From: Wheeler, Matthew [<mailto:matthew.wheeler@sol.doi.gov>]
Sent: Thursday, February 23, 2017 1:51 PM
To: Giles, Kent H. (OFR)
Cc: Williams, Matt; Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Vincent, Miriam (OFR); Scott, Moja (OFR)
Subject: Re: Docket No. ONRR–2012–0004; 17-03861

Thanks for the update. Can you clarify what the changes are, and who authorized them, so I can close the loop on my end?

Matthew J. Wheeler

U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region

755 Parfet St., Suite 151

Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

Fax: (303) 231-5363

On Thu, Feb 23, 2017 at 11:49 AM, Giles, Kent H. (OFR) <kgiles@gpo.gov> wrote:

Mr. Wheeler, Miriam Vincent of Federal Register Legal Unit had a phone discussion with Department of Interior staff; they agreed on an updated approach, and I anticipate receiving a markup from ONRR shortly.

Thanks,

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

From: Wheeler, Matthew [mailto:matthew.wheeler@sol.doi.gov]

Sent: Thursday, February 23, 2017 1:46 PM

To: Giles, Kent H. (OFR)

Cc: Williams, Matt; Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Vincent, Miriam (OFR); Scott, Moja (OFR)

Subject: Re: Docket No. ONRR-2012-0004; 17-03861

Mr. Giles:

I've sent your response to my Regional Solicitor and the Acting Secretary for their decision.

On a side note, 79 FR 26297, in which the SEC stayed a rule already in effect, appears to use virtually identical language to what ONRR has in its FR notice here, at least with respect to "effective date" versus "effectiveness."

I will contact you as soon as I hear back from Mr. McKeown and Mr. Haugrud.

Thanks,

Matthew J. Wheeler

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Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

Fax: (303) 231-5363

On Thu, Feb 23, 2017 at 11:19 AM, Giles, Kent H. (OFR) <kgiles@gpo.gov> wrote:

Also cc'ing Moja Scott since Mark cc'd her on a separate email.

Kent

From: Giles, Kent H. (OFR)

Sent: Thursday, February 23, 2017 1:15 PM

To: 'Williams, Matt'

Cc: Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Matthew Wheeler; Vincent, Miriam (OFR)

Subject: RE: Docket No. ONRR-2012-0004; 17-03861

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Thanks,

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

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Sent: Thursday, February 23, 2017 1:05 PM

To: Giles, Kent H. (OFR)

Cc: Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Matthew Wheeler

Subject: Fwd: Docket No. ONRR-2012-0004; 17-03861

Hey Kent,

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Regards,

Matthew Williams

Office of Natural Resources Revenue

Regulatory Liaison | Writer/Editor

1849 C Street N.W., Room 4216, MS 4211

Washington, D.C. 20240

(202) 513-0664

----- Forwarded message -----

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Date: Thu, Feb 23, 2017 at 1:01 PM

Subject: Re: Docket No. ONRR-2012-0004; 17-03861

To: "Williams, Matt" <matt.williams@onrr.gov>, Robert Eaton

<robert.eaton@sol.doi.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, John Mehlhoff

<john.mehlhoff@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>

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U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region

755 Parfet St., Suite 151

Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

Fax: (303) 231-5363

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Matthew Williams

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Cc: "Rosita.ComptonChristian@onrr.gov" <Rosita.ComptonChristian@onrr.gov>

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Kent

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Thu Feb 23 2017 16:44:28 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: Docket No. ONRR-2012-0004; 17-03861

Here's the scoop. Julie Lillie (Director of Exec Sec) stopped by about 1:15 and told me the problem. I asked Ed Keable and Julie, along with Mark Lawyer, to call the Office of Federal Register to go over their concerns. (b) (5)

. The notice will not be published tomorrow. We have asked for expedited publication, which means that it should get published on Monday.

On Thu, Feb 23, 2017 at 3:07 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

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755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

----- Forwarded message -----

From: Vincent, Miriam (OFR) <mvincent@gpo.gov>
Date: Thu, Feb 23, 2017 at 12:00 PM
Subject: RE: Docket No. ONRR-2012-0004; 17-03861
To: "Giles, Kent H. (OFR)" <kgiles@gpo.gov>, "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Cc: "Williams, Matt" <matt.williams@onrr.gov>, "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>, "L. Southall" <armand.southall@onrr.gov>, Luis Aguilar <luis.aguilar@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, "Gregory (Greg) Gould" <greg.gould@onrr.gov>, "Gidner, Jerold" <jerold.gidner@onrr.gov>, "Scott, Moja (OFR)" <mjscott@gpo.gov>

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Miriam Vincent

Staff Attorney, Legal Affairs and Policy Division

Office of the Federal Register

National Archives and Records Administration

(o) 202.741.6024 (bb) 202.276.3219

From: Giles, Kent H. (OFR)

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Cc: Williams, Matt; Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Vincent, Miriam (OFR); Scott, Moja (OFR)

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Office of the Federal Register

Scheduling Unit

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matthew.wheeler@sol.doi.gov

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Cc: Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Matthew Wheeler; Vincent, Miriam (OFR)

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To: Giles, Kent H. (OFR)
Cc: Lawyer, Mark; L. Southall; Luis Aguilar; Bonnie Robson; Gregory (Greg) Gould; Gidner, Jerold; Matthew Wheeler
Subject: Fwd: Docket No. ONRR-2012-0004; 17-03861

Hey Kent,

Please see our Solicitor's response below and advise as to the impact.

Regards,

Matthew Williams

Office of Natural Resources Revenue

Regulatory Liaison | Writer/Editor

1849 C Street N.W., Room 4216, MS 4211

Washington, D.C. 20240

(202) 513-0664

----- Forwarded message -----

From: Wheeler, Matthew <matthew.wheeler@sol.doi.gov>
Date: Thu, Feb 23, 2017 at 1:01 PM
Subject: Re: Docket No. ONRR-2012-0004; 17-03861
To: "Williams, Matt" <matt.williams@onrr.gov>, Robert Eaton <robert.eaton@sol.doi.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>

Why are we making edits to a document that was approved by the Acting Secretary of the Interior?

I have no authority to authorize these edits. That said, Section 705 specifically uses the phrase "postpone the effective date." As an initial matter, "effective date" (the date something takes effect) means something entirely different than "effectiveness" (whether something is effective or not). That change fundamentally departs from the language of the statute, and changes the meaning of the FR notice.

With respect to "postpone" versus "stay", again, the statute (cited in paragraph 2 of the FR notice) uses the term "postpone." The notice uses both terms interchangeably. Given that the Acting Secretary of the Interior not only approved the language, as is, but also helped draft the language, I would not make that change either. I think its important that the FR notice at least reference the statutory language under which it is taking

the action.

Matthew J. Wheeler

U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region

755 Parfet St., Suite 151

Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

Fax: (303) 231-5363

On Thu, Feb 23, 2017 at 10:35 AM, Williams, Matt <matt.williams@onrr.gov> wrote:

Here's the OFR copy with their edits.

Regards,

Matthew Williams

Office of Natural Resources Revenue

Regulatory Liaison | Writer/Editor

1849 C Street N.W., Room 4216, MS 4211

Washington, D.C. 20240

(202) 513-0664

----- Forwarded message -----

From: **Giles, Kent H. (OFR)** <kgiles@gpo.gov>

Date: Thu, Feb 23, 2017 at 12:06 PM

Subject: Docket No. ONRR–2012–0004; 17-03861

To: "matt.williams@onrr.gov" <matt.williams@onrr.gov>

Cc: "Rosita.ComptonChristian@onrr.gov" <Rosita.ComptonChristian@onrr.gov>

Hello, Matt – markup is attached for your review. The edits conform the format to Federal Register requirements for a stay of a final rule.

If I answer any questions you have, and have your approval of edits before 2:00 PM today, this could publish on Monday, February 27, as requested.

Thanks,

Kent

Kent H. Giles

Office of the Federal Register

Scheduling Unit

(202) 741-6062

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2012–0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA13

**Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform
2017 Valuation Rule**

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Final rule; stay.

SUMMARY: On July 1, 2016, the Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (2017 Valuation Rule or Rule) in the Federal Register. On December 29, 2016, three separate petitions challenging the 2017 Valuation Rule were filed in the United States District Court for the District of Wyoming. In light of the existence and potential consequences of the pending litigation, ONRR has concluded that justice requires it to stay the effectiveness of the 2017 Valuation Rule pursuant to 5 U.S.C. 705 of the Administrative Procedure Act, pending judicial review.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 30 CFR 1202.51(b) and 1202.251, and 30 CFR part 1206, subparts A, C, D, F and J, are stayed indefinitely.

FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to *peter.christnacht@onrr.gov*.

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the 2017 Valuation Rule in the Federal Register. *See* 81 FR 43338. The 2017 Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements. Although the 2017 Valuation Rule took effect on January 1, 2017, Federal and Indian Lessees are not required to report and pay royalties under the Rule until February 28, 2017.

On December 29, 2016, three separate petitions were filed in the U.S. District Court for the District of Wyoming.¹ The petitions allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. On February 17, 2017, the petitioners sent the ONRR Director a letter requesting that ONRR postpone the implementation of the 2017 Valuation Rule. The petitioners claim that lessees affected by the Rule face significant hardship and uncertainty in the face of reporting under the rule for the first time on February 28, 2017. The petitioners also claim that the new reporting and payment requirements in the Rule are difficult, and in some cases impossible, to comply with by the royalty reporting deadline; a difficulty exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

Under Section 705 of the Administrative Procedure Act “[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.” 5 U.S.C. 705. In light of the pending litigation, and for the following reasons, ONRR has concluded that justice requires it to stay the effectiveness of the 2017 Valuation Rule until the judicial challenges to the Rule are resolved.

¹ *Cloud Peak Energy, Inc. v. United States Dep’t of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep’t of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass’n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep’t of the Interior*, Case No. 16CV319-F (D. Wyo.)

First, the stay will preserve the regulatory status quo while the litigation is pending and the Court decides whether to uphold the regulation. While ONRR believes the 2017 Valuation Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule, including the expansion of the “default provision” and the use of the sales price of electricity for certain coal-royalty valuations. Given this legal uncertainty, maintaining the status quo is critical for a number of reasons. First, a stay will avoid the substantial cost of retroactively correcting and verifying all revenue reports if the 2017 Valuation Rule is invalidated, in whole or in part, as a result of the pending litigation. Federal and Indian lessees affected by the 2017 Valuation Rule submit approximately 450,000 reporting lines every production month. If the Court invalidates the 2017 Valuation Rule, affected lessees would be forced to correct and resubmit reporting lines for each production month that the Rule is in effect. ONRR would be required to review and verify the same. Thus, staying the 2017 Valuation Rule will avoid forcing both the regulated community and ONRR to perform the complicated, time-consuming, and costly task of correcting and verifying revenue reports and payments if the 2017 valuation Rule is invalidated as a result of the pending litigation.²

In addition, the stay will enhance the lessees’ ability to timely and accurately report and pay royalties because they will be using a well-known system that has been in place for the last 25 years. ONRR has received numerous legitimate questions from lessees on how to apply the 2017 Valuation Rule, some of which will require additional consideration and time before ONRR can definitively answer them; thus increasing the likelihood that lessees will initially report

² Some lessees have likely converted their accounting systems to report and pay royalties under the new rule. While these lessees will incur a cost to revert back to the pre-existing system, the cost of doing so now, before the first reporting period, will be much less than if the reversion is required later upon judicial order, and the lessee is required to correct its reporting for each month it reported under the Rule.

incorrectly and later need to adjust their reports. In addition, the Court may resolve some of these issues differently than ONRR, again increasing the likelihood that lessees will need to submit corrected reports. Given these judicial and administrative uncertainties, relying on the previous regulatory system while the litigation is pending will reduce uncertainty and enhance ONRR's ability to collect and verify natural resource revenues, which is in the best interest of all those who benefit from royalty payments, including States, Tribes, individual Indian lessors, and the general public.

The United States will suffer no significant harm from staying the effectiveness of the 2017 Valuation Rule while the litigation is pending. As noted in the preamble to the final rule, the implementation of the Rule is not expected to have a significant impact on the economy. 81 FR 43338, 43368. Thus, staying the effectiveness of the Rule will not cause any appreciable economic harm to the general public. In fact, the interests of all royalty beneficiaries will be enhanced by the regulatory certainty provided by the stay, as discussed above. In contrast, the regulated community will suffer harm without the stay, especially if the Rule is later invalidated by the Court. If the Rule is invalidated, the regulated community would not only incur the unreimbursable costs of reverting back to the old system, but would also incur the substantial costs of correcting its reports and royalty payments for each production month.

In sum, in light of the existence and consequences of the pending litigation, and given the potentially irreparable harm that could result if the 2017 Valuation Rule is immediately implemented, ONRR has determined that the public interest and justice requires staying the effectiveness of the 2017 Valuation Rule until the litigation is resolved.

Accordingly, pursuant to Section 705 of the Administrative Procedure Act, 5 U.S.C. 705, ONRR has stayed the effectiveness of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule pending judicial review.

February 22, 2017

Date

Gregory J. Gould
Director,
Office of Natural Resources Revenue

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2012–0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA13

**Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform
2017 Valuation Rule**

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

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ACTION: Final rule; stay.

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SUMMARY: On July 1, 2016, the Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (2017 Valuation Rule or Rule) in the Federal Register. On December 29, 2016, three separate petitions challenging the 2017 Valuation Rule were filed in the United States District Court for the District of Wyoming. In light of the existence and potential consequences of the pending litigation, ONRR has concluded that justice requires it to stay the effectiveness of the 2017 Valuation Rule pursuant to 5 U.S.C. 705 of the Administrative Procedure Act, pending judicial review.

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DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 30 CFR 1202.51(b) and 1202.251, and 30 CFR part 1206, subparts A, C, D, F and J, are stayed indefinitely.

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FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to peter.christnacht@onrr.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the 2017 Valuation Rule in the Federal Register. *See* 81 FR 43338. The 2017 Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements.

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On December 29, 2016, three separate petitions were filed in the U.S. District Court for the District of Wyoming.⁴ The petitions allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. On February 17, 2017, the petitioners sent the ONRR Director a letter requesting that ONRR postpone the implementation of the 2017 Valuation Rule. The petitioners claim that lessees affected by the Rule face significant hardship and uncertainty in the face of reporting under the rule for the first time on February 28, 2017. The petitioners also claim that the new reporting and payment requirements in the Rule are difficult, and in some cases impossible, to comply with by the royalty reporting deadline; a difficulty exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

Under Section 705 of the Administrative Procedure Act “[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.” 5 U.S.C. 705. In light of the pending litigation, and for the following reasons, ONRR has concluded that justice requires it to stay the effectiveness of the 2017 Valuation Rule until the judicial challenges to the Rule are resolved.

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Footnote 1 moves to Supplementary Information because footnotes do not appear in the Summary.

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Deleted: postpone

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⁴ *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

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In sum, in light of the existence and consequences of the pending litigation, and given the potentially irreparable harm that could result if the 2017 Valuation Rule is immediately implemented, ONRR has determined that the public interest and justice requires staying the effectiveness of the 2017 Valuation Rule until the litigation is resolved.

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Accordingly, pursuant to Section 705 of the Administrative Procedure Act, 5 U.S.C. 705,

ONRR has stayed the effectiveness of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule pending judicial review.

February 22, 2017

Date

Gregory J. Gould
Director,
Office of Natural Resources Revenue

Deleted: postponed

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Conversation Contents

Fwd: FRN from hell

Attachments:

/6. Fwd: FRN from hell/1.1 ONRR 2017-03861_1042931 (1).docx

"Murphy, Timothy" <timothy.murphy@sol.doi.gov>

From: "Murphy, Timothy" <timothy.murphy@sol.doi.gov>
Sent: Thu Feb 23 2017 12:52:53 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, "Keable, Edward" <edward.keable@sol.doi.gov>
Subject: Fwd: FRN from hell
Attachments: ONRR 2017-03861_1042931 (1).docx

Gentlemen,
FYI-the notification on the 2017 Valuation rule that was sent to the Federal Register today is attached.
Thanks,
Tim

----- Forwarded message -----

From: **Williams, Matt** <matt.williams@onrr.gov>
Date: Thu, Feb 23, 2017 at 2:17 PM
Subject: FRN on 2017 Valuation
To: Timothy Murphy <timothy.murphy@sol.doi.gov>, "Lawyer, Mark" <Mark_Lawyer@ios.doi.gov>

Regards,

Matthew Williams

*Office of Natural Resources Revenue
Regulatory Liaison | Writer/Editor
1849 C Street N.W., Room 4216, MS 4211
Washington, D.C. 20240
(202) 513-0664*

Conversation Contents

Request for emergency schedule for delay of effective date for ONRR valuation rule

Attachments:

/7. Request for emergency schedule for delay of effective date for ONRR valuation rule/1.1 ONRR_Emergency Request_Stay Notice_22217.docx
/7. Request for emergency schedule for delay of effective date for ONRR valuation rule/2.1 ONRR_Emergency Request_Stay Notice_22217.docx

"Lawyer, Mark" <mark_lawyer@ios.doi.gov>

From: "Lawyer, Mark" <mark_lawyer@ios.doi.gov>
Sent: Thu Feb 23 2017 06:23:53 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>
CC: Juliette Lillie <juliette_lillie@ios.doi.gov>
Subject: Request for emergency schedule for delay of effective date for ONRR valuation rule
Attachments: ONRR_Emergency Request_Stay Notice_22217.docx

Per Julie's request, we drafted a certification letter for ONRR's Federal Register liaison to sign and deliver to the Federal Register that includes a request for publication on the emergency schedule and a specific request for public display on Friday, 2/24 and publication on Monday, 2/27. I have attached our draft. Please let me know if you wish to discuss.

--

Mark Lawyer

Deputy Director - Policy and Regulatory Affairs
Executive Secretariat and Regulatory Affairs
Office of the Secretary
Department of the Interior

Email: mark_lawyer@ios.doi.gov
Voice: (202) 208-5257

Fax: (202) 219-2100

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Thu Feb 23 2017 06:41:02 GMT-0700 (MST)
To: "Lawyer, Mark" <mark_lawyer@ios.doi.gov>
CC: Edward Keable <edward.keable@sol.doi.gov>, Juliette Lillie <juliette_lillie@ios.doi.gov>
Subject: Re: Request for emergency schedule for delay of effective date for ONRR valuation rule
Attachments: ONRR_Emergency Request_Stay Notice_22217.docx

Thanks Mark. This looks good. I have a couple of suggested edits (redline/strikeout version attached). I would prefer to leave out (b) (5)

I don't think it's necessary for the letter and could engender confusion to someone reading about the issue for the first, and probably last, time.

On Thu, Feb 23, 2017 at 8:23 AM, Lawyer, Mark <mark_lawyer@ios.doi.gov> wrote:

Per Julie's request, we drafted a certification letter for ONRR's Federal Register liaison to sign and deliver to the Federal Register that includes a request for publication on the emergency schedule and a specific request for public display on Friday, 2/24 and publication on Monday, 2/27. I have attached our draft. Please let me know if you wish to discuss.

--

Mark Lawyer

Deputy Director - Policy and Regulatory Affairs
Executive Secretariat and Regulatory Affairs
Office of the Secretary
Department of the Interior

Email: mark_lawyer@ios.doi.gov

Voice: (202) 208-5257

Fax: (202) 219-2100

Oliver Potts, Director
Office of the Federal Register
800 North Capitol Street, NW, Suite 700
Washington, DC 20001

Re: Certification Letter and Request for Emergency Publication on
February 27, 2017

Dear Mr. Potts:

I certify that the Microsoft Word file furnished with the attached Notice, "*Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform 2017 Valuation Rule*", is a true copy of the original signed document.

I also request emergency publication of this Notice. Please make it available for public inspection on Friday, February 24, 2017, and publish it on Monday, February 27, 2017. Emergency publication is necessary because the regulated industry and the public must have this

(b) (5)

Because pending litigation may result in changes to the rule, ONRR has concluded pursuant to section 705 of the Administrative Procedure Act, 5 U.S.C. § 705, that justice requires postponement of the effective date. As the Notice explains, it is important to preserve the regulatory status quo to avoid the costs and possible confusion that both the regulated industry and ONRR could experience if lessees begin reporting under the rule and it is later invalidated or modified due to the litigation. It is essential that the Notice be published to inform the regulated industry and the public of the postponement of the effective date before the current reporting deadline of February 28, 2017.

If there is any reason it may not be possible to accommodate this request, please let me know immediately. Please contact me at [insert phone number] or by email at [insert email address] to discuss or confirm the publication date. I sincerely appreciate your attention to this request.

Sincerely,

[insert name here]
Federal Register Liaison

Oliver Potts, Director
Office of the Federal Register
800 North Capitol Street, NW, Suite 700
Washington, DC 20001

Re: Certification Letter and Request for Emergency Publication on
February 27, 2017

Dear Mr. Potts:

I certify that the Microsoft Word file furnished with the attached Notice, "*Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform 2017 Valuation Rule*", is a true copy of the original signed document.

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Sincerely,

[insert name here]
Federal Register Liaison

Conversation Contents

Fwd: Sending the DR Letter and Director Response to the Petitioner

Attachments:

- /8. Fwd: Sending the DR Letter and Director Response to the Petitioner/1.1 Dear Reporter Letter Stay Valuation 2-2017.pdf
- /8. Fwd: Sending the DR Letter and Director Response to the Petitioner/1.2 Signed Response Valuation Rule 2-17.pdf
- /8. Fwd: Sending the DR Letter and Director Response to the Petitioner/1.3 Signed Valuation Rule Response 2.pdf
- /8. Fwd: Sending the DR Letter and Director Response to the Petitioner/1.4 Signed Valuation Rule Response3.pdf
- /8. Fwd: Sending the DR Letter and Director Response to the Petitioner/1.5 Signed Valuation Rule Response 4.pdf

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Wed Feb 22 2017 16:15:51 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Sending the DR Letter and Director Response to the Petitioner
Attachments: Dear Reporter Letter Stay Valuation 2-2017.pdf Signed Response Valuation Rule 2-17.pdf Signed Valuation Rule Response 2.pdf Signed Valuation Rule Response3.pdf Signed Valuation Rule Response 4.pdf

Matt/Jack:

Below is written confirmation that (1) ONRR is prepared to send the signed Dear Reporter Letter via email to affected lessees, and post the Dear Reporter Letter on its website immediately following ONRR's 9:00 a.m. meeting tomorrow morning; and (2) ONRR is prepared to send the signed Directors letter to the Petitioners, by email and Fed Ex, immediately following the same.

The relevant documents are attached.

Please contact me with any questions, comments or concerns.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151

Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

----- Forwarded message -----

From: **Steward, Jim** <jim.steward@onrr.gov>
Date: Wed, Feb 22, 2017 at 4:10 PM
Subject: Re: Sending the DR Letter and Director Response to the Petitioner
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Cc: Bonnie Robson <bonnie.robson@onrr.gov>, Amy Lunt <amy.lunt@onrr.gov>, Peter Christnacht <peter.christnacht@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, Greg Gould <greg.gould@onrr.gov>, Christina Mathers <Christina.Mathers@onrr.gov>

Matt,

I am confirming that ONRR is prepared to accomplish both items (1) and (2) immediately following the February 23 morning briefing.

I attached scanned copies of all referenced correspondence.

Thanks,
Jim

On Wed, Feb 22, 2017 at 3:05 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Jim:

Per our discussion, please confirm the following today, as soon as everything is in place and ready to go:

- (1) ONRR is prepared to send the signed Dear Reporter Letter to all lessees affected by the Stay via an email blast, and prepared to post the signed Dear Reporter Letter on its website, tomorrow morning immediately after ONRR's 9 a.m. briefing.
- (2) ONRR is prepared to send the signed Director Letter to the Petitioners attorneys, by email and FedEx, tomorrow morning immediately after ONRR's 9 a.m. briefing. I attached the letter so you can see to whom the letter should be distributed.

Thanks,

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 22 2017 16:17:16 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: Sending the DR Letter and Director Response to the Petitioner

Thanks Matt.

On Wed, Feb 22, 2017 at 6:15 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Matt/Jack:

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Matthew J. Wheeler
U.S. Department of the Interior
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755 Parfet St., Suite 151
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To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Cc: Bonnie Robson <bonnie.robson@onrr.gov>, Amy Lunt <amy.lunt@onrr.gov>, Peter Christnacht <peter.christnacht@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, Greg Gould <greg.gould@onrr.gov>, Christina Mathers <Christina.Mathers@onrr.gov>

Matt,

I am confirming that ONRR is prepared to accomplish both items (1) and (2) immediately following the February 23 morning briefing.

I attached scanned copies of all referenced correspondence.

Thanks,

Jim

On Wed, Feb 22, 2017 at 3:05 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Jim:

Per our discussion, please confirm the following today, as soon as everything is in place and ready to go:

(1) ONRR is prepared to send the signed Dear Reporter Letter to all lessees affected by the Stay via an email blast, and prepared to post the signed Dear Reporter Letter on its website, tomorrow morning immediately after ONRR's 9 a.m. briefing.

(2) ONRR is prepared to send the signed Director Letter to the Petitioners attorneys, by email and FedEx, tomorrow morning immediately after ONRR's 9 a.m. briefing. I attached the letter so you can see to whom the letter should be distributed.

Thanks,

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

Conversation Contents

Fwd: Materials for Thursday Valuation Rule Meeting

Attachments:

/10. Fwd: Materials for Thursday Valuation Rule Meeting/1.1 INFORMATION
Memo Evolution of USEITI final.docx

/10. Fwd: Materials for Thursday Valuation Rule Meeting/1.2
InfoBriefing_Secretary_StayRule.docx

/10. Fwd: Materials for Thursday Valuation Rule Meeting/1.3 INFORMATION
Briefing RPC Comparison.docx

"Caminiti, Mariagrazia" <marigrace.caminiti@sol.doi.gov>

From: "Caminiti, Mariagrazia" <marigrace.caminiti@sol.doi.gov>
Sent: Wed Feb 22 2017 12:16:53 GMT-0700 (MST)
To: Jack Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Materials for Thursday Valuation Rule Meeting
INFORMATION Memo Evolution of USEITI final.docx
InfoBriefing_Secretary_StayRule.docx
Attachments: INFORMATION
Briefing RPC Comparison.docx

fyi - added to your calendar for 9am tomorrow - i've printed this material for [you.mg](#)

----- Forwarded message -----

From: **McKeown, Matthew** <matthew.mckeown@sol.doi.gov>
Date: Wed, Feb 22, 2017 at 2:10 PM
Subject: Fwd: Materials for Thursday Valuation Rule Meeting
To: Mariagrazia Caminiti <marigrace.caminiti@sol.doi.gov>

Here is the material for the meeting we just discussed. Gareth meant Greg Gould, not Gary Frazer.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Rees, Gareth** <gareth_rees@ios.doi.gov>
Date: Wed, Feb 22, 2017 at 11:52 AM
Subject: Materials for Thursday Valuation Rule Meeting
To: Daniel Jorjani <daniel_jorjani@ios.doi.gov>, Douglas Domenech <douglas_domenech@ios.doi.gov>, Downey Magallanes <downey_magallanes@ios.doi.gov>, Katharine Macgregor <katharine_macgregor@ios.doi.gov>, Kathleen Benedetto <kathleen_benedetto@ios.doi.gov>, Matthew McKeown <matthew.mckeown@sol.doi.gov>, Megan Bloomgren <megan_bloomgren@ios.doi.gov>, Melissa Simpson <melissa_simpson@ios.doi.gov>, Micah Chambers <micah_chambers@ios.doi.gov>, "Michael D. Nedd" <mnedd@blm.gov>, Nancy Guiden <nancy_guiden@ios.doi.gov>, Ruthie Jefferson <rjefferson@blm.gov>, Scott Hommel <scott_hommel@ios.doi.gov>, Amanda Kaster <amanda_kaster@ios.doi.gov>, Lori Mashburn <lori_mashburn@ios.doi.gov>, Natalie Davis <natalie_davis@ios.doi.gov>

All,

Please find attached materials from Gary Frazer for the Valuation Rule Meeting on Thursday at 9am.

Thanks

Gareth

--

Gareth C. Rees

Office to the Deputy Secretary

U.S. Department of the Interior

Tel: 202-208-6291

Fax: 202-208-1873

Cell: 202-957-8299

--

Marigrace Caminiti

Executive Assistant to the Solicitor
US Department of the Interior
1849 C Street, NW, Rm. 6352
Washington, DC 20240
202-208-4423 - main number
202-208-3111 - direct

INFORMATION/ BRIEFING MEMORANDUM

DATE: February 23, 2017

FROM: Gregory J. Gould
Director, Office of Natural Resources Revenue

SUBJECT: ANPR and RPC as Next Steps Following Stay of ONRR's Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Rule

As a next step following its stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Rule (Rule), the Office of Natural Resources Revenue (ONRR) proposes to prepare within a week, then publish, an advanced notice of proposed rulemaking (ANPR) to invite the public to submit suggestions for possible changes to ONRR valuation regulations as amended by the Rule. The 90-day period for comment announced in the ANPR could be extended at a later date to allow suggestions from the Royalty Policy Committee (RPC), if reconstituted.

BACKGROUND

The Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule (2017 Valuation Rule) on July 1, 2016, effective January 1, 2017. On December 29, 2016, industry members and trade organizations filed three lawsuits challenging the Rule. In the near future, we anticipate organizations favoring the Rule may sue to challenge the stay of the Rule. Further, members of the House of Representatives recently introduced a bill to disapprove the Rule under the Congressional Review Act (CRA).

DISCUSSION

If ONRR does not quickly act toward a constructive resolution of outstanding valuation issues, both controversial provisions and those well-received by industry could be invalidated under the Congressional Review Act. Alternatively, ONRR, the Solicitor's Office, and the Department of Justice may be forced to commit significant resources to complex litigation unlikely to result in sound, improved valuation regulations. Stakeholders include industry, States, Tribes, and public interest groups. ONRR's rapid publication of an ANPR will provide all stakeholders a forum to suggest improvements to the valuation regulations and constructively address concerns expressed by industry litigants. Some of the issues expressed by the industry litigants include:

- Valuation of and allowable deductions for coal sold into foreign markets
- Valuation of coal based on electricity sales
- Valuation of coal transferred to an affiliate based on the first arm's-length sale
- Treatment of coal cooperatives as affiliates for valuation based on first arm's-length sale
- Failure to allow valuation of coal transferred to an affiliate based on index prices
- Requirements that contracts be in writing and signed

- The "default provision," which defines when and how Secretarial discretion will be used to value production
- Limits on oil and gas transportation allowances and gas processing allowances
- Required valuation of Federal gas based on index prices
- Disallowance of deepwater gathering deductions

Further, the RPC, if reconstituted, could suggest solutions in areas of stakeholder disagreement. And ONRR, in the ensuing rulemaking, could consider or resolve other issues, such as:

- Allowing valuation of arm's-length sales based on index price
- Reintroducing and improving benchmarks for royalty valuation
- Addressing marketable condition and unbundling
- Separating the rules for oil, gas, and coal
- Updating the rule's economic impact analysis
- Other ONRR rulemakings in process, including takes vs. entitlements, service of official correspondence, and Form 4444 filing requirements

Finally, in the seven months since the Rule's publication, industry has raised and ONRR has discovered certain issues that could be clarified or fixed through a new rulemaking process.

ONRR could:

- Clarify the differences between guidance and determinations, including who has the authority to issue a determination and who is bound by a determination
- Simplify the valuation process for no-sale situations, such as production used for pipeline fuel, and gas vented or flared
- Clarify index-based gas valuation option election rules
- Add language limiting combined transportation and processing allowances to <100% of value
- Revisit whether S&P bond rates should be used in allowance calculations
- Remove language requiring ONRR to pay industry interest on overpayments, as interest is now prohibited by the FAST Act
- Revisit calculation of non-arm's-length transportation allowances based on FERC or State agency tariffs
- Fix typos, reference citations, and other technical glitches

NEXT STEPS

Subject to Departmental approval, ONRR plans to publish an ANPR within the next one to two months. After a 90-day comment period, which may be extended to allow input from a reconstituted RPC, ONRR will collect and consider all submissions.

Conversation Contents

Valuation Rule Stay Documents

Attachments:

/11. Valuation Rule Stay Documents/1.1 FR notice of postponement MJW.Edits kjh.Final.docx
/11. Valuation Rule Stay Documents/1.2 Director letter.mjw.edits kjh.updated.Final.docx
/11. Valuation Rule Stay Documents/1.3 Dear Reporter letter.MJW.edits kjh.Final.docx
/11. Valuation Rule Stay Documents/3.1 FR notice of postponement MJW.Edits kjh.Final 2 21.docx

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Tue Feb 21 2017 12:38:23 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Valuation Rule Stay Documents
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Attachments: Director letter.mjw.edits kjh.updated.Final.docx Dear Reporter letter.MJW.edits kjh.Final.docx

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Attached is the FR Notice. As a starting point, I accepted all of your revisions, and tracked subsequent edits. I added a couple of comments to clarify. (b) (5)

Attached also are the Dear Reporter Letter, which was revised in light of your comment, and the Director's responsive letter, which I re-wrote to incorporate what is discussed in the FR Notice.

Please contact me with any questions, comments or concerns.

With your approval, I will delete all comments, accept all changes, make sure the documents are in final form and send them to ONRR.

Thank you,

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"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Tue Feb 21 2017 15:47:39 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Valuation Rule Stay Documents

Matt Wheeler: I am fine with the FR as revised. (b) (5)

I am available to talk if you think this is an unwise approach or otherwise needs discussion.

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"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

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"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Tue Feb 21 2017 16:05:54 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Valuation Rule Stay Documents

Thank you. (b) (5)

Matthew J. Wheeler
U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
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matthew.wheeler@sol.doi.gov
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Fax: (303) 231-5363

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Sent: Tue Feb 21 2017 16:10:26 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Valuation Rule Stay Documents

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Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
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[Redacted]

Matthew J. Wheeler
U.S. Department of the Interior
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Matt Wheeler: I am fine with the FR as revised. But I am concerned that making the decision in the FR Notice does not provide enough (b) (5)

[REDACTED]

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(b) (5) . Do you have the time/availability for a quick call on this? Or do you prefer email?

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Sent: Tue Feb 21 2017 17:17:50 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Subject: Re: Valuation Rule Stay Documents

Feel free to call - 202-208-4507.

On Tue, Feb 21, 2017 at 7:15 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

(b) (5) . Do you have the time/availability for a quick call on this? Or do you prefer email?

Matthew J. Wheeler
U.S. Department of the Interior
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[REDACTED]

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Or perhaps attach Greg's letter to the Dear Reporter Letter?

Matthew J. Wheeler

U.S. Department of the Interior

Office of the Solicitor, Rocky Mountain Region

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Lakewood, CO 80215

matthew.wheeler@sol.doi.gov

Phone: (303) 445-0595

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<matthew.wheeler@sol.doi.gov> wrote:

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[REDACTED]

Matthew J. Wheeler

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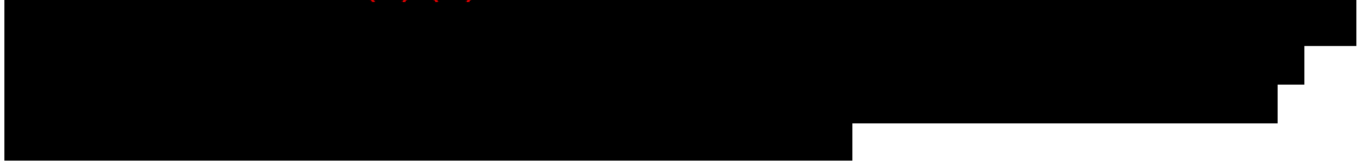
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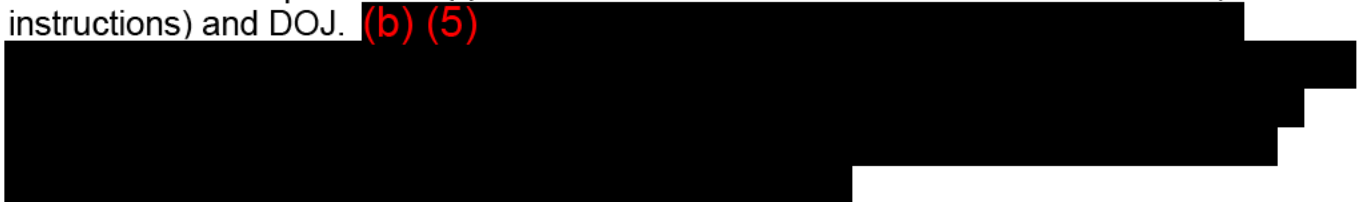
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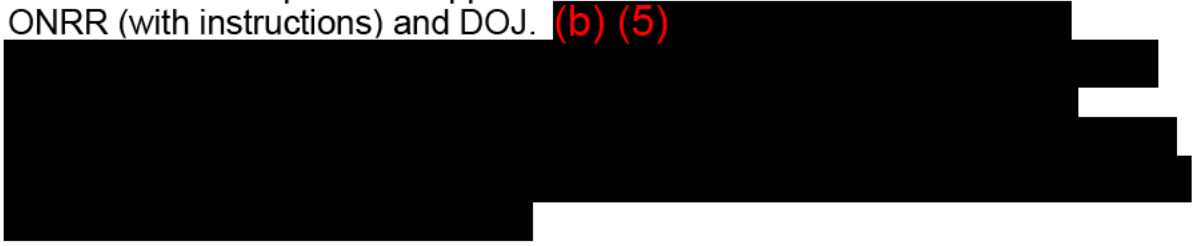
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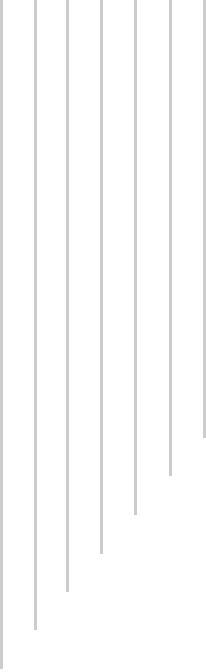
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DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2012–0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA13

Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform

2017 Valuation Rule

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

SUMMARY: On July 1, 2016, the Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (2017 Valuation Rule or Rule) in the Federal Register. 81 FR 43338. On December 29, 2016, three separate petitions challenging the 2017 Valuation Rule were filed in the United States District Court for the District of Wyoming.¹ In light of the existence and potential consequences of [the](#) pending litigation, ONRR finds that justice requires it to postpone the effective date of the 2017 Valuation Rule pursuant to 5 U.S.C. 705 of the Administrative Procedure Act, pending judicial review.

DATE: This notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

¹ *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to peter.christnacht@onrr.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the 2017 Valuation Rule in the Federal Register. *See* 81 FR 43338. The 2017 Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements.

Although the 2017 Valuation Rule took effect on January 1, 2017, Federal and Indian Lessees are not required to report and pay royalties under the Rule until February 28, 2017.

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On December 29, 2016, three separate petitions were filed in the U.S. District Court for the District of Wyoming. The petitions allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. On February 17, 2017, the petitioners sent the ONRR Director a letter requesting that ONRR postpone the implementation of the 2017 Valuation Rule. The petitioners claim that lessees affected by the Rule face significant hardship and uncertainty in the face of reporting under the rule for the first time on February 28, 2017.

Deleted: 2017 Valuation

The petitioners also claim that the new reporting and payment requirements in the Rule are difficult, and in some cases impossible, to comply with by the royalty reporting deadline; a difficulty exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

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Under Section 705 of the Administrative Procedure Act “[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.” 5 U.S.C. § 705. In light of the pending litigation, and for the following reasons, ONRR finds that justice requires it to postpone the effective date of the 2017 Valuation Rule until the judicial actions challenging the Rule have been definitively resolved.

(b) (5)

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Accordingly, *it is ordered*, pursuant to Section 705 of the Administrative Procedure Act, [5 U.S.C. 705](#), that the effective date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation [Final Rule](#) is hereby postponed, pending judicial review.

Deleted: 2017 Valuation Rule

Date

Gregory J. Gould
Director,
Office of Natural Resources Revenue

Gail L. Wurtzler
Kathleen C. Schroder
Davis, Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202

Peter J. Schaumberg
James M. Auslander
Beveridge & Diamond, P.C.
130 I Street, NW, Suite 700
Washington, D.C. 20005-3311

John F. Shepherd
Walter F. Eggers, III
Tina Van Bockern
Holland & Hart LLP
555 Seventeenth Street, Suite 3200
Post Office Box 8749
Denver, CO 80201-8749

Rex E. Johnson
Brian D. Artery
Sherard, Sherard, Artery & Johnson
602 10th Street
Wheatland, WY 82201

Dear Mses. Wurtzler, Schroder, and Van Bockern, and Messrs. Schaumberg, Auslander, Shepherd, Eggers, Johnson, and Artery:

Thank you for your letter dated February 17, 2017, requesting that the Office of Natural Resources Revenue (ONRR) postpone implementation of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Rule (2017 Rule or Rule) under Section 705 of the Administrative Procedure Act (APA). As you know, the 2017 Rule was published in the Federal Register on July 1, 2016 and took effect on January 1, 2017. The first reports under the Rule are due by February 28, 2017.

While we do not agree with all legal conclusions in your letter, in light of the pending litigation and for the following reasons, ONRR finds that justice requires it to postpone the effective date of the 2017 Rule until the issues raised in the judicial actions challenging it have been definitively resolved.

First, while ONRR believes that the 2017 Rule was properly promulgated, we agree that you have raised serious questions concerning the validity of certain provisions in the Rule. Given this legal uncertainty, we believe that it is critical to maintain the status quo while the litigation is pending.

Second, we believe that the stay will enhance the lessees' ability to timely and accurately report and pay royalties. We recognize that many lessees have raised legitimate questions concerning how to properly report and pay royalties under the 2017 Rule. Given these judicial and administrative uncertainties, relying on the previous regulatory system while the litigation is pending will reduce uncertainty and enhance ONRR's ability to collect and verify natural resource revenues, which is in the best interest of all those who benefit from royalty payments, including States, Tribes, individual Indian lessors, and the general public.

Third, a postponement will avoid the substantial cost to both the regulated community and ONRR of retroactively correcting and verifying all revenue reports if the 2017 Rule is invalidated as a result of the pending litigation. We realize that those lessees that have already

updated their accounting systems to report and pay royalties under the Rule will incur a cost to reconvert the systems to report and pay royalties under the previous rule. But the cost of reconvert those systems now is less than what that cost would be if the 2017 Rule is invalidated and lessees must not only must reconvert their accounting systems, but also correct all royalty reports submitted under the invalidated Rule.

Finally, the United States will suffer no significant harm from postponing the effective date of the 2017 Rule while the litigation is pending. As you noted, the 2017 Rule is not expected to have a significant impact on the economy. 81 FR 43338, 43368 (July 1, 2016). Thus, postponing the effective date of the Rule will not cause any appreciable economic harm to the general public. In fact, we believe the regulatory certainty provided by the postponement will enhance ONRR's mission to collect and verify natural resource revenues, which is in the best interest of both the royalty beneficiaries and the United States.

ONRR will publish a Federal Register notice postponing the effective of the 2017 Rule under Section 705 of the APA. ONRR will also issue a Dear Reporter that notifies lessees of the postponement and provides guidance on how to report.

Sincerely,

Gregory J. Gould
Director

Subject: Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule

Dear Reporter:

The Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule (2017 Valuation Rule) on July 1, 2016.¹ The 2017 Valuation Rule took effect on January 1, 2017, with first reports due on February 28, 2017. On December 29, 2016, several petitioners filed separate petitions challenging the rule in U.S. District Court for the District of Wyoming.² In light of the pending litigation, ONRR has decided to postpone the effective date of the 2017 Valuation Rule until the litigation is resolved and will publish a Federal Register notice to this effect.

Federal and Indian Lessees should continue to value, report, and pay royalties under the rules that were in effect prior to January 1, 2017. This applies to the January 2017 production month reports due on February 28, 2017, and continues until the litigation is resolved and ONRR provides notice of the result.

ONRR has prepared a **Frequently Asked Questions (FAQ)** document to help Federal and Indian lessees navigate the stay process. The FAQ document will be posted on ONRR's website at www.onrr.gov as soon as possible.

Commented [JH1]: Will this be ready in time? If there's any possibility that it won't, I would reword to say FAQs will be forthcoming soon

ONRR understands that some lessees have already converted their accounting systems to comply with the 2017 Valuation Rule. ONRR also understands that it may be difficult to reconvert those systems to report and pay royalties under the prior rules by the February 28, 2017 deadline. As such, ONRR provides the following interim guidance on how to report and pay royalties in light of the postponement.

- Lessees should report and pay royalties under the prior rules as soon as possible to avoid potential misreporting and royalty underpayments.

¹ See 81 FR 43338 – July 1, 2016

² *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

- Lessees that have not converted their accounting systems to comply with the 2017 Valuation Rule should continue reporting and paying royalties under the prior rules.
- Lessees that are able to convert their accounting systems to report and pay royalties under the prior rules by the February 28, 2017, deadline should report and pay royalties under the prior rules.
- Lessees that cannot convert their accounting systems to report and pay January 2017 production month royalties under the prior rules before the February 28, 2017, deadline should report and pay royalties as their accounting system allows by February 28, 2017. ONRR will not assess a civil penalty for any reporting issue that results from the postponement of the 2017 Valuation Rule as long as the lessee corrects the reporting issue by August 31, 2017. ONRR will also work with affected lessees to correct their reporting. Lessees should convert their accounting systems to report and pay royalties under the prior rules as soon as possible to avoid royalty underpayments.

If you have questions about the status of the 2017 Valuation Rule or the effect of this stay, please visit ONRR's website at www.onrr.gov.

Sincerely,

James D. Steward
Deputy Director

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2012–0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA13

**Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform
2017 Valuation Rule**

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

SUMMARY: On July 1, 2016, the Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (2017 Valuation Rule or Rule) in the Federal Register. 81 FR 43338. On December 29, 2016, three separate petitions challenging the 2017 Valuation Rule were filed in the United States District Court for the District of Wyoming.¹ In light of the existence and potential consequences of the pending litigation, ONRR has concluded that justice requires it to postpone the effective date of the 2017 Valuation Rule pursuant to 5 U.S.C. 705 of the Administrative Procedure Act, pending judicial review.

Deleted: finds

DATE: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Deleted: This notice is effective

FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to peter.christnacht@onrr.gov.

¹ *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the 2017 Valuation Rule in the Federal Register. *See* 81 FR 43338. The 2017 Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements.

Although the 2017 Valuation Rule took effect on January 1, 2017, Federal and Indian Lessees are not required to report and pay royalties under the Rule until February 28, 2017.

On December 29, 2016, three separate petitions were filed in the U.S. District Court for the District of Wyoming. The petitions allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. On February 17, 2017, the petitioners sent the ONRR Director a letter requesting that ONRR postpone the implementation of the 2017 Valuation Rule. The petitioners claim that lessees affected by the Rule face significant hardship and uncertainty in the face of reporting under the rule for the first time on February 28, 2017. The petitioners also claim that the new reporting and payment requirements in the Rule are difficult, and in some cases impossible, to comply with by the royalty reporting deadline; a difficulty exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

Under Section 705 of the Administrative Procedure Act “[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.” 5 U.S.C. § 705. In light of the pending litigation, and for the following reasons, ONRR [has concluded](#) that justice requires it to postpone the effective date of the 2017 Valuation Rule until the judicial actions challenging the Rule have been definitively resolved.

Deleted: finds

First, the stay will preserve the regulatory status quo while the litigation is pending and the court decides whether to uphold the regulation. While ONRR believes the 2017 Valuation Rule was properly promulgated, the petitioners have raised serious questions concerning the validity

of certain provisions of the Rule, including the expansion of the “default provision” and the use of the sales price of electricity for certain coal-royalty valuations. Given this legal uncertainty, maintaining the status quo is critical for a number of reasons. First, a stay will avoid the substantial cost of retroactively correcting and verifying all revenue reports if the 2017 Valuation Rule is invalidated, in whole or in part, as a result of the pending litigation. Federal and Indian lessees affected by the 2017 Valuation Rule submit approximately 450,000 reporting lines every production month. If the court invalidates the 2017 Valuation Rule, affected lessees would be forced to correct and resubmit reporting lines for each production month that the Rule is in effect. ONRR would be required to review and verify the same. Thus, staying the 2017 Valuation Rule will avoid forcing both the regulated community and ONRR to perform the complicated, time-consuming, and costly task of correcting and verifying revenue reports and payments if the 2017 valuation Rule is invalidated as a result of the pending litigation.²

In addition, the stay will enhance the lessees’ ability to timely and accurately report and pay royalties because they will be using a well-known system that has been in place for the last 25 years. ONRR has received numerous legitimate questions from lessees on how to apply the 2017 Valuation Rule, some of which will require additional consideration and time before ONRR can definitively answer them; thus increasing the likelihood that lessees will initially report incorrectly and later need to adjust their reports. In addition, the Court may resolve some of these issues differently than ONRR, again increasing the likelihood that lessees will need to submit corrected reports. Given these judicial and administrative uncertainties, relying on the previous

² Some lessees have likely converted their accounting systems to report and pay royalties under the new rule. While these lessees will incur a cost to revert back to the pre-existing system, the cost of doing so now, before the first reporting period, will be much less than if the reversion is required later upon court order, and the lessee is required to correct its reporting for each month it reported under the Rule.

regulatory system while the litigation is pending will reduce uncertainty and enhance ONRR's ability to collect and verify natural resource revenues, which is in the best interest of all those who benefit from royalty payments, including States, Tribes, individual Indian lessors, and the general public.

The United States will suffer no significant harm from postponing the effective date of the 2017 Valuation Rule while the litigation is pending. As noted in the preamble to the final rule, the implementation of the Rule is not expected to have a significant impact on the economy. 81 FR 43338, 43368. Thus, postponing the effective date of the Rule will not cause any appreciable economic harm to the general public, and in fact, the interests of all royalty beneficiaries will be enhanced by the regulatory certainty provided by the stay, as discussed above. In contrast, the regulated community will suffer harm without the stay, especially if the Rule is later invalidated by the Court. If the Rule is invalidated, the regulated community would not only incur the unreimbursable costs of reverting back to the old system, but would also incur the substantial costs of correcting its reports and royalty payments for each production month.

In sum, in light of the existence and consequences of the pending litigation, and given the potentially irreparable harm that could result if the 2017 Valuation Rule is immediately implemented, ONRR has determined that the public interest and justice requires postponing the effective date of the 2017 Valuation Rule until the litigation is resolved.

Accordingly, pursuant to Section 705 of the Administrative Procedure Act, 5 U.S.C. 705, ONRR has postponed the effective date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule, pending judicial review.

Deleted: it is ordered,

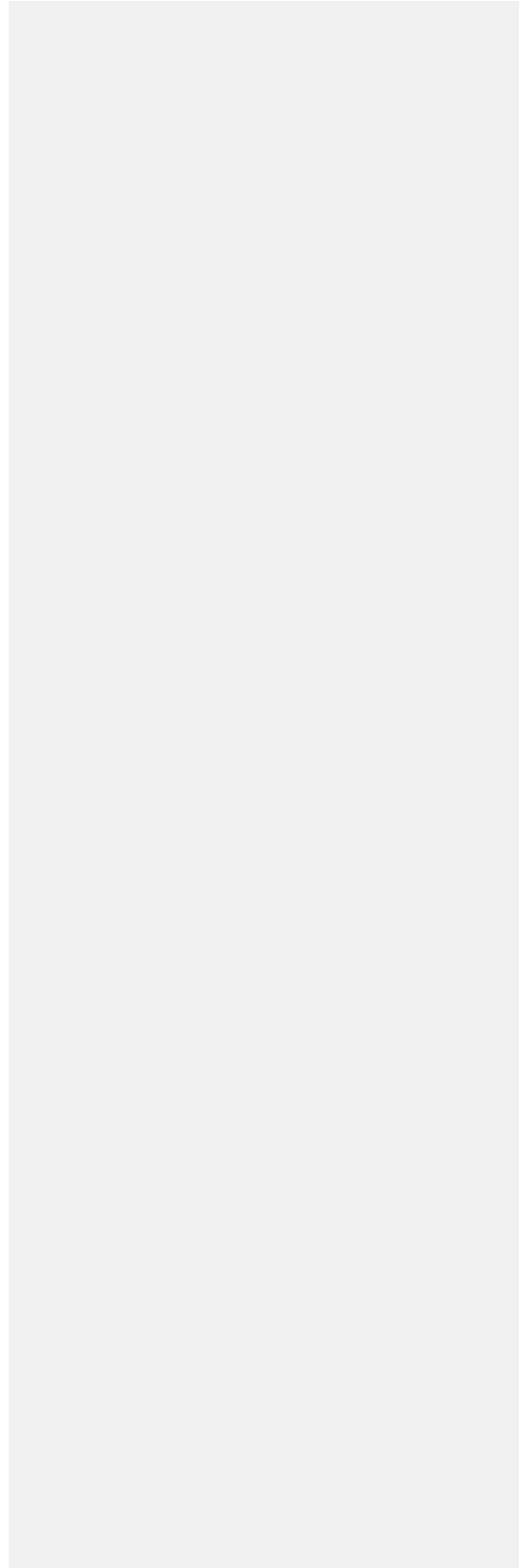
Deleted: that

Deleted: is hereby postponed,

Date

Gregory J. Gould

Director,
Office of Natural Resources Revenue



Conversation Contents

Fwd: Valuation Rule Stay Supporting Documents

Attachments:

/12. Fwd: Valuation Rule Stay Supporting Documents/1.1 Valuation Rule Stay Briefing Memorandum.docx
/12. Fwd: Valuation Rule Stay Supporting Documents/1.2 Petitioner's 705 Letter.PDF
/12. Fwd: Valuation Rule Stay Supporting Documents/1.3 Director Letter.mjw.edits.docx
/12. Fwd: Valuation Rule Stay Supporting Documents/1.4 FR Notice MJW.Edits.docx
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/12. Fwd: Valuation Rule Stay Supporting Documents/4.3 Dear Reporter Letter.MJW.edits kjh.docx

Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Fri Feb 17 2017 17:55:15 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Valuation Rule Stay Supporting Documents
Valuation Rule Stay Briefing Memorandum.docx Petitioner's 705 Letter.PDF Director Letter.mjw.edits.docx FR Notice MJW.Edits.docx Dear Reporter Letter.MJW.edits.docx
Attachments:

As we discussed earlier.

----- Original Message -----

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Date: Fri, February 17, 2017 5:28 PM -0700
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Valuation Rule Stay Supporting Documents

Matt:

Attached to this email are the following documents:

- (1) the Briefing memorandum, which I updated to include the FR research we found last night and to address the Petitioner's letter that we received today;
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Thanks,

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363
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Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Fri Feb 17 2017 17:59:16 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Re: Valuation Rule Stay Supporting Documents

Attachments:

Valuation Rule Stay Briefing Memorandum.docx Petitioner's
705 Letter.PDF Director Letter.mjw.edits.docx FR Notice
MJW.Edits.docx Dear Reporter Letter.MJW.edits.docx

Sorry for the inbox clutter. This shouldn't be so hard.

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Kevin Haugrud <jack.haugrud@sol.doi.gov>

From: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Sent: Fri Feb 17 2017 19:11:07 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: Valuation Rule Stay Supporting Documents

Thanks Matt. I'll review tomorrow.

From: Matthew McKeown
Sent: Friday, February 17, 2017 7:59 PM
To: Kevin Haugrud
Subject: Fwd: Re: Valuation Rule Stay Supporting Documents

Sorry for the inbox clutter. This shouldn't be so hard.

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Fax: (303) 231-5363

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Mon Feb 20 2017 23:33:13 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Matthew Wheeler <matthew.wheeler@sol.doi.gov>
CC: Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Re: Valuation Rule Stay Supporting Documents
Attachments: FR Notice MJW.Edits kjh.docx Director Letter.mjw.edits kjh.docx Dear Reporter Letter.MJW.edits kjh.docx

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[Redacted]

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"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Tue Feb 21 2017 08:38:48 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
CC: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Re: Valuation Rule Stay Supporting Documents

We're on this. Also, I wanted the group to know that I had a long talk with Greg Gould on Friday evening. (b) (5)

He was to meet with his team about it today.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

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"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Tue Feb 21 2017 09:06:09 GMT-0700 (MST)

To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
CC: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
Subject: Re: Re: Valuation Rule Stay Supporting Documents

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755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Tue Feb 21 2017 11:51:15 GMT-0700 (MST)
"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>, Amy Holley <Amy_Holley@ios.doi.gov>, Matthew McKeown <Matthew.McKeown@sol.doi.gov>, "Steward, Jim" <Jim.Steward@onrr.gov>, Jerold Gidner <jerold.gidner@onrr.gov>, Bonnie Robson <bonnie.robson@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, "DeBerard, Michael" <michael.deberard@onrr.gov>
To:
Subject: Re: Valuation Rule Stay Supporting Documents

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To: K. Jack Haugrud, Acting Secretary of the Interior

From: Matt McKeown, Regional Solicitor, Rocky Mountain Region

Subject: Staying the Effective Date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Rule

I. Issue

Whether the Office of Natural Resources Revenue (ONRR) may postpone the effective date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform rule under Section 705 of the Administrative Procedure Act (APA).

II. Background

On July 1, 2016, ONRR published in the Federal Register the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform final rule (Valuation Rule). 81 Fed. Reg. 43,338. The Valuation Rule took effect on January 1, 2017. The Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements. Federal and Indian lessees must begin reporting under the Valuation Rule for the first time on or before February 28, 2017, for the January 2017 production month.¹

On December 29, 2016, Cloud Peak Energy, Inc. and other entities filed a petition for review in the United States District Court for the District of Wyoming challenging the Valuation Rule.² That same day the American Petroleum Institute³ and Tri-State Generation and Transmission Association⁴ filed separate petitions for review in the same district court. The petitions allege that multiple provisions of the Valuation Rule are arbitrary, capricious and contrary to the law.

On February 6, 2017, ONRR determined that postponing the effective date of the Valuation Rule was in the best interest of regulated community, the general public, and ONRR itself.

On February 13, 2017, Representative Scott Tipton (R-Colo.) introduced a Joint Resolution providing for congressional disapproval of the Valuation Rule under the Congressional Review Act.

On February 17, 2017, the petitioners sent ONRR a letter requesting that ONRR postpone the effective date of the Valuation Rule under Section 705 of the APA.

¹ See 30 C.F.R. §§ 1210.53 and 1210.103 (oil and gas royalty and production reports) and 30 C.F.R. § 1210.201 (coal).

² *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.).

³ *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.).

⁴ *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

III. Applicable law

(b) (5)

*Privileged & Confidential: Attorney-Client Communication,
Work Product, & Deliberative Process*

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February 17, 2017

VIA EMAIL AND FEDEX

Gregory Gould, Director
Office of Natural Resources Revenue
Bldg 53, Entrance E-20
Denver Federal Center
Sixth Ave. and Kipling St.
Denver, CO 80225

Re: Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule

Dear Director Gould:

Pursuant to 5 U.S.C. § 705, the National Mining Association, the Wyoming Mining Association, and the American Petroleum Institute, each on behalf of their respective members, and Cloud Peak Energy Inc., Black Hills Corporation, Tri-State Generation and Transmission Association, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc. (collectively, “Petitioners”) respectfully request that the U.S. Department of the Interior, Office of Natural Resources Revenue (“ONRR”), postpone implementation of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule, 81 Fed. Reg. 43,338 (July 1, 2016) (the “Final Rule”). The Petitioners have sought judicial review of the Final Rule through multiple Petitions filed in the United States District Court for the District of Wyoming.¹ The Final Rule is first effective as to royalty reporting due February 28, 2017 for oil, gas, and coal production in January 2017. For the reasons set forth below and in the Petitioners’ court filings and submitted comments on ONRR’s proposed rule, which mirrors the Final Rule, postponement of the Final Rule’s implementation is necessary in the interests of justice.

Petitioners initiated the challenge to the Final Rule because it adopts new royalty reporting and payment requirements that are impracticable, and in some cases impossible, for Petitioners and many other federal and Indian lessees to comply with by the February 28, 2017 royalty reporting due date. A federal or Indian lessee’s failure to properly report and pay its royalties exposes the lessee to potential knowing or willful civil penalties. In contrast, by its own analysis in the Final Rule, ONRR’s delayed implementation of the Final Rule would have no significant revenue impact to the lessors, and in the interim would continue regulations that have functioned adequately for more than 25 years.

Under the Administrative Procedure Act (“APA”), “[w]hen an agency finds that justice so requires, it may postpone the effective date of an action taken by it, pending judicial review.” This provision gives federal agencies broad discretion to postpone the effect of agency action

¹ *Cloud Peak Energy Inc., et al. v. USDOJ*, Case No. 16-cv-315 (filed Dec. 29, 2016); *American Petroleum Institute v. USDOJ*, Case No. 16-cv-316 (filed Dec. 29, 2016); *Tri-State Generation and Transmission Ass’n, Inc., et al. v. USDOJ*, Case No. 16-cv-319 (filed Dec. 29, 2016).

February 17, 2017

Page 2

while litigation is ongoing. This temporary postponement under 5 U.S.C. § 705 to preserve the status quo will afford ONRR sufficient time and opportunity to determine how to proceed regarding the Final Rule. At the same time, it would avoid the expenditure of further resources of the Petitioners and ONRR on implementing a rule under which compliance is infeasible or impossible, and which may be declared invalid by the Court or modified by ONRR.

The Final Rule features a number of fundamental problems that gave rise to the regulated community's detailed rulemaking comments and currently pending litigation. The three Petitions filed against the Final Rule, as well as the detailed sets of comments submitted on the nearly identical proposed rule (available on the rulemaking docket at regulations.gov), are incorporated by reference in this letter. As more fully explained therein, the Final Rule in its current form is unlikely to survive judicial review because it exceeds ONRR's authority under applicable statutes, including the Mineral Leasing Act of 1920, the Federal Coal Leasing Amendments Act of 1976, and the Outer Continental Shelf Lands Act, and applicable lease terms, and is arbitrary and capricious under the APA. Some Final Rule provisions demand the impossible from lessees; others manufacture arbitrary and unconstrained "discretion" by ONRR. The problematic provisions in the Final Rule include, but are not limited to:

- A new "default" valuation provision whereby ONRR may unilaterally establish royalty value in the first instance under numerous, broadly defined circumstances, undermining the certainty of even a lessee's arm's-length sales prices as value, and creating the risk that ONRR may impose a higher royalty value many years after production and initial payment;
- Mandatory valuation of coal production via an inherently unreliable "netback" method that courts and the Department have historically used only as a "last resort" if no other methodology, such as comparable sales, is available to establish a reasonable value at or near the mine;
- Inadequately defined transportation allowances particularly for coal sold for ultimate delivery at distant locations;
- Requirement that coal cooperatives and vertically integrated lessees use a novel and untested method to value coal based on the sales price of electricity generated by the coal, an entirely different commodity, and apply generation and transmission allowances summarily imported from geothermal resource valuation with no analysis of their applicability to coal-fired electric generation. This ignores the value added by all activities converting coal to electricity between the mine and the end use customer's switch, the multiple resale tiers prior to end use, the variety of retail prices paid by end use customers, and the fact that the fuel component of a retail electricity price includes non-coal energy sources from the

royalty payors' complete portfolios of natural gas, hydro, wind and solar, effectively making the Final Rule's required valuation impossible to calculate;

- For all coal not sold by the lessee at arm's length, failure to provide any index or other option to use reliable alternative valuation methods established near the lease like those available for oil and gas valuation;
- Blanket denial, artificial limitation, and termination of allowances to which lessees are legally entitled, undermining ONRR's longstanding recognition of valuation at or near the lease;
- Unsupported singling out of coal cooperatives for special treatment, including royalty valuation calculations that are impossible to perform, and disregard of well-established legal principles governing "affiliated" entities;
- Sudden reversal of longstanding subsea transportation allowances for offshore oil and gas;
- Refusal to recognize for valuation purposes any contract for the sale of oil, gas, or coal that is legally enforceable yet may be unwritten or unsigned by all parties; and
- Requirement to pay royalty on unattainable index prices for federal gas.

The Final Rule proffered no evidence or compelling justification for promulgating the wholesale changes to ONRR's well-established royalty valuation regulations. Rather, ONRR ignored the many comments pointing out the multiple shortcomings in the rule ONRR proposed and then finalized the rule essentially unchanged. Moreover, ONRR failed to sufficiently analyze and disclose the overall negative economic impacts of its Final Rule.

Federal and Indian coal lessees and federal oil and gas lessees face significant hardship and uncertainty in the face of their upcoming first reporting deadline under the Final Rule. As noted above and previously, many lessees simply cannot conform to the terms of the Final Rule, which requires calculations that are infeasible to perform and information that is impossible to obtain. Industry efforts to obtain adequate guidance from ONRR thus far have been unsuccessful, as the agency has provided no substantive responses to several inquiries over multiple months. Exacerbating the harms to lessees is their exposure to enforcement actions, including significant knowing or willful civil penalties, if they are unable to report and pay their royalties in accordance with the Final Rule's stated requirements. The Final Rule also allows ONRR to impermissibly recoup more financial consideration from federal and Indian lessees than ONRR is entitled to receive. Yet, if the Final Rule challenge is successful, ONRR has no authority to compensate lessees for their substantial costs of compliance (including their creation

and implementation of new accounting systems) or with interest on any royalty overpayments. This reality defeats ONRR’s purported goal in the Final Rule to provide “greater simplicity, certainty, clarity, and consistency in product valuation for mineral lessees.”

Postponement of the Final Rule’s implementation pending judicial review, consequently with no risk of retroactive application, would avoid the above harms, and also serve the public interest. The regulated community stands to suffer the most harm absent a postponement, while postponement and continued application of regulations that have been in effect for over 25 years would not harm ONRR or any member of the public. Postponement also serves the public interest by obviating costly and time-consuming individual enforcement and corresponding appeals simultaneous with the present litigation against the Final Rule. Finally, the public interest is served by proper application of regulations consistent with ONRR’s statutory authority, in contrast to the present Final Rule.

Sincerely,

 <hr/> <p>Peter J. Schaumberg James M. Auslander BEVERIDGE & DIAMOND, P.C. 1350 I Street, NW, Suite 700 Washington, D.C. 20005-3311 Phone: (202) 789-6009 pschaumberg@bdlaw.com jauslander@bdlaw.com Attorneys for National Mining Association, Wyoming Mining Association, American Petroleum Institute, and Black Hills Corporation</p>	<hr/> <p>John F. Shepherd Walter F. Eggers, III Tina Van Bockern HOLLAND & HART LLP 555 Seventeenth Street, Suite 3200 Post Office Box 8749 Denver, Colorado 80201-8749 Phone: (303) 295-8000 jshepherd@hollandhart.com weggers@hollandhart.com trvanbockern@hollandhart.com Attorneys for Cloud Peak Energy Inc.</p>
<hr/> <p>Rex E. Johnson Brian D. Artery SHERARD, SHERARD, ARTERY & JOHNSON 602 10th Street Wheatland, WY 82201 Phone: (307) 332-5555 rex@ssjwyolaw.com bartery@ssjwyolaw.com Attorneys for Basin Electric Power Cooperative and Western Fuels-Wyoming, Inc.</p>	<hr/> <p>Gail L. Wurtzler Kathleen C. Schroder DAVIS, GRAHAM & STUBBS LLP 1550 Seventeenth Street, Suite 500 Denver, CO 80202 Phone: (303) 892-9400 Gail.Wurtzler@dgsllaw.com Katie.Schroder@dgsllaw.com Attorneys for Tri-State Generation and Transmission Association Inc.</p>

February 17, 2017

Page 4

and implementation of new accounting systems) or with interest on any royalty overpayments. This reality defeats ONRR's purported goal in the Final Rule to provide "greater simplicity, certainty, clarity, and consistency in product valuation for mineral lessees."

Postponement of the Final Rule's implementation pending judicial review, consequently with no risk of retroactive application, would avoid the above harms, and also serve the public interest. The regulated community stands to suffer the most harm absent a postponement, while postponement and continued application of regulations that have been in effect for over 25 years would not harm ONRR or any member of the public. Postponement also serves the public interest by obviating costly and time-consuming individual enforcement and corresponding appeals simultaneous with the present litigation against the Final Rule. Finally, the public interest is served by proper application of regulations consistent with ONRR's statutory authority, in contrast to the present Final Rule.

Sincerely,

<p>Peter J. Schaumberg James M. Auslander BEVERIDGE & DIAMOND, P.C. 1350 I Street, NW, Suite 700 Washington, D.C. 20005-3311 Phone: (202) 789-6009 pschaumberg@bdlaw.com jauslander@bdlaw.com Attorneys for National Mining Association, Wyoming Mining Association, American Petroleum Institute, and Black Hills Corporation</p>	 <p>John F. Shepherd Walter F. Eggers, III Tina Van Bockern HOLLAND & HART LLP 555 Seventeenth Street, Suite 3200 Post Office Box 8749 Denver, Colorado 80201-8749 Phone: (303) 295-8000 jshepherd@hollandhart.com weggers@hollandhart.com trvanbockern@hollandhart.com Attorneys for Cloud Peak Energy Inc.</p>
<p>Rex E. Johnson Brian D. Artery SHERARD, SHERARD, ARTERY & JOHNSON 602 10th Street Wheatland, WY 82201 Phone: (307) 332-5555 rex@ssjwyolaw.com bartery@ssjwyolaw.com Attorneys for Basin Electric Power Cooperative and Western Fuels-Wyoming, Inc.</p>	<p>Gail L. Wurtzler Kathleen C. Schroder DAVIS, GRAHAM & STUBBS LLP 1550 Seventeenth Street, Suite 500 Denver, CO 80202 Phone: (303) 892-9400 Gail.Wurtzler@dgsllaw.com Katie.Schroder@dgsllaw.com Attorneys for Tri-State Generation and Transmission Association Inc.</p>

February 17, 2017

Page 4

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February 17, 2017

Page 5

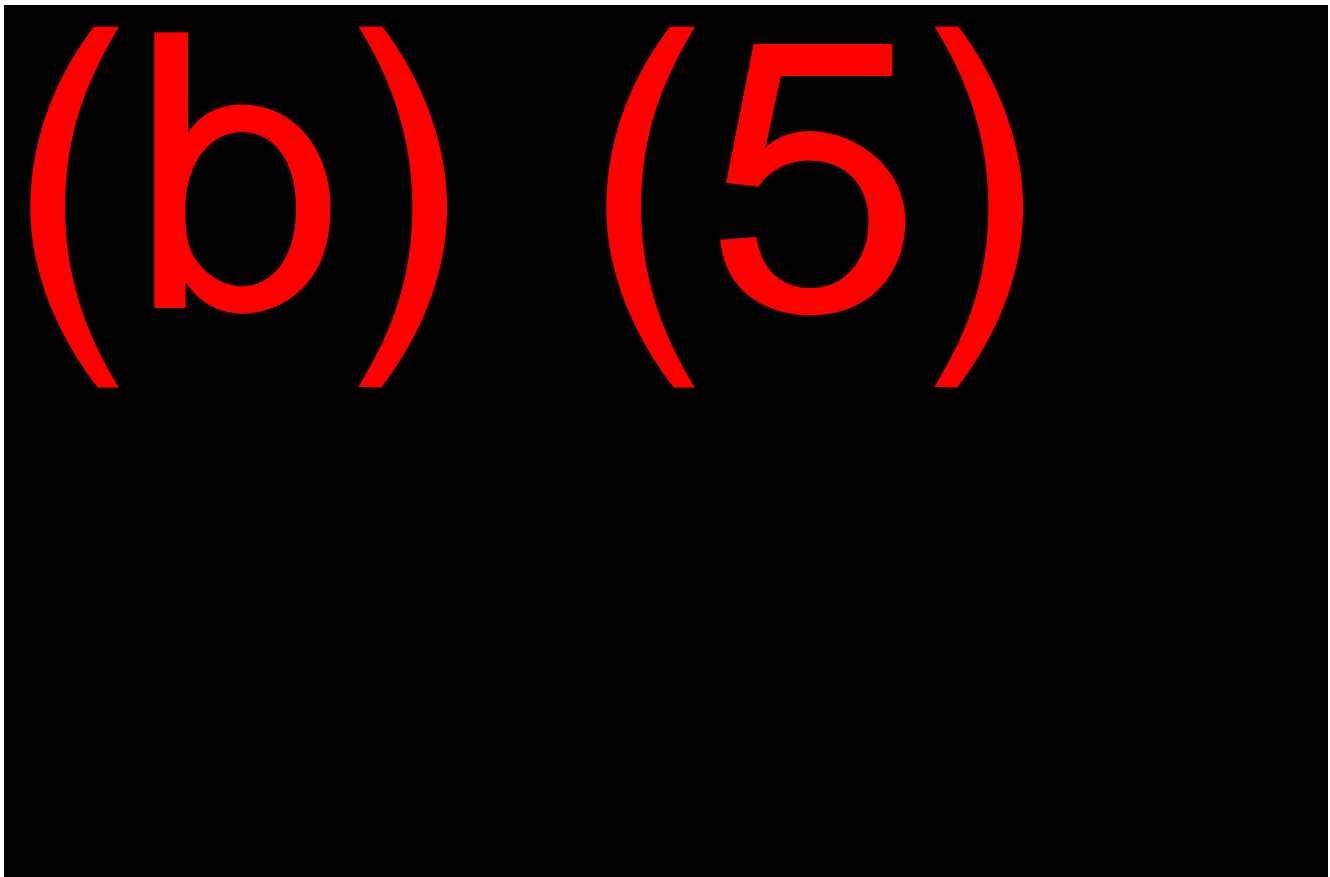
cc: K. Jack Haugrud, Acting Secretary of the Interior
Matt Wheeler, Office of the Solicitor, U.S. Department of the Interior
Rebecca Jaffe, U.S. Department of Justice
Nick Vasallo, Office of the U.S. Attorney, Wyoming

Gail L. Wurtzler
Kathleen C. Schroder
Davis, Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202

John F. Shepherd
Walter F. Eggers, III
Tina Van Bockern
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555 Seventeenth Street, Suite 3200
Post Office Box 8749
Denver, CO 80201-8749

Peter J. Schaumberg
James M. Auslander
Beveridge & Diamond, P.C.
130 I Street, NW, Suite 700
Washington, D.C. 20005-3311

Rex E. Johnson
Brian D. Artery
Sherard, Sherard, Artery & Johnson
602 10th Street
Wheatland, WY 82201



Sincerely,

Gregory J. Gould
Director

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR-2012-0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012-AA13

Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform

2017 Valuation Rule

Deleted: Final Rule

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Subject: Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule

Dear Reporter:

The Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule (2017 Valuation Rule) on July 1, 2016.¹ The 2017 Valuation Rule took effect on January 1, 2017, with first reports due on February 28, 2017. On December 29, 2016, several petitioners filed separate petitions challenging the rule in U.S. District Court for the District of Wyoming.² In light of the pending litigation, ONRR has published a Federal Register notice postponing the effective date of the 2017 Valuation Rule until the litigation is resolved.³

Federal and Indian Lessees should continue to value, report, and pay royalties under the rules that were in effect prior to January 1, 2017. This applies to the January 2017 production month reports due on February 28, 2017, and continues until the litigation is resolved and ONRR provides notice of the result.

ONRR prepared a Frequently Asked Questions (FAQ) document to help Federal and Indian lessees navigate the stay process. The FAQ document has been posted on ONRR's website at www.onrr.gov.

ONRR understands that some lessees have converted their accounting systems to comply with the 2017 Valuation Rule. ONRR also understands that it may be difficult to reconvert those systems to report and pay royalties under the prior rules by the February 28, 2017 deadline. As such, ONRR provides the following interim guidance on how to report and pay royalties in light of the stay.

- Lessees should report and pay royalties under the prior rules as soon as possible to avoid potential misreporting and royalty underpayments.

¹ See 81 FR 43338 – July 1, 2016

² *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.); *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.); *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

³ [INSERT FR NOTICE].

- Lessees that have not converted their accounting systems to comply with the 2017 Valuation Rule should continue reporting and paying royalties under the prior rules.
- Lessees that can convert their accounting systems to report and pay royalties under the prior rules by the February 28, 2017 deadline should report and pay royalties under the prior rules.
- Lessees that cannot convert their accounting systems to report and pay January 2017 production month royalties under the prior rules before the February 28, 2017 deadline should report and pay royalties as their accounting system allows by February 28, 2017. ONRR will not assess a civil penalty for any reporting issue that results from the stay of the 2017 Valuation Rule as long as the lessee corrects the reporting issue by August 31, 2017. ONRR will also work with affected lessees to correct their reporting. Lessees should convert their accounting systems to report and pay royalties under the prior rules as soon as possible to avoid royalty underpayments.

If you have questions about the status of the 2017 Valuation Rule or the effect of this stay, please visit ONRR's website at www.onrr.gov.

Sincerely,

James D. Steward
Deputy Director

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR-2012-0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012-AA13

Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform

[2017 Valuation Rule](#)

Deleted: Final Rule

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Director,
Office of Natural Resources Revenue

Gail L. Wurtzler
Kathleen C. Schroder
Davis, Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202

John F. Shepherd
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130 I Street, NW, Suite 700
Washington, D.C. 20005-3311

Rex E. Johnson
Brian D. Artery
Sherard, Sherard, Artery & Johnson
602 10th Street
Wheatland, WY 82201

Dear Meses. Wurtzler, Schroder, and Van Bockern, and Messrs. Schaumberg, Auslander, Shepherd, Eggers, Johnson, and Artery:

(b) (5)

Sincerely,

Gregory J. Gould
Director

Subject: Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule

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The Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule (2017 Valuation Rule) on July 1, 2016.¹ The 2017 Valuation Rule took effect on January 1, 2017, with first reports due on February 28, 2017. On December 29, 2016, several petitioners filed separate petitions challenging the rule in U.S. District Court for the District of Wyoming.² In light of the pending litigation, ONRR has decided to postpone the effective date of the 2017 Valuation Rule until the litigation is resolved. A Federal Register notice announcing this decision will also be published.

Federal and Indian Lessees should continue to value, report, and pay royalties under the rules that were in effect prior to January 1, 2017. This applies to the January 2017 production month reports due on February 28, 2017, and continues until the litigation is resolved and ONRR provides notice of the result.

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Deleted: published a Federal Register notice

Deleted: ing

Deleted: ³

Commented [JH1]: I doubt the FR notice will get published before we have to send these letters out So I would rephrase

Commented [JH2]: Will this be ready in time? If there's any possibility that it won't, I would reword to say FAQs will be forthcoming soon

- Lessees that have not converted their accounting systems to comply with the 2017 Valuation Rule should continue reporting and paying royalties under the prior rules.
- Lessees that can convert their accounting systems to report and pay royalties under the prior rules by the February 28, 2017 deadline should report and pay royalties under the prior rules.
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Sincerely,

James D. Steward
Deputy Director

Conversation Contents

Plan Change for Today

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Tue Feb 21 2017 09:26:03 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>, Mariagrazia Caminiti <marigrace.caminiti@sol.doi.gov>
Subject: Plan Change for Today

Hi You Three: (b) (6)

Jack: I can tend to the valuation rule stuff from there (b) (6)

Matt McKeown

Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Tue Feb 21 2017 09:31:00 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
CC: Edward Keable <edward.keable@sol.doi.gov>, Mariagrazia Caminiti <marigrace.caminiti@sol.doi.gov>
Subject: Re: Plan Change for Today

(b) (6)

On Tue, Feb 21, 2017 at 11:26 AM, McKeown, Matthew
<matthew.mckeown@sol.doi.gov> wrote:

Hi You Three: (b) (6)

Jack: I can tend to the valuation rule stuff from there (b) (6)

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

Conversation Contents

Fwd: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am (matthew.mckeown@sol.doi.gov)

Attachments:

/14. Fwd: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am (matthew.mckeown@sol.doi.gov)/1.1 invite.ics

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Tue Feb 21 2017 08:53:06 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>
Subject: Fwd: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am (matthew.mckeown@sol.doi.gov)
Attachments: invite.ics

I just wanted the two of you to know that I will be participating in this meeting later this week.

Matt McKeown

Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Greg Gould** <greg.gould@onrr.gov>
Date: Tue, Feb 21, 2017 at 8:46 AM
Subject: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am (matthew.mckeown@sol.doi.gov)
To: matthew.mckeown@sol.doi.gov, katharine_macgregor@ios.doi.gov, amy_holley@ios.doi.gov, james_cason@ios.doi.gov, kathleen_benedetto@ios.doi.gov, gareth_rees@ios.doi.gov, margaret.schneider@bsee.gov, walter.cruickshank@boem.gov
Cc: micah_chambers@ios.doi.gov, natalie_davis@ios.doi.gov, downey_magallanes@ios.doi.gov, douglas_domenech@ios.doi.gov, scott_hommel@ios.doi.gov, daniel_jorjani@ios.doi.gov, amanda_kaster@ios.doi.gov, lori_mashburn@ios.doi.gov, megan_bloomgren@ios.doi.gov,

melissa_simpson@ios.doi.gov

Meeting on Valuation Rule

[more details »](#)

When Thu Feb 23, 2017 7am – 8am Mountain Time

Where Room 6113 ([map](#))

Video call https://plus.google.com/hangouts/_/doi.gov/gareth-rees

Calendar matthew.mckeown@sol.doi.gov

Who

- gareth_rees@ios.doi.gov - organizer
- katharine_macgregor@ios.doi.gov
- matthew.mckeown@sol.doi.gov
- amy_holley@ios.doi.gov
- james_cason@ios.doi.gov
- kathleen_benedetto@ios.doi.gov
- margaret.schneider@bsee.gov
- greg.gould@onrr.gov
- walter.cruickshank@boem.gov
- micah_chambers@ios.doi.gov - optional
- natalie_davis@ios.doi.gov - optional
- downey_magallanes@ios.doi.gov - optional
- douglas_domenech@ios.doi.gov - optional
- scott_hommel@ios.doi.gov - optional
- daniel_jorjani@ios.doi.gov - optional
- amanda_kaster@ios.doi.gov - optional
- lori_mashburn@ios.doi.gov - optional
- megan_bloomgren@ios.doi.gov - optional
- melissa_simpson@ios.doi.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

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You are receiving this email at the account matthew.mckeown@sol.doi.gov because you are subscribed for invitations on calendar matthew.mckeown@sol.doi.gov.

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Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Tue Feb 21 2017 09:07:17 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
CC: Edward Keable <edward.keable@sol.doi.gov>
Subject: Re: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am (matthew.mckeown@sol.doi.gov)

Thanks for letting us know. Interesting that they invited Walter - I am certain he has no interest.

On Tue, Feb 21, 2017 at 10:53 AM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I just wanted the two of you to know that I will be participating in this meeting later this week.

Matt McKeown

Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
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New Direct Line: 303-445-0625

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Date: Tue, Feb 21, 2017 at 8:46 AM

Subject: Invitation: Meeting on Valuation Rule @ Thu Feb 23, 2017 7am - 8am
(matthew.mckeown@sol.doi.gov)

To: matthew.mckeown@sol.doi.gov, katharine_macgregor@ios.doi.gov,
amy_holley@ios.doi.gov, james_cason@ios.doi.gov, kathleen_benedetto@ios.doi.gov,
gareth_rees@ios.doi.gov, margaret.schneider@bsee.gov,
walter.cruickshank@boem.gov

Cc: micah_chambers@ios.doi.gov, natalie_davis@ios.doi.gov,
downey_magallanes@ios.doi.gov, douglas_domenech@ios.doi.gov,
scott_hommel@ios.doi.gov, daniel_jorjani@ios.doi.gov, amanda_kaster@ios.doi.gov,
lori_mashburn@ios.doi.gov, megan_bloomgren@ios.doi.gov,
melissa_simpson@ios.doi.gov

Meeting on Valuation Rule

[more details »](#)

When Thu Feb 23, 2017 7am – 8am Mountain Time

Where Room 6113 ([map](#))

Video call https://plus.google.com/hangouts/_/doi.gov/gareth-rees

Calendar matthew.mckeown@sol.doi.gov

- Who
- gareth_rees@ios.doi.gov - organizer
 - katharine_macgregor@ios.doi.gov
 - matthew.mckeown@sol.doi.gov
 - amy_holley@ios.doi.gov
 - james_cason@ios.doi.gov
 - kathleen_benedetto@ios.doi.gov
 - margaret.schneider@bsee.gov
 - greg.gould@onrr.gov
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- micah_chambers@ios.doi.gov - optional
- natalie_davis@ios.doi.gov - optional
- downey_magallanes@ios.doi.gov - optional
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- amanda_kaster@ios.doi.gov - optional
- lori_mashburn@ios.doi.gov - optional
- megan_bloomgren@ios.doi.gov - optional
- melissa_simpson@ios.doi.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

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Conversation Contents

Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule

Attachments:

- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/1.1 image001.gif
- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/1.2 image002.jpg
- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/1.3 2017-02-17 Signed Letter to ONRR.PDF
- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/3.1 image002.jpg
- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/3.2 image001.gif
- /15. Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule/3.3 2017-02-17 Signed Letter to ONRR.PDF

"Peter J. Schaumberg" <PSchaumberg@bdlaw.com>

From: "Peter J. Schaumberg" <PSchaumberg@bdlaw.com>
Sent: Fri Feb 17 2017 14:31:41 GMT-0700 (MST)
To: "Greg.Gould@onrr.gov" <Greg.Gould@onrr.gov>
Subject: Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule
Attachments: image001.gif image002.jpg 2017-02-17 Signed Letter to ONRR.PDF

Dear Director Gould:

Attached is a letter on behalf of the Petitioners in the Wyoming District Court litigation challenging the Final ONRR Oil, Gas and Coal Valuation Rule requesting that you postpone the rule's implementation pursuant to 5 U.S.C. § 705 for the reasons set forth in the letter.

Petitioners request that you take action to postpone implementation of the Final Rule before February 28, 2017, the date the first royalty reports under the Final Rule are due to ONRR.

If you have any questions regarding the Petitioners request for postponement of the Final Rule's implementation, please do to hesitate to contact me.

Sincerely,

Peter Schaumberg

Peter J. Schaumberg
Principal

BEVERIDGE & DIAMOND, P.C.

1350 I Street, NW, Suite 700, Washington, DC 20005

Office 202.789.6043 Cell 301.518.2901 PSchaumberg@bdlaw.com[>vCard](#) [>Bio](#)

Beveridge & Diamond P.C.

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Greg Gould <greg.gould@onrr.gov>

From: Greg Gould <greg.gould@onrr.gov>
Sent: Fri Feb 17 2017 14:37:16 GMT-0700 (MST)
To: "Peter J. Schaumberg" <PSchaumberg@bdlaw.com>
"Matthew.wheeler@sol.doi.gov"
<Matthew.wheeler@sol.doi.gov>, "John F. Shepherd"
<JShepherd@hollandhart.com>, "gail.wurtzler@dgslaw.com"
<gail.wurtzler@dgslaw.com>, "Rex Johnson
CC: (rex@ssjwyolaw.com)" <rex@ssjwyolaw.com>, "Jack
Haugrud (jack.haugrud@sol.doi.gov)"
<jack.haugrud@sol.doi.gov>, "Rebecca.Jaffe@usdoj.gov"
<Rebecca.Jaffe@usdoj.gov>, "Nick.Vassallo@usdoj.gov"
<Nick.Vassallo@usdoj.gov>
Subject: Re: Request to Postpone Implementation of ONRR Oil, Gas,
and Coal Valuation Rule

Peter,

I'm acknowledging receipt and will work with our team on next steps.

Respectfully,

Greg

Gregory J. Gould

*Director
Office of Natural Resources Revenue
U.S. Department of the Interior
[\(202\) 513-0600](tel:(202)513-0600)*

Warning: This message is intended only for use of the individual or entity to which it is addressed and may contain information that is privileged or confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this

communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return e-mail.

On Feb 17, 2017, at 2:33 PM, Peter J. Schaumberg <PSchaumberg@bdlaw.com> wrote:

Dear Director Gould:

Attached is a letter on behalf of the Petitioners in the Wyoming District Court litigation challenging the Final ONRR Oil, Gas and Coal Valuation Rule requesting that you postpone the rule's implementation pursuant to 5 U.S.C. § 705 for the reasons set forth in the letter. Petitioners request that you take action to postpone implementation of the Final Rule before February 28, 2017, the date the first royalty reports under the Final Rule are due to ONRR.

If you have any questions regarding the Petitioners request for postponement of the Final Rule's implementation, please do not hesitate to contact me.

Sincerely,

Peter Schaumberg

Peter J. Schaumberg
Principal

[Beveridge & Diamond P.C.]<<http://www.bdlaw.com/>>BEVERIDGE & DIAMOND, P.C.

1350 I Street, NW, Suite 700, Washington, DC 20005

Office 202.789.6043 Cell 301.518.2901

PSchaumberg@bdlaw.com<<mailto:PSchaumberg@bdlaw.com>>

vCard<<http://www.bdlaw.com/vcard-102.vcf>>
>Bio<<http://www.bdlaw.com/attorneys-102.html>>

CONFIDENTIALITY STATEMENT: This electronic message contains information from the law firm of Beveridge & Diamond, P.C. and may be confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at +1.202.789.6000 or by e-mail reply and delete this message. Thank you.

<2017-02-17 Signed Letter to ONRR.PDF>

<image001.gif>

<image002.jpg>

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Fri Feb 17 2017 16:45:01 GMT-0700 (MST)
To: Matt McKeown <matthew.mckeown@sol.doi.gov>, Robert Eaton <robert.eaton@sol.doi.gov>
CC: Matthew Wheeler <matthew.wheeler@sol.doi.gov>
Subject: Fwd: Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule
Attachments: image002.jpg image001.gif 2017-02-17 Signed Letter to ONRR.PDF

----- Forwarded message -----

From: **Peter J. Schaumberg** <PSchaumberg@bdlaw.com>
Date: Fri, Feb 17, 2017 at 4:31 PM
Subject: Request to Postpone Implementation of ONRR Oil, Gas, and Coal Valuation Rule
To: "Greg.Gould@onrr.gov" <Greg.Gould@onrr.gov>
Cc: "Matthew.wheeler@sol.doi.gov" <Matthew.wheeler@sol.doi.gov>, "John F. Shepherd" <JShepherd@hollandhart.com>, "gail.wurtzler@dgslaw.com" <gail.wurtzler@dgslaw.com>, "Rex Johnson (rex@ssjwyolaw.com)" <rex@ssjwyolaw.com>, "Jack Haugrud (jack.haugrud@sol.doi.gov)" <jack.haugrud@sol.doi.gov>, "Rebecca.Jaffe@usdoj.gov" <Rebecca.Jaffe@usdoj.gov>, "Nick.Vassallo@usdoj.gov" <Nick.Vassallo@usdoj.gov>

Dear Director Gould:

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If you have any questions regarding the Petitioners request for postponement of the Final Rule's implementation, please do not hesitate to contact me.

Sincerely,

Peter Schaumberg

Peter J. Schaumberg
Principal

BEVERIDGE & DIAMOND, P.C.

1350 I Street, NW, Suite 700, Washington, DC 20005

Office 202.789.6043 Cell 301.518.2901 PSchaumberg@bdlaw.com

>[vCard](#) >[Bio](#)

[Beveridge & Diamond P.C.](#)

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Conversation Contents

Fwd: Valuation Stay Documentation

Attachments:

/16. Fwd: Valuation Stay Documentation/1.1 Valuation Rule Stay Briefing Memorandum.docx
/16. Fwd: Valuation Stay Documentation/1.2 Director Letter Responding to Petitioners Letter Requesting Stay of Valuation Rule.docx
/16. Fwd: Valuation Stay Documentation/1.3 ONRR Draft 705 Federal Register Notice.docx
/16. Fwd: Valuation Stay Documentation/1.4 2017 Rule Stay Reporter Letter DRAFT.docx
/16. Fwd: Valuation Stay Documentation/2.1 Valuation Rule Stay Briefing Memorandum.docx
/16. Fwd: Valuation Stay Documentation/2.2 Director Letter Responding to Petitioners Letter Requesting Stay of Valuation Rule.docx
/16. Fwd: Valuation Stay Documentation/2.3 ONRR Draft 705 Federal Register Notice.docx
/16. Fwd: Valuation Stay Documentation/2.4 2017 Rule Stay Reporter Letter DRAFT.docx

Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Thu Feb 16 2017 19:48:53 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Valuation Stay Documentation
Valuation Rule Stay Briefing Memorandum.docx Director Letter Responding to Petitioners Letter Requesting Stay of Valuation Rule.docx ONRR Draft 705 Federal Register Notice.docx 2017 Rule Stay Reporter Letter DRAFT.docx

Attachments:

I will be reviewing this stuff in the morning.

----- Original Message -----

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Date: Thu, February 16, 2017 5:46 PM -0700
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Valuation Stay Documentation

Matt:

Attached are the following four documents for your review: (1) the briefing memo; (2) ONRR's draft response to the petitioner's letter; (3) ONRR's draft Federal Register Notice,

and; (4) ONRR's draft Dear Reporter letter notifying lessees of the stay and providing compliance and reporting guidance.

Please let me know if you need anything else.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363
I will be reviewing this stuff in the morning.

----- Original Message -----

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Date: Thu, February 16, 2017 5:46 PM -0700
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Valuation Stay Documentation

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Fri Feb 17 2017 10:19:20 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Valuation Stay Documentation
Valuation Rule Stay Briefing Memorandum.docx Director Letter Responding to Petitioners Letter Requesting Stay of Valuation Rule.docx ONRR Draft 705 Federal Register Notice.docx 2017 Rule Stay Reporter Letter DRAFT.docx

Attachments:

I have changes on all four documents. So please wait to review them. Thanks.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Wheeler, Matthew** <matthew.wheeler@sol.doi.gov>
Date: Thu, Feb 16, 2017 at 5:46 PM

Subject: Valuation Stay Documentation
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>

Matt:

Attached are the following four documents for your review: (1) the briefing memo; (2) ONRR's draft response to the petitioner's letter; (3) ONRR's draft Federal Register Notice, and; (4) ONRR's draft Dear Reporter letter notifying lessees of the stay and providing compliance and reporting guidance.

Please let me know if you need anything else.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Fri Feb 17 2017 10:35:15 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Valuation Stay Documentation

Will do.

On Fri, Feb 17, 2017 at 12:19 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I have changes on all four documents. So please wait to review them. Thanks.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Wheeler, Matthew** <matthew.wheeler@sol.doi.gov>

Date: Thu, Feb 16, 2017 at 5:46 PM
Subject: Valuation Stay Documentation
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>

Matt:

Attached are the following four documents for your review: (1) the briefing memo; (2) ONRR's draft response to the petitioner's letter; (3) ONRR's draft Federal Register Notice, and; (4) ONRR's draft Dear Reporter letter notifying lessees of the stay and providing compliance and reporting guidance.

Please let me know if you need anything else.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

To: K. Jack Haugrud, Acting Secretary of the Interior

From: Matt McKeown, Regional Solicitor, Rocky Mountain Region

Subject: Staying the Effective Date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Rule

I. Issue

Whether the Office of Natural Resources Revenue (ONRR) may postpone the effective date of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform rule under Section 705 of the Administrative Procedure Act (APA).

II. Background

On July 1, 2016, ONRR published in the Federal Register the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform final rule (Valuation Rule). 81 Fed. Reg. 43,338. The Valuation Rule took effect on January 1, 2017. The Valuation Rule changes how lessees value their production for royalty purposes and revises revenue-reporting requirements. Federal and Indian lessees must begin reporting under the Valuation Rule for the first time on or before February 28, 2017, for the January 2017 production month.¹

On December 29, 2016, Cloud Peak Energy, Inc. and other entities filed a petition for review in the United States District Court for the District of Wyoming challenging the Valuation Rule.² That same day the American Petroleum Institute³ and Tri-State Generation and Transmission Association⁴ filed separate petitions for review in the same district court. The petitions allege that multiple provisions of the Valuation Rule are arbitrary and capricious and contrary to the law.

On February 6, 2017, ONRR determined that postponing the effective date of the Valuation Rule was in the best interest of regulated community, the general public, and ONRR itself.

On February 13, 2017, Representative Scott Tipton (R-Colo.) introduced a Joint Resolution providing for congressional disapproval of the Valuation Rule under the Congressional Review Act.

III. Applicable law

¹ See 30 C.F.R. §§ 1210.53 and 1210.103 (oil and gas royalty and production reports) and 30 C.F.R. § 1210.201 (coal).

² *Cloud Peak Energy, Inc. v. United States Dep't of the Interior*, Case No. 16CV315-F (D. Wyo.).

³ *American Petroleum Inst. V. United States Dep't of the Interior*, Case No. 16CV316-F (D. Wyo.).

⁴ *Tri-State Generation and transmission Ass'n, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc., v. United States Dep't of the Interior*, Case No. 16CV319-F (D. Wyo.)

*Privileged & Confidential: Attorney-Client Communication,
Work Product, & Deliberative Process*

(b) (5)

*Privileged & Confidential: Attorney-Client Communication,
Work Product, & Deliberative Process*

(b) (5)

*Privileged & Confidential: Attorney-Client Communication,
Work Product, & Deliberative Process*

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2012–0004; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA13

**Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform
Final Rule**

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

SUMMARY: : On July 1, 2016, ONRR published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (Final Rule) in the Federal Register at 81 FR 43338. On December 29, 2016, members of industry filed three separate petitions for review (Petitions) in the U.S. District Court for the District of Wyoming. (b) (5)

DATE: This notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Peter Christnacht, Royalty Valuation team B, at 303-231-3651 or email to peter.christnacht@onrr.gov.

SUPPLEMENTARY INFORMATION: On July 1, 2016, ONRR published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Final Rule (Final Rule) in the Federal Register at 81 FR 43338. (b) (5)

(b) (5)

(b) (5)

Dated: _____

Amy Holley
*Acting Assistant Secretary
for Policy, Management and Budget*

Subject: Stay of the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule

Dear Reporter:

The Office of Natural Resources Revenue (ONRR) published the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Final Rule¹ (2017 Rule) on July 1, 2016. The 2017 Rule was effective on January 1, 2017, for January 2017 production. On December 29, 2016, industry² filed three petitions in U.S. District Court for the District of Wyoming seeking to invalidate the 2017 Rule. In consideration of these petitions, ONRR has temporarily stayed the 2017 Rule.³

The valuation rules for Federal oil and gas and Federal and Indian coal, which were effective prior to January 1, 2017, are now in effect. Consequently, until informed otherwise, you should value, report, and pay royalties for January, 2017 production forward under the rules that were in effect prior to January 1, 2017.

ONRR understands that many companies have adjusted their accounting systems to comply with the 2017 Rule and may not be able to report royalties for January 2017, production under the previous rules by the February 28, 2017, reporting and payment deadline. As such, ONRR will allow companies up to six months from the date of reporting to correct any months with production valued, reported, and paid under the 2017 Rule. ONRR will work with companies as needed to correct their reporting, and will not assess penalties as a result of reporting issues resulting from the stay during this 6-month time period.

If you have questions about the status of the 2017 Rule or the effect of this stay, please visit ONRR's website at www.onrr.gov.

Sincerely,

¹ See 81 FR 43338 – July 1, 2016

² The three petitions were filed by the American Petroleum Institute, Cloud Peak Energy, the National Mining Association, the Wyoming Mining Association, Black Hills Corporation, Tri-State Generation and Transmission Association, Inc., Basin Electric Power Cooperative, and Western Fuels-Wyoming, Inc.

³ See the Federal Register notice published the week of February 20, 2017.

James D. Steward
Deputy Director

Conversation Contents

Fwd: Valuation Rule Stay Update

Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 15 2017 13:10:39 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Valuation Rule Stay Update

Here's a status update. Obviously, I reserve the right to edit documents in "final form."

----- Original Message -----

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Date: Wed, February 15, 2017 12:46 PM -0700
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Valuation Rule Stay Update

Matt:

By way of an update, here's my plan for the next couple of days as it relates to staying the valuation rule. I spoke with Peter and we hope to receive the Petitioner's letter on Friday. I will update the briefing memo to incorporate the contents of the letter. ONRR is drafting the Dear Reporter Letter and working on the FR notice. I will work with them. Both will be in final form shortly after we receive the petitioner's letter and incorporate references to the letter.

Depending on when we receive the petitioner's letter, I will send you the following documents, all of which will be in final form: (1) the briefing memo; (2) the petitioner's letter; (3) ONRR's response to the petitioner's letter (4) the Federal Register notice, and; (5) the Dear Reporter letter notifying lessees of the Federal Register notice and providing guidance on what to do for the February reporting.

Please let me know if you would like this handled differently or done in a different order. My hope is to have this done the same day we receive the Petitioner's letter.

Thanks,

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

Here's a status update. Obviously, I reserve the right to edit documents in "final form."

----- Original Message -----

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

Date: Wed, February 15, 2017 12:46 PM -0700
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Valuation Rule Stay Update

Conversation Contents

FR Notice Staying Valuation Rules under Section 705 of APA

Attachments:

/18. FR Notice Staying Valuation Rules under Section 705 of APA/1.1 Section 705 FR Notice.docx

/18. FR Notice Staying Valuation Rules under Section 705 of APA/1.2 Valuation Rule Stay Briefing Memo3.docx

/18. FR Notice Staying Valuation Rules under Section 705 of APA/2.1 Valuation Stay Process Write-Up.docx

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Mon Feb 13 2017 15:55:04 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: FR Notice Staying Valuation Rules under Section 705 of APA
Attachments: Section 705 FR Notice.docx Valuation Rule Stay Briefing Memo3.docx

Good Afternoon Jack:

Matt McKeown requested that I send the attached draft Federal Register Notice to you for your review. I also sent it to ONRR for their input and revisions. The FR notice alludes to, but does not directly address, the four preliminary injunction factors discussed in the DC Circuit Court Case.

For background, I have also attached my draft briefing paper that I would have submitted had the briefing paper been necessary. The briefing paper discusses the case and the implications of the case on the contents of the FR Notice.

Finally, I have also attached a one-page summary of the process forward that informed the drafting of the FR Notice.

I apologize in advance for any grammar, spelling or poor writing in the briefing papers. I stopped editing once I was told the papers were no longer necessary because, as I understand it, the process forward has been cleared by the department.

Thank you,

Matthew J. Wheeler

U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

"Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

From: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Sent: Mon Feb 13 2017 15:56:41 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA
Attachments: Valuation Stay Process Write-Up.docx

My apologies. Attached is the third document referenced in the prior email.

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

On Mon, Feb 13, 2017 at 3:55 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Good Afternoon Jack:

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Matthew J. Wheeler
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Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Mon Feb 13 2017 16:17:08 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matt: (b) (5)



On Mon, Feb 13, 2017 at 5:55 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

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Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Mon Feb 13 2017 16:29:58 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>, "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Jack: (b) (5)

I will call and explain a little later.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Mon, February 13, 2017 4:17 PM -0700
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matt: (b) (5)

On Mon, Feb 13, 2017 at 5:55 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

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Thank you,

Matthew J. Wheeler
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755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

Jack: after a meeting we had with ONRR staff this afternoon, I have concluded that the "deadline" is somewhat non-existent. I will call and explain a little later.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Mon, February 13, 2017 4:17 PM -0700
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matthew Wheeler <matthew.wheeler@sol.doi.gov>

From: Matthew Wheeler <matthew.wheeler@sol.doi.gov>
Sent: Mon Feb 13 2017 17:53:35 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
CC: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matt/Jack:

The deadline to file oil and gas royalty reports and pay royalties is set by 30 CFR 1210.53. They are due by the end of the month following the production month.

30 CFR 1210.103 requires oil and gas lessees to file production reports by the 15th day of the second month following the month for which the lessee is reporting.

30 CFR 1320.201 require coal lessees to submit both royalty and production reports on or before the end of the month following the month in which the coal is produced.

I believe all three regulations were re-designated in the Final Rules to section 1206, but the deadlines are the same. (b) (6) and I do not recall the specific citations, but I can get those for you tomorrow morning.

(b) (5)

Hope that helps.

Matt

Sent from my iPhone

On Feb 13, 2017, at 4:30 PM, Matthew McKeown <matthew.mckeown@sol.doi.gov> wrote:

Jack: (b) (5)

I will call and explain a little later.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

Date: Mon, February 13, 2017 4:17 PM -0700

To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>

Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matt: (b) (5)

On Mon, Feb 13, 2017 at 5:55 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Good Afternoon Jack:

Matt McKeown requested that I send the attached draft Federal Register Notice to you for your review. I also sent it to ONRR for their input and revisions. The FR notice alludes to, but does not directly address, the four preliminary injunction factors discussed in the DC Circuit Court Case.

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I apologize in advance for any grammar, spelling or poor writing in the briefing papers. I stopped editing once I was told the papers were no longer necessary because, as I understand it, the process forward has been cleared by the department.

Thank you,

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

<mime-attachment.html>

Matthew Wheeler <matthew.wheeler@sol.doi.gov>

From: Matthew Wheeler <matthew.wheeler@sol.doi.gov>
Sent: Mon Feb 13 2017 18:03:52 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
CC: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

My apologies. I was able to pull up the below cited regulations, and contrary to my belief, they were Not redesignated in the Final Rule.

On Feb 13, 2017, at 5:53 PM, Matthew Wheeler <matthew.wheeler@sol.doi.gov> wrote:

Matt/Ja

The deadline to file oil and gas royalty reports and pay royalties is set by 30 CFR 1210.53. They are due by the end of the month following the production month.

30 CFR 1210.103 requires oil and gas lessees to file production reports by the 15th day of the second month following the month for which the lessee is reporting.

30 CFR 1320.201 require coal lessees to submit both royalty and production

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Hope that helps.

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Sent from my iPhone

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From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Mon, February 13, 2017 4:17 PM -0700
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
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<mime-attachment.html>

Kevin Haugrud <jack.haugrud@sol.doi.gov>

From: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Sent: Mon Feb 13 2017 18:44:08 GMT-0700 (MST)
To: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Thanks for the quick follow up, Matt. I want to be sure I understand our goal. (b) (5)



From: Matthew Wheeler
Sent: Monday, February 13, 2017 7:53 PM
To: Matthew McKeown
Cc: Haugrud, Kevin
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Matt/Jack:

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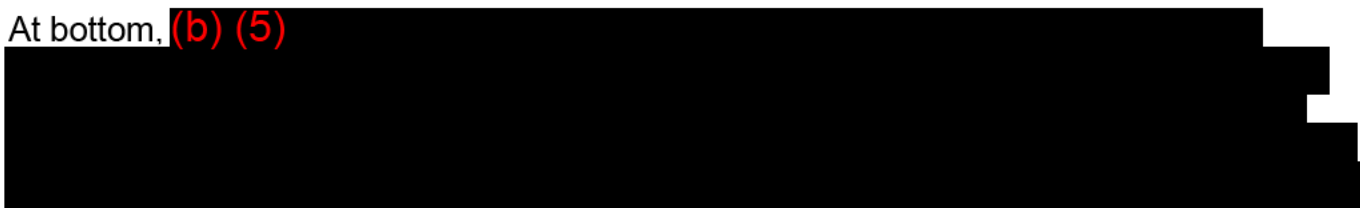
<mime-attachment.html>

Matthew Wheeler <matthew.wheeler@sol.doi.gov>

From: Matthew Wheeler <matthew.wheeler@sol.doi.gov>
Sent: Mon Feb 13 2017 20:21:17 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

No problem. My pleasure.

At bottom, (b) (5)



(b) (5)

If

Sent from my iPhone

On Feb 13, 2017, at 6:44 PM, Kevin Haugrud <jack.haugrud@sol.doi.gov> wrote:

Thanks for the quick follow up, Matt. I want to be sure I understand our goal.

(b) (5)

From: Matthew Wheeler
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To: Matthew McKeown
Cc: Haugrud, Kevin
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

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From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Mon, February 13, 2017 4:17 PM -0700
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705
of APA

Matt: (b) (5)
[REDACTED]

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<mime-attachment.html>

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Tue Feb 14 2017 08:29:57 GMT-0700 (MST)
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
CC: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: FR Notice Staying Valuation Rules under Section 705 of APA

Thanks much for the drafts and follow up information. Here is what I would like to have happen. On the immediate issue of issuing a 705 postponement, (b) (5)

I am willing to entertain alternatives to my suggested approach, but we need to get going on this quickly.

(b) (5)

On Mon, Feb 13, 2017 at 5:55 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Good Afternoon Jack:

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Fax: (303) 231-5363



Conversation Contents

ONRR valuation rule

Kevin Haugrud <jack.haugrud@sol.doi.gov>

From: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Sent: Sat Feb 11 2017 02:39:05 GMT-0700 (MST)
To: Matt McKeown <matthew.mckeown@sol.doi.gov>
Subject: ONRR valuation rule

Conversation Contents

ONRR Valuation Rule and 705

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Thu Feb 09 2017 07:32:54 GMT-0700 (MST)
To: Matt McKeown <matthew.mckeown@sol.doi.gov>
Subject: ONRR Valuation Rule and 705

Matt: (b) (5)

So please give me a call to discuss before reaching back out to Kelly, Peter, et al. (b) (5)

Conversation Contents

Fwd: Stay on Valuation Regs

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 08 2017 10:47:10 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Stay on Valuation Regs

This follows up on my voice message.

Matt McKeown

Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Greg Gould** <greg.gould@onrr.gov>
Date: Wed, Feb 8, 2017 at 10:33 AM
Subject: Re: Stay on Valuation Regs
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Cc: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, "Steward, Jim" <jim.steward@onrr.gov>, Amy Holley <Amy_Holley@ios.doi.gov>

Yes, is that something you can work with Jack on. I assume we need to make sure that Jack and Jim Cason are briefed and all set, correct? I'm including Amy Holley on this reply to give her a heads up that this is coming. My understanding is that this will be accomplished through a Federal Register notice as well as a follow up "Dear Reporter" letter from ONRR, which will need to go out next week.

Amy,

Matt Wheeler (SOL) is working with my staff on a FR notice package that will need to go through the new process and be published by the end of next week. Bottom line, given the lawsuits on our Valuation Regulations, it is best that we stay the rules implementation until after we deal with the lawsuits so that we don't have issues with revenue reporting due to multiple changes to the rules. Please let us know if you have any questions or

need additional information.

Thanks again for all the help!

Greg

Gregory J. Gould

*Director
Office of Natural Resources Revenue
U.S. Department of the Interior
[\(202\) 513-0600](tel:(202)513-0600)*

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On Feb 8, 2017, at 11:22 AM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I don't see a problem with that (b) (5)

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
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755 Parfet St., Suite 151
Lakewood, CO 80215
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Matt and Matt,

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allowing companies to report under the old rules.

How does it look in terms of timing to get the stay in place prior to Feb 24?

Thanks for all the help!

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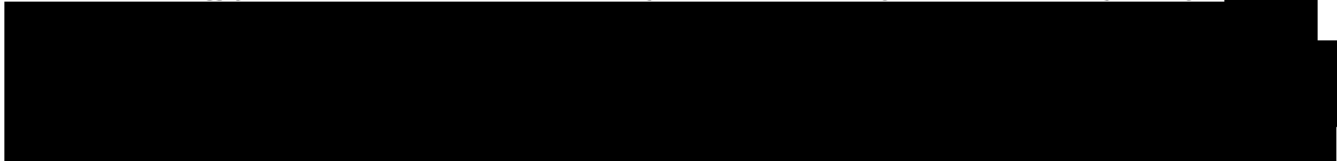
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"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 08 2017 11:47:51 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

I think we should get the FR notice ready and we can get their formal approval through the surnaming process. I can raise it today to be sure they are tentatively okay. (b) (5)



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Cc: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, "Steward, Jim" <jim.steward@onrr.gov>, Amy Holley <Amy_Holley@ios.doi.gov>

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"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 08 2017 11:58:44 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

Yes, Matt W. is already working on a short memo. He promised to have it to me today.

(b) (5)



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Sent: Wed Feb 08 2017 11:59:19 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

Can you also have someone explain to me what we would be extending. I just took a look at the regulation in the FR, and the only effective date I saw (on a very quick review) is January 1, 2017. (b) (5)

On Wed, Feb 8, 2017 at 1:47 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:
I think we should get the FR notice ready and we can get their formal approval through the surnaming process. I can raise it today to be sure they are tentatively okay. (b) (5)

On Wed, Feb 8, 2017 at 12:47 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

This follows up on my voice message.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Greg Gould** <greg.gould@onrr.gov>
Date: Wed, Feb 8, 2017 at 10:33 AM

Subject: Re: Stay on Valuation Regs

To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

Cc: Matthew Wheeler <matthew.wheeler@sol.doi.gov>, "Steward, Jim" <jim.steward@onrr.gov>, Amy Holley <Amy_Holley@ios.doi.gov>

Yes, is that something you can work with Jack on. I assume we need to make sure that Jack and Jim Cason are briefed and all set, correct? I'm including Amy Holley on this reply to give her a heads up that this is coming. My understanding is that this will be accomplished through a Federal Register notice as well as a follow up "Dear Reporter" letter from ONRR, which will need to go out next week.

Amy,

Matt Wheeler (SOL) is working with my staff on a FR notice package that will need to go through the new process and be published by the end of next week. Bottom line, given the lawsuits on our Valuation Regulations, it is best that we stay the rules implementation until after we deal with the lawsuits so that we don't have issues with revenue reporting due to multiple changes to the rules. Please let us know if you have any questions or need additional information.

Thanks again for all the help!

Greg

Gregory J. Gould

*Director
Office of Natural Resources Revenue
U.S. Department of the Interior
[\(202\) 513-0600](tel:(202)513-0600)*

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I don't see a problem with that. (b) (5)

[REDACTED]

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On Wed, Feb 8, 2017 at 10:09 AM, Greg Gould <greg.gould@onrr.gov> wrote:

Matt and Matt,

I'm at the PASO Conference and based on the presentations and discussions this morning, I feel it is truly in the governments best interest to stay the rule pending the litigation, and prior to first reporting at the end of this month. My goal would then be to begin the process to discuss the issues related to the lawsuits and then work on a new proposed rule, etc., allowing companies to report under the old rules.

How does it look in terms of timing to get the stay in place prior to Feb 24?

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"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 08 2017 12:13:53 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

I just tried to call you, but I think I can explain it here. The new valuation rule did indeed go into effect on 1/1. But the new rule doesn't require royalty payors to do anything new until the end of February. At that time, there are multiple new reporting requirements that kick in. We would be extending the deadline for complying with those new reporting requirements. And pursuant to 5 USC 705, we have to make two findings in the FR: first, that the extension is in the interest of justice; and second, the duration of the extension.

Matt tells me (b) (5)

Matt McKeown
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"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 08 2017 13:26:18 GMT-0700 (MST)
To: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Subject: Fwd: Stay on Valuation Regs

See below. Is it realistic for ONRR to be planning a FR Notice for early next week?

Matt McKeown

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From: **Greg Gould** <greg.gould@onrr.gov>
Date: Wed, Feb 8, 2017 at 1:21 PM
Subject: Re: Stay on Valuation Regs
To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>
Cc: Jerold Gidner <jerold.gidner@onrr.gov>, "jim.steward@onrr.gov" <jim.steward@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>, "karen.osborne@onrr.gov" <karen.osborne@onrr.gov>, "chris.carey@onrr.gov" <chris.carey@onrr.gov>, Matt Williams <matt.williams@onrr.gov>, Matthew McKeown <Matthew.McKeown@sol.doi.gov>

Thanks Matt, (b) (5)

Amy Holley asked for the paper as soon as we can get it to her. You and Matt should also provide it to Jack as soon as possible since we are hoping to get the notice to the FR early next week.

Greg

Gregory J. Gould

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On Feb 8, 2017, at 2:17 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Hi Greg:



Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

On Wed, Feb 8, 2017 at 12:59 PM, Greg Gould <greg.gould@onrr.gov> wrote:

Thanks everyone for all the help to keep this moving!

Greg

Gregory J. Gould

Director
Office of Natural Resources Revenue
U.S. Department of the Interior
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On Feb 8, 2017, at 1:57 PM, Jerold Gidner <jerold.gidner@onrr.gov> wrote:

Yes - Chris reached out to me and we have communicated and I sent him the previous email chains with the latest version and your guidance and now he has this one.

Greg, I also reached out to Matt Williams to let him know we have a rule to rush through, so he can start greasing the skids.

Chris- I am about to jump on a call, but when you have something, please reply all, and if I need to get off my call to consult with you, just email me and I will.

Thanks all.

Sent from my iPhone

On Feb 8, 2017, at 2:51 PM, Greg Gould
<greg.gould@onrr.gov> wrote:

Jerry,

I believe Chris Carey is working with Matt, (b) (5)

Thanks again,

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Begin forwarded message:

From: "Holley, Amy"
<amy_holley@ios.doi.gov>
Date: February 8, 2017 at 12:49:36 PM CST
To: Greg Gould
<greg.gould@onrr.gov>
Subject: Fwd: Stay on Valuation Regs

I think we will need a Briefing Paper, or description of what is happening for

Jim. Apologies if
you have already
sent it....!

----- Forwarded
message -----
From: **Greg Gould**
<greg.gould@onrr.gov>
Date: Wed, Feb 8,
2017 at 12:33 PM
Subject: Re: Stay
on Valuation Regs
To: "McKeown,
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<matthew.mckeown@sol.doi.gov>
Cc: Matthew
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<matthew.wheeler@sol.doi.gov>,
"Steward, Jim"
<jim.steward@onrr.gov>,
Amy Holley
<Amy_Holley@ios.doi.gov>

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Jack and Jim
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to give her a heads
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wrote:

I don't
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problem
with
that.

(b) (5)



(b) (5)

**Matt
McKeown**

Regional
Solicitor
Rocky
Mountain
Region
Office
of the
Solicitor
U.S.
Department
of the
Interior

755
Parfet
St.,
Suite
151
Lakewood,
CO
80215

New
Direct
Line:
303-
445-
0625

On
Wed,
Feb 8,

2017 at

10:09

AM,

Greg

Gould

<greg.gould@onrr.gov>

wrote:

Matt
and
Matt,

I'm at
the
PASO
Conference
and
based
on
the
presentations
and
discussions
this
morning,
I feel
it is
truly
in the
governments
best
interest
to
stay
the
rule
pending
the
litigation,
and
prior
to first
reporting
at the
end
of this
month.
My
goal
would
then
be to
begin
the

process
to
discuss
the
issues
related
to the
lawsuits
and
then
work
on a
new
proposed
rule,
etc.,
allowing
companies
to
report
under
the
old
rules.

How
does
it look
in
terms
of
timing
to get
the
stay
in
place
prior
to
Feb
24?

Thanks
for all
the
help!

Greg

*Gregory
J. Gould*

*Director
Office
of
Natural
Resources
Revenue
U.S.
Department
of the
Interior
[\(202\)](#)
[513-](#)
[0600](#)*

Warning:
This
message
is
intended
only
for
use of
the
individual
or
entity
to
which
it is
addressed
and
may
contain
information
that is
privileged
or
confidential
and
exempt
from
disclosure
under
applicable
law.
If the
reader
of this
message
is not
the
intended

recipient
or the
employee
or
agent
responsible
for
delivering
this
message
to the
intended
recipient,
you
are
hereby
notified
that
any
dissemination,
distribution,
or
copying
of this
communication
is
strictly
prohibited.
If you
have
received
this
communication
in
error,
please
notify
the
sender
immediately
by
return
e-
mail.

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 08 2017 14:05:15 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

We might be able to do it. I told Jim, Dan, and Doug about it today, and they are on board. I told them I was fine with it conceptually but needed to see the details from Mr. Wheeler. (b) (5)

On Wed, Feb 8, 2017 at 3:26 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

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Matt McKeown

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Thanks Matt, (b) (5)

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[REDACTED]

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Yes, is that
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to make sure that
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Cason are
briefed and all
set, correct? I'm
including Amy
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reply to give her
a heads up that
this is coming.
My
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that this will be
accomplished
through a

Federal Register notice as well as a follow up "Dear Reporter" letter from ONRR, which will need to go out next week.

Amy,

Matt Wheeler (SOL) is working with my staff on a FR notice package that will need to go through the new process and be published by the end of next week. Bottom line, given the lawsuits on our Valuation Regulations, it is best that we stay the rules implementation until after we deal with the lawsuits so that we don't have issues with revenue reporting due to multiple changes to the rules. Please let us know if you have any questions or need additional information.

Thanks again for all the help!

Greg

*Gregory
J. Gould*

*Director
Office of Natural
Resources
Revenue
U.S. Department
of the Interior
[\(202\) 513-0600](tel:(202)513-0600)*

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On Feb 8, 2017,

at 11:22 AM,
McKeown,
Matthew
<matthew.mckeown@sol.doi.gov>
wrote:

I
don't
see a
problem
with
that.

(b) (5)

[Redacted content]

**Matt
McKeown**
Regional
Solicitor
Rocky
Mountain

Region
Office
of the
Solicitor
U.S.
Department
of the
Interior
755
Parfet
St.,
Suite
151
Lakewood,
CO
80215

New
Direct
Line:
303-
445-
0625

On
Wed,
Feb
8,
2017
at
10:09
AM,
Greg
Gould
<greg.gould@onrr.gov>

wrote:

Matt
and
Matt,

I'm
at
the
PASO
Conference
and
based
on
the
presentations

and
discussions
this
morning,
I
feel
it is
truly
in
the
governments
best
interest
to
stay
the
rule
pending
the
litigation,
and
prior
to
first
reporting
at
the
end
of
this
month.
My
goal
would
then
be
to
begin
the
process
to
discuss
the
issues
related
to
the
lawsuits
and
then
work
on
a

new
proposed
rule,
etc.,
allowing
companies
to
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under
the
old
rules.

How
does
it
look
in
terms
of
timing
to
get
the
stay
in
place
prior
to
Feb
24?

Thanks
for
all
the
help!

Greg

*Gregory
J. Gould*

*Director
Office
of
Natural
Resources
Revenue
U.S.
Department*

*of
the
Interior*
[\(202\)](#)
[513-](#)
[0600](#)

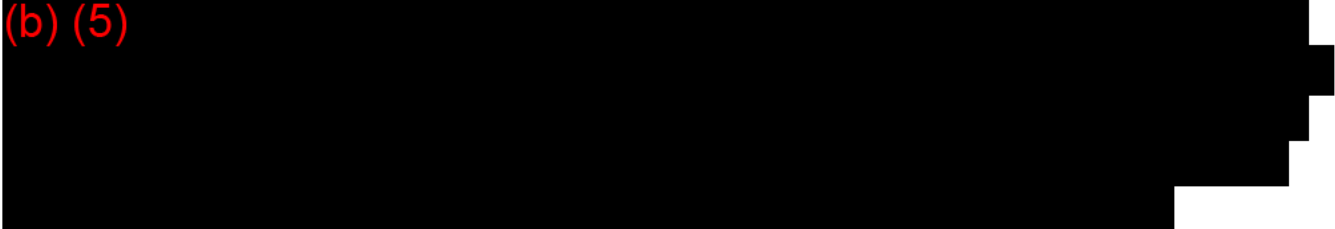
Warning:
This
message
is
intended
only
for
use
of
the
individual
or
entity
to
which
it is
addressed
and
may
contain
information
that
is
privileged
or
confidential
and
exempt
from
disclosure
under
applicable
law.
If
the
reader
of
this
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is
not
the
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or
the

employee
or
agent
responsible
for
delivering
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message
to
the
intended
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that
any
dissemination,
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mail.

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>


From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 08 2017 14:18:25 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

(b) (5)



Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

On Wed, Feb 8, 2017 at 2:05 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:
We might be able to do it. I told Jim, Dan, and Doug about it today, and they are on board. I told them I was fine with it conceptually but needed to see the details from Mr. Wheeler. (b) (5)



On Wed, Feb 8, 2017 at 3:26 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

See below. Is it realistic for ONRR to be planning a FR Notice for early next week?

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Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

----- Forwarded message -----

From: **Greg Gould** <greg.gould@onrr.gov>

Date: Wed, Feb 8, 2017 at 1:21 PM

Subject: Re: Stay on Valuation Regs

To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

Cc: Jerold Gidner <jerold.gidner@onrr.gov>, "jim.steward@onrr.gov"

<jim.steward@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>,

"karen.osborne@onrr.gov" <karen.osborne@onrr.gov>, "chris.carey@onrr.gov"

<chris.carey@onrr.gov>, Matt Williams <matt.williams@onrr.gov>, Matthew

McKeown <Matthew.McKeown@sol.doi.gov>

Thanks Matt, (b) (5)

Amy Holley asked for the paper as soon as we can get it to her. You and Matt should also provide it to Jack as soon as possible since we are hoping to get the notice to the FR early next week.

Greg

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On Feb 8, 2017, at 2:17 PM, Wheeler, Matthew <matthew.wheeler@sol.doi.gov> wrote:

Hi Greg:

(b) (5)

(b) (5)

Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

On Wed, Feb 8, 2017 at 12:59 PM, Greg Gould <greg.gould@onrr.gov> wrote:

Thanks everyone for all the help to keep this moving!

Greg

Gregory J. Gould

*Director
Office of Natural Resources Revenue
U.S. Department of the Interior
(202) 513-0600*

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On Feb 8, 2017, at 1:57 PM, Jerold Gidner <jerold.gidner@onrr.gov> wrote:

Yes - Chris reached out to me and we have communicated and I sent him the previous email chains with the latest version and your guidance and now he has this one.

Greg, I also reached out to Matt Williams to let him know we have a rule to rush through, so he can start greasing the skids.

Chris- I am about to jump on a call, but when you have something, please reply all, and if I need to get off my call to

consult with you, just email me and I will.

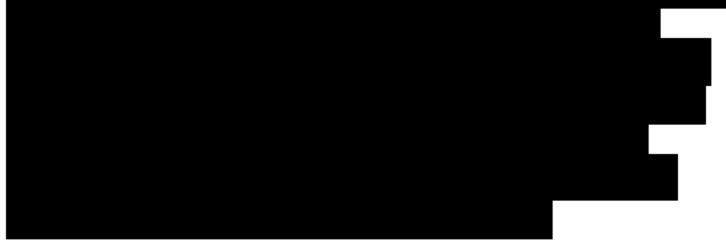
Thanks all.

Sent from my iPhone

On Feb 8, 2017, at 2:51 PM, Greg Gould
<greg.gould@onrr.gov> wrote:

Jerry,

I believe Chris Carey is working with Matt, (b) (5)



Thanks again,

Greg

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U.S. Department of the Interior
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On Feb 8, 2017, at 1:19 PM, Jerold Gidner
<jerold.gidner@onrr.gov> wrote:

Ok. Let me check that paper.

Sent from my iPhone

On Feb 8, 2017, at 2:11 PM, Greg Gould <greg.gould@onrr.gov> wrote:

Jerry,

See below. I know we do have a paper on the Valuation Regs, which includes the lawsuit. I also think that Matt Wheeler is working with the Regs group on a FR package, we need to make sure we have a briefing paper that includes the recommendation for the stay.

Please work with Matt Wheeler and then send me the updated paper to send to Amy.

Thanks,

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Begin forwarded message:

From: "Holley, Amy"
<amy_holley@ios.doi.gov>
Date:
February 8,
2017 at
12:49:36 PM
CST
To: Greg
Gould
<greg.gould@onrr.gov>
Subject: Fwd:
Stay on
Valuation
Regs

I think we will need a Briefing Paper, or description of what is happening for Jim.
Apologies if you have already sent it....!

Forwarded
message -----

From: **Greg**

Gould

<greg.gould@onrr.gov>

Date: Wed,
Feb 8, 2017 at
12:33 PM

Subject: Re:

Stay on

Valuation

Regs

To: "McKeown,

Matthew"

<matthew.mckeown@sol.doi.gov>

Cc: Matthew

Wheeler

<matthew.wheeler@sol.doi.gov> ,

"Steward, Jim"

<jim.steward@onrr.gov> ,

Amy Holley

<Amy_Holley@ios.doi.gov>

Yes, is that something you can work with Jack on. I assume we need to make sure that Jack and Jim Cason are briefed and all set, correct? I'm including Amy Holley on this reply to give her a heads up that this is coming. My understanding is that this will be accomplished through a Federal Register notice as well as a follow up "Dear Reporter" letter from ONRR, which will need to go out next week.

Amy,

Matt Wheeler (SOL) is working with my staff on a FR notice package that will need to go through the new process and be published by the end of next week. Bottom line, given the lawsuits on our Valuation Regulations, it is best that we stay the rules implementation until after we deal with the lawsuits so that we don't have issues with revenue reporting due to multiple changes to the rules. Please let us know if you have any questions or need additional information.

Thanks again
for all the help!

Greg

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*Director
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U.S.
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[\(202\) 513-](tel:(202)513-0600)
[0600](tel:(202)513-0600)

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On Feb 8,
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AM, McKeown,
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<matthew.mckeown@sol.doi.gov>
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with
(b) (5)
[Redacted text block]

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McKeown**
Regional
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Rocky
Mountain
Region
Office
of
the
Solicitor
U.S.
Department
of
the
Interior
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<greg.gould@onrr.gov>

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My
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and
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on
a
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How
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Thanks
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Greg

*Gregory
J. Gould*

*Director
Office
of
Natural
Resources
Revenue
U.S.
Department
of
the
Interior*
[\(202\)
513-
0600](tel:202-513-0600)

Warning:
This
message
is
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the
individual
or
entity
to
which
it
is
addressed
and
may
contain
information
that
is
privileged
or
confidential
and
exempt
from
disclosure
under
applicable
law.
If
the

reader
of
this
message
is
not
the
intended
recipient
or
the
employee
or
agent
responsible
for
delivering
this
message
to
the
intended
recipient,
you
are
hereby
notified
that
any
dissemination,
distribution,
or
copying
of
this
communication
is
strictly
prohibited.
If
you
have
received
this
communication
in
error,
please
notify
the
sender
immediately
by

return
e-
mail.

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 08 2017 15:04:27 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Stay on Valuation Regs

Thanks for the analysis. I agree.


On Wed, Feb 8, 2017 at 4:18 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

(b) (5)



Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

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Date: Wed, Feb 8, 2017 at 1:21 PM

Subject: Re: Stay on Valuation Regs

To: "Wheeler, Matthew" <matthew.wheeler@sol.doi.gov>

Cc: Jerold Gidner <jerold.gidner@onrr.gov>, "jim.steward@onrr.gov"

<jim.steward@onrr.gov>, John Mehlhoff <john.mehlhoff@onrr.gov>,

"karen.osborne@onrr.gov" <karen.osborne@onrr.gov>, "chris.carey@onrr.gov"

<chris.carey@onrr.gov>, Matt Williams <matt.williams@onrr.gov>, Matthew
McKeown <Matthew.McKeown@sol.doi.gov>

Thanks Matt, (b) (5)

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Hi Greg:



Matthew J. Wheeler
U.S. Department of the Interior
Office of the Solicitor, Rocky Mountain Region
755 Parfet St., Suite 151
Lakewood, CO 80215
matthew.wheeler@sol.doi.gov
Phone: (303) 445-0595
Fax: (303) 231-5363

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Greg

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Sent from my iPhone

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Jerry,

I believe Chris Carey is working with Matt, ^{(b) (5)}

[REDACTED]

Thanks again,

Greg

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Begin forwarded message:

From:
"Holley,
Amy"
<amy_holley@ios.doi.gov>
Date:
February 8,
2017 at
12:49:36 PM
CST

To: Greg
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<greg.gould@onrr.gov>
Subject:
**Fwd: Stay
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I think we
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Briefing
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Apologies if
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<greg.gould@onrr.gov>
Date: Wed,
Feb 8, 2017
at 12:33 PM
Subject: Re:
Stay on
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Regs
To:
"McKeown,
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<matthew.mckeown@sol.doi.gov>
Cc: Matthew
Wheeler
<matthew.wheeler@sol.doi.gov>,
"Steward,
Jim"
<jim.steward@onrr.gov>,
Amy Holley
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(b) (5)



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My
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lawsuits
and
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etc.,
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How
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Feb
24?

Thanks
for
all
the
help!

Greg

Gregory
J. Gould

Director
Office
of
Natural
Resources
Revenue
U.S.
Department
of
the
Interior
[\(202\)
513-
0600](tel:(202)513-0600)

Warning:
This
message
is
intended
only
for
use
of
the
individual
or
entity
to
which
it
is
addressed
and
may
contain
information
that
is
privileged
or
confidential
and
exempt
from
disclosure
under

applicable
law.
If
the
reader
of
this
message
is
not
the
intended
recipient
or
the
employee
or
agent
responsible
for
delivering
this
message
to
the
intended
recipient,
you
are
hereby
notified
that
any
dissemination,
distribution,
or
copying
of
this
communication
is
strictly
prohibited.
If
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have
received
this
communication
in
error,
please
notify

the
sender
immediately
by
return
e-
mail.

Conversation Contents

Did you give Kelly a call to discuss her meeting request?

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 01 2017 13:41:53 GMT-0700 (MST)
To: Matt McKeown <matthew.mckeown@sol.doi.gov>
Subject: Did you give Kelly a call to discuss her meeting request?

"McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

From: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 01 2017 14:59:08 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: Did you give Kelly a call to discuss her meeting request?

I left her a v/m. I will let you know when we connect.

Matt McKeown
Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
New Direct Line: 303-445-0625

On Wed, Feb 1, 2017 at 1:41 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 01 2017 15:14:49 GMT-0700 (MST)
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Did you give Kelly a call to discuss her meeting request?

Thanks.

On Wed, Feb 1, 2017 at 4:59 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I left her a v/m. I will let you know when we connect.

Matt McKeown

Regional Solicitor
Rocky Mountain Region
Office of the Solicitor
U.S. Department of the Interior
755 Parfet St., Suite 151
Lakewood, CO 80215
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On Wed, Feb 1, 2017 at 1:41 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 01 2017 20:15:23 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Subject: Re: Did you give Kelly a call to discuss her meeting request?

I spoke to Kelly earlier. The plaintiffs would like to meet with us to see if we are open to staying the effectiveness of the valuation rule. Since most of the players are in Denver, we are going to have a meeting out here to discuss it. In the interim, I will put an internal briefing paper together.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Wed, February 01, 2017 3:14 PM -0700
To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>
Subject: Re: Did you give Kelly a call to discuss her meeting request?

Thanks.

On Wed, Feb 1, 2017 at 4:59 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I left her a v/m. I will let you know when we connect.

Matt McKeown

Regional Solicitor

Rocky Mountain Region

Office of the Solicitor

U.S. Department of the Interior

755 Parfet St., Suite 151

Lakewood, CO 80215

New Direct Line: 303-445-0625

On Wed, Feb 1, 2017 at 1:41 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

I spoke to Kelly earlier. The plaintiffs would like to meet with us to see if we are open to staying the effectiveness of the valuation rule. Since most of the players are in Denver, we are going to have a meeting out here to discuss it. In the interim, I will put an internal briefing paper together.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

Date: Wed, February 01, 2017 3:14 PM -0700

To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

Subject: Re: Did you give Kelly a call to discuss her meeting request?

Kevin Haugrud <jack.haugrud@sol.doi.gov>

From: Kevin Haugrud <jack.haugrud@sol.doi.gov>
Sent: Wed Feb 01 2017 23:32:55 GMT-0700 (MST)
To: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Subject: Re: Did you give Kelly a call to discuss her meeting request?

That makes perfect sense - thanks for the follow up.

From: Matthew McKeown

Sent: Wednesday, February 1, 2017 10:15 PM

To: Haugrud, Kevin

Subject: Re: Did you give Kelly a call to discuss her meeting request?

I spoke to Kelly earlier. The plaintiffs would like to meet with us to see if we are open to staying the effectiveness of the valuation rule. Since most of the players are in Denver,

we are going to have a meeting out here to discuss it. In the interim, I will put an internal briefing paper together.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

Date: Wed, February 01, 2017 3:14 PM -0700

To: "McKeown, Matthew" <matthew.mckeown@sol.doi.gov>

Subject: Re: Did you give Kelly a call to discuss her meeting request?

Thanks.

On Wed, Feb 1, 2017 at 4:59 PM, McKeown, Matthew <matthew.mckeown@sol.doi.gov> wrote:

I left her a v/m. I will let you know when we connect.

Matt McKeown

Regional Solicitor

Rocky Mountain Region

Office of the Solicitor

U.S. Department of the Interior

755 Parfet St., Suite 151

Lakewood, CO 80215

New Direct Line: 303-445-0625

On Wed, Feb 1, 2017 at 1:41 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Subject: Re: Kelly Johnson called 202-654-6933

I'm copying Matt on this, since the ONRR litigation falls within his shop. Matt, does having a meeting make sense?

On Tue, Jan 31, 2017 at 1:43 PM, Caminiti, Mariagrazia
<marigrace.caminiti@sol.doi.gov> wrote:

She, Tom S. and Schaumberg are working on the litigation re: ONRRs Royalty Rule litigation.

Would like to meet next week to talk to Jack and Jim Cason about the litigation. The would like to talk about possibility of entering into a stipulated stay. Kelly's talked to ENRD and they know if we set something up we'd let them know.

Do you want me to work with Cason's office to process the request? Do you want to participate?

mg

--

Marigrace Caminiti

Executive Assistant to the Solicitor
US Department of the Interior
1849 C Street, NW, Rm. 6352
Washington, DC 20240
202-208-4423 - main number
202-208-3111 - direct
202-208-5584 - fax
202-528-0486 or 202-359-2949 -cell/wcell

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Matthew McKeown <matthew.mckeown@sol.doi.gov>

From: Matthew McKeown <matthew.mckeown@sol.doi.gov>
Sent: Wed Feb 01 2017 09:02:16 GMT-0700 (MST)
To: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>, "Caminiti, Mariagrazia" <marigrace.caminiti@sol.doi.gov>
Subject: Re: Kelly Johnson called 202-654-6933

If this is about ONRR's valuation rule, then I think a meeting is timely. An internal discussion in advance would probably be a good idea.

----- Original Message -----

From: "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>
Date: Wed, February 01, 2017 7:52 AM -0700

