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Congress of the United States House of Representatives

October 2, 2009

The Honorable Ken Salazar
Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

On September 16th, the Department of the Interior announced an end to the Royalty in Kind (RIK) program for royalty collection at the Minerals Management Service (MMS). Specifically, your testimony to the House Natural Resources Committee announced, “a phased-in termination of the program and an orderly transition over time to a more transparent and accountable royalty collection program.”

The Clinton Administration started the Royalty in Kind program to reduce costs by establishing a transparent system, in which the government cleanly receives 1-in-6 or 1-in-8 barrels of oil or cubic feet of natural gas directly, without bearing the costs of an army of accountants, auditors and lawyers arguing over various deductions and costs. Since its creation, the RIK program was only used if it would return more money to the federal government than a traditional in-kind program. In the FY2007 Report to Congress, the MMS reported “Through the competitive sales process, the RIK Program increases the return on the American taxpayers’ crude oil and natural gas royalty assets. The RIK Program accomplishes this by: (1) improving government efficiencies, (2) reducing administrative costs, and (3) providing a fair market return on the royalty assets of the American taxpayers, typically reflected in increased revenues over the in value method.”

The Department's unilateral decision to end this program will likely have a number of negative impacts on both our revenue collection and domestic security. Since there was no public or Congressional review of the Department's decision to phase out RIK, I have a number of questions about the impact of the Department's action:

1. During Fiscal Year 2007, the RIK program generated an additional \$63 million in revenue for the Federal and State governments than if the RIK program did not exist. In making the decision to terminate the program, would the Department please provide the estimated uplift in revenue over the next five to ten years that the program would have generated than will no longer be gained by the federal government as a result of this decision?
2. In reaching this decision, did the Department estimate how much this decision will cost the federal government in additional audits and compliance reviews through the Department of Interior, and additional court actions through the Department of Justice, as a result of increased legal costs associated with Royalty in Value collection? If the Department did not prepare an estimate before reaching this decision, would you please provide the best information available?
3. Does the Department believe that the Federal government will be liable to the states, who have received increased royalty payments from RIK, as a result of the action to close the program and thereby reduce royalty payments to states? Which states will feel this negative impact to their budget?
4. As a result of the elimination of this program, is the Department considering an increase to the amount taken from the States through Net Receipts sharing to accommodate the increased auditing and compliance costs?
5. Does the decision to terminate the program threaten any legal contracts between the federal government and companies with whom we have contracted to develop our resources?
6. In the past, the Federal Government has used RIK oil to fill the Strategic Petroleum Reserve (SPR). In reaching this decision, did the Department consult with the Department of Energy over the impact this decision may have on the future needs of the SPR? What was their response? Does this decision reflect a new policy from the Administration in managing the SPR? Will this decision make it more expensive for the government to fill the SPR?

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Although the RIK program has suffered a number of much-publicized problems over the last year based on the highly inappropriate and illegal actions of a few career employees, the vast majority of RIK and MMS employees are dedicated public servants who work hard on behalf of the American people. An eighteen-month Inspector General investigation, which cost nearly \$5.5 million, found that not one employee provided information or assistance to oil companies that impacted revenues to the Federal Government.

I am concerned that the Department will now end a program that has generated more than one hundred million dollars of additional revenues for the American people.

Thank you for your time and attention to these concerns and questions. I hope that you can provide me a prompt reply.

Sincerely,



Doc Hastings
Ranking Member
Committee on Natural Resources

Cc: Ms. Liz Birnbaum, MMS Director