

Energy Daily, "Coal Industry Sees Trouble With MMS Royalty Plan"
(#30027)

May 24, 1993

Letters to the Editor (#30027)
Energy Daily
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Dear Editor:

Your story in the May 12 Energy Daily, "Coal Industry Sees Trouble With MMS Royalty Plan," leaves the impression that under the MMS contract settlement policy, the coal industry is being treated differently from the way it has been in the recent past. We appreciate the opportunity to correct the record.

Federal lessees, whether they produce coal, gas or any other leasable mineral, owe royalties on production. Coal companies that operate on federal lands may owe royalties on negotiated contract settlements if production to which the settlement is attributable occurs after a contract settlement. That has been the case, and it remains so today. For coal, that was true in 1989, and it is true in 1993.

The 1989 preamble of the rule on coal valuation on federal leases clearly states that "'Settlement' payments made to terminate a sales contract before the contractually-specified termination date will usually not be considered payment for produced coal." The words "usually not" allow for instances where there are coal contract settlement cases where royalties would be due the federal government.

The preamble goes on to say: "If there is a follow-on contract, MMS will review the circumstances to determine if some or all of the payment is royalty bearing."

Finally, the rulemaking is not required because this does not represent a change in policy. The Secretary of the Interior's February 10, 1993, memo underscores this point stating, "... that the MMS policy actually implements existing Departmental regulation and practice, and does not involve any

change in policy"

We hope this explanation will allay any concerns. MMS is anxious to work with the coal industry and is meeting with key representatives to further clarify contract settlement issues.

Sincerely,

Jim Shaw
Associate Director,
Royalty Management Program
Minerals Management Service
U.S. Department of the Interior

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