



Mineral Tax Force
Wyoming Mineral Taxation

Presentation
April 9, 2015

Presentation Outline



- Topics for this Presentation include:
 - Brief History of the Department of Audit
 - Common Audit Issues Including
 - Gas
 - POV
 - Fuel
 - Unbundling
 - Pricing
 - Non-Arm's Length Valuation
 - Insufficient Field Schematics/documentation
 - Oil—
 - Pricing
 - Solids –Issues involving solids



Brief History of Mineral Audit Division

Prior to July 1, 1989

- Mineral tax audits were the responsibility of the Department of Revenue – Prior to 1988 no systematic severance tax audit function
- Federal mineral royalty audits were performed by the State Auditor's Office

After July 1, 1989

- As part of the Wyoming Government Reorganization Act of 1989 the Department of Audit was created and Pursuant to *Wyoming Statute 9-2-2003* the Department of Audit commenced operations on July 1, 1989.
- The Department of Audit **combined** the royalty **audit functions** from the **State Auditor's Office** and the mineral tax audit responsibilities from the **Department of Revenue** into one **Department of Audit**.

Wyoming Statute 9-2-2003

The director shall have the following powers and duties:

- W.S. 9-2-2003(e) Authorized to conduct audits for the collection of federal and state mineral royalties and for collection of taxes imposed under Title 39, Wyoming Statutes.
- W.S. 9-2-2003(g)(i) To coordinate the auditing of state taxes, state royalties, federal mineral royalties and other revenue matters;
- W.S. 9-2-2003(g)(ii) To prescribe reasonable rules and regulations;
- W.S. 9-2-2003(g)(iii) To conduct audits at the request of any state agency;
- W.S. 9-2-2003(g)(iv) To issue subpoenas

Staffing History & Structure of the Mineral Audit Division

- Initially the tax audits and royalty audits were performed by separate audit teams.
- After a 1995 LSO report on Tax Enforcement in Wyoming, the tax audits and royalty audits were combined and performed by the same teams.
 - FY03 36 positions
 - FY05 41 positions
 - FY07 45 positions
 - FY12 44 positions
 - FY14 42 positions
 - FY15 42 positions

Department of Audit Mineral Audit Division

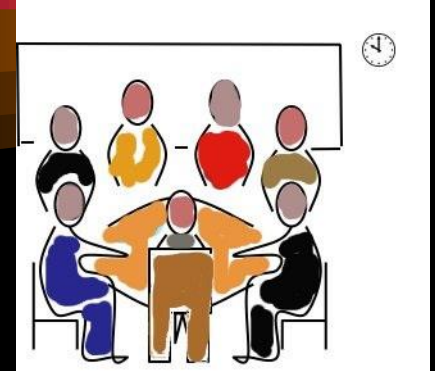


Mission Statement: To perform quality mineral tax and royalty audits to ensure compliance with governing laws as a service to various government agencies and the public interest.

What the Mineral Audit Division Does

Four primary functions of our division include:

- Audit Severance taxes on oil, gas, coal, trona, bentonite, and uranium for the Department of Revenue (DOR).
- Audit Ad Valorem taxable value on oil, gas, coal, trona, bentonite, and uranium for the Department of Revenue (DOR) and the counties of Wyoming.
- Audit Federal Royalties on oil, gas, coal, bentonite, and trona for the Office of Natural Resources Revenue (ONRR).
- Audit State Royalties on oil, gas, coal, bentonite, and trona for the Office of State Lands and Investments (OSL&I).



POV Audit Issue--Gas

- Statute Referring to is 39-14-203 (b) (iv)
 - Identifying the POV [Scenario 1](#)
 - Insufficient Field Schematics/documentation
 - Pictures to get a full visual →
- Applying the problem/Issues
 - Obtaining a visual layout of field
 - Multiple Valuation Scenarios may exist
- The Legal/Guidance Background—POV guidance



Fuel Audit Issue--Gas

- Statute Referring to is 39-14-205 (j)
- Basically Fuel used off lease/unit boundaries and prior to the point of valuation is taxable fuel/volume.
- Insufficient Field Schematics/documentation
- Scenario 1—Fuel
- Applying the problems and issues
- Companies should not be taking a transportation deduction on fuel volumes or other volumes that are not taxable.

Unbundling Audit Issue--Gas

- Several Statutes for this issue—POV and all valuation Statutes can be affected
- A single processing or transportation contract can contain both production (non-deductible) and post POV (deductible) expenses as well as costs that are not allowed (i.e. marketing costs)
- Contract has to be allocated Scenario 2
- Applying the problems and issues



Pricing Audit Issue--Gas



- Statute Referring to is 39-14-203 (b) (v) and (vi)
- Affiliated Sales being represented as market value—we would look further and see what the affiliated company received
- Weighted-average price (WAP)—not using all sales when determining fair market value—need to include all sales in determining WAP
- Net price—filing based on a netted-out price deducting ???
- Applying the problem/Issues—We need to see all contracts and amendments detailing all sales—all valuation ends up being a case by case based on what is going on in the contracts.

Non-Arm's Length Valuation

- Statute Referring to is 39-14-203 (b) (vi) (D) and (E)
 - Proportionate Profits and Modified Netback Methods
- Several court cases on PPM, we are just starting years where Modified Netback Method is used—lots of disputes of what expenses are included and where in the calculation—DOR rules have helped clarify and court cases have helped clarify how to treat certain expenses; however, still disputes
- None of the accounting systems are created with reporting under these methods in mind.
- Requires a plant expense audit where expenses need to be looked at in depth



Insufficient Field Schematics/documentation

- Companies should provide detailed schematics showing all field equipment and meters. Companies should provide a detailed schematic and/or narrative detailing the flow of oil/gas from the wellhead to the sales point.
- 3rd party source documentation needs provided—not computer generated data
- Different departments in major petroleum companies are responsible for different aspects of valuation. No one individual controls how it all works together. Revenue accountant books revenue, contract personnel handle transportation and processing contracts, production people report volumes etc. Decentralization of expertise and knowledge of Statutes.



Pricing Issues--Oil



- Statutes Referring to is 39-14-203 (b) (v) and other valuation methods in (vi)
- Affiliated Sales being represented as market value—we would look further and see what the affiliated company received
- Weighted-average price (WAP)—not using all sales when determining fair market value—need to include all sales in determining WAP
- Buy Sell/exchange agreements all sales scenarios need included in the price calculation
- Net price—filing based on a netted-out price deducting ???
- Applying the problem/Issues—We need to see all contracts and amendments detailing all sales—all valuation ends up being a case by case based on what is going on in the contracts.