

RIVIERA DRILLING & EXPLORATION

IBLA 95-371

Decided November 14, 1997

Appeal from a decision of the Chief, Reports and Payments Division, Minerals Management Service, assessing \$200 for incorrect reporting. MMS-94-0210-LQD.

Affirmed.

1. Federal Oil and Gas Royalty Management Act of 1982: Assessments—Regulations: Generally

Under 30 C.F.R. § 218.40(b) and a Notice published pursuant thereto in the Federal Register, MMS properly makes an assessment for erroneous reporting by a payor of sales and royalty remittance where the reporting errors are established by the record and admitted by the payor.

APPEARANCES: Arnold F. Lueders, III, Esq., Milwaukee, Wisconsin, for Appellant; Howard W. Chalker, Esq., Peter J. Schaumberg, Esq., Geoffrey Heath, Esq., Office of the Solicitor, U.S. Department of the Interior, Washington, DC, for the Minerals Management Service.

OPINION BY ADMINISTRATIVE JUDGE TERRY

Riviera Drilling & Exploration (Riviera) has appealed from an October 7, 1994, Decision of the Chief, Reports and Payments Division, Minerals Management Service (MMS), affirming an assessment by the Royalty Reporting and Payments Branch of \$200 for erroneous reporting on Form MMS-2014, Report of Sales and Royalty Remittance.

By letter of March 17, 1994, MMS requested payment from Riviera of a \$200 assessment resulting "from [Riviera's] submission of incorrectly completed lines on [Form MMS-2014]." With its letter, MMS enclosed a "Rejected Line Detail Report" on which it circled each line number where at least one payor reporting error occurred.

By letter of April 6, 1994, Riviera appealed the assessment to the Chief, Reports and Payments Division. Riviera explained that the

problem arose because it had filed its MMS-2014 forms "using Pre-1986 calculation methods." Riviera stated that in order to correct the problem "all [reporting] months were adjusted on one green 2014 adjustment form."

The Decision appealed from explains that a payment method (PM) is required on all Form MMS-2014 lines to allow proper AFS (Auditing and Financial System) processing, that each individual line is considered a report in itself, and that the PM is instrumental in determining the processing path for a given Form MMS-2014.

According to the Decision, Riviera submitted two Forms MMS-2014 with a total of 20 incorrect reports. Riviera's Form MMS-2014, DCN 462377 reported two lines without a PM. These lines were "rejected from" the AFS, due to this error. Riviera's Form MMS-2014, DCN 463348, reported 18 lines without the PM, Product Code, or a valid AID (Accounting Identification Number). These 18 lines were similarly "rejected from" the AFS as erroneous.

The Decision points out that the MMS Oil and Gas Payor Handbook (1986) contains specific instructions on proper reporting on Form MMS-2014 to avoid the generating of errors by AFS. The Decision states that as a payor, Riviera is on notice of applicable regulations and reporting requirements, and that bills for incorrect reporting represent compensation to MMS for the cost of error correction. (Decision at 3-4.)

On appeal to this Board, Riviera asserts that it should not be charged for errors made by MMS staff in entering data into a computer. Riviera explains that its errors resulted from "the failure of starting a six digit number with a zero." It asserts that MMS's computer program should catch such errors prior to filing.

The MMS responds that Riviera was properly assessed for "the 20 errors [which] were entirely due to its failure to begin an Accounting Identification Number with a zero." The MMS asserts that the assessment is authorized by and must be sustained under 30 C.F.R. § 218.40(b).

[1] The applicable regulation, 30 C.F.R. § 218.40 (1993), provides:

(b) An assessment of an amount not to exceed \$10.00 per day may be charged for each report received by the designated due date but which is incorrectly completed.

(c) For purposes of reports required for the Auditing and Financial System (AFS), a report is defined as each line item on a Form MMS-2014. The line item consists of the various information, such as Product Code or Selling Arrangement Code, relating to each Accounting Identification Number (AID).

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(e) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by MMS. The assessment amount for each violation will be based on MMS's experience with costs and improper reporting. The MMS will publish a Notice of the assessment amount to be applied in the Federal Register.

On April 22, 1993, MMS published a Notice establishing the assessment amounts. 58 Fed. Reg. 21594 (Apr. 22, 1993). That Notice provides, in relevant part: "Based on a review of actual costs incurred to correct erroneous reports, MMS has determined that the various assessment rates reflected in [a previously published rate schedule] should be revised to a single assessment rate of \$10 per line."

The Notice states that "[t]his rate will remain in effect until a subsequent Notice is published in the Federal Register which changes the assessment rates."

In this case, Riviera admits the reporting errors for which MMS made the assessment, and those errors are established by the record. Under 30 C.F.R. § 218.40(b) and the Federal Register Notice, MMS properly assessed \$200 dollars (\$10 per line or report) for erroneous reporting. See Exxon Company, U.S.A., 113 IBLA 199, 205, 207 (1990); Forest Oil Corp., 107 IBLA 1 (1989).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Decision appealed from is affirmed.

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James P. Terry  
Administrative Judge

I concur.

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Gail M. Frazier  
Administrative Judge

