MMS Global Royalty Settlement Concerns

**Issue:** Global Royalty Settlements that MMS has been conducting may expose the Secretary to criticism for relinquishing claims to substantial royalty revenues. In addition to significant budget consequences, these problems also tend to raise program integrity issues as they usually get considerable attention by the press.

**Mobil Settlement: California Crude Valuation** The Mobile global royalty settlement was reported negotiated several weeks ago and used the Chevron language relative to the California issue (see below). MMS had previously announced its intent to use the Chevron language as a standard in such agreements, and recently justified its use by explaining that California's approval of the Chevron language and failure to object indicated there was no problem. The apparent misunderstanding between MMS and California was highlighted in a recent letter from the State's Washington Counsel, and was reported by the press on October 5. This same article quotes MMS as saying that the language was only a "starting point for discussion," and that "It may not, in fact, be suitable for an agreement with Mobil."

**Chevron Settlement: BLM Drainage Issue** Most recently, the BLM completed and released a study reporting royalty and interest losses of approximately $16,000,000 as a result of drainage of Federal resources by wells on adjacent, non-Federal lands. Chevron, the Federal lessee responsible for the drainage, appears to have protected itself from the drainage loss through the use of a operating agreement with the producers on the non-Federal lands. The Government appeared to have been the only loser. Chevron reportedly had admitted to the drainage, although now disputes the amount. Although the extent of the losses were not known until this summer, the MMS settled the matter with Chevron in a global settlement signed in March, before BLM had determined the amount. MMS apparently had not notified BLM of the settlement negotiations, and BLM had not discovered them until late March or early April after the agreement had been signed.

The issue is deemed to have been settled since it was not explicitly preserved in the global settlement agreement. Accordingly, Federal receipts decline as a function of (1) the uncollected revenue, plus (2) the 50 percent ($8,000,000) that must be paid to the State of Wyoming as their share of the "settled" claim.

**Chevron Settlement: California Crude Valuation** At the time of this settlement MMS's preliminary study, indicated that Chevron owed a substantial portion the MMS esti-
mated amount of more than $420,000,000 (plus interest and penalties over 30 years). Accordingly, at the request of PPA, MMS agreed to preserve the entire issue. However, the signed agreement only preserved the portion after 1980 (relinquishing claims to 20 years of potential under reporting and associated interest and penalties). Based on its statements to the press, MMS also appears to have preserved the remaining issues only under the very narrow condition that the Government first prove conspiracy or collusion. MMS also appears to have conceded any statute of limitations issues to Chevron, and has since taken no steps to preserve remaining revenues from potential statute of limitations issues as the interagency review committee gathers evidence and deliberates the implications.

**Exxon Settlement: California Crude Valuation** The Exxon global royalty settlement was signed by Exxon in late October and by the MMS in early December. Although MMS had completed its initial estimate of the implications of potential undervaluation in late August or early September, and knew of Exxon's potential involvement, no mention of the issue appeared in the settlement agreement. Thus there was no preservation, and the entirety of the issue appears to be deemed settled.