United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

703-235-3750 703-235-8349 (fax)

August 26, 2020

IBLA 2018-202	)	ONRR-15-142-O&G
	)	
MCR, LLC	)	Royalties
	)	
	)	Decision Affirmed as Modified

ORDER

MCR, LLC (MCR) appeals from a decision by the Director, Office of Natural Resources Revenue (ONRR), denying in part MCR's appeal of an ONRR Order to Report and Pay Additional Royalties. The Director agreed with ONRR determining for the audit period June 1, 2008, through December 31, 2010, that MCR owed additional royalties for gas sold at the wellhead to an affiliate, for gas erroneously claimed under the beneficial use royalty exception, and for condensate it sold to a third party. The total amount due under the Decision is $33,874.04. On November 14, 2018, the Board issued an Order modifying the Decision ("Modification Order") to exclude royalties barred by the statute of limitations for production months prior to October 1, 2008.[1]

In this appeal, the burden is on MCR to show the Director erred in determining the amount of royalty due. Because MCR has not met its burden in this case, we affirm the Director's decision, but ONRR must modify the amount due in accordance with our Modification Order.

BACKGROUND

MCR is a private oil and gas company that is owned by the McDermott family.[2] It owns and operates approximately 300 stripper oil and gas wells in Toole, Liberty,

[1] Order, Jurisdiction Established; Decision on Appeal Modified; Briefing Schedule Established at 2-3 (Nov. 14, 2018).
[2] MCR Statement of Reasons at 2 (filed Mar. 11, 2019) (SOR).

Pondera, and Teton Counties, which are located in northern Montana near the Canadian border.[3]

The additional royalties at issue in this case are for gas extracted from Federal leases by MCR, which is measured at the wellhead and sold to MCR Transmission (MCR-T), an MCR affiliate, pursuant to a Wellhead Gas Purchase Contract (Wellhead Contract) that was originally created and entered into by and between Fulton Producing Company and Montana Power Company (MPC).[4] The Wellhead Contract specifies that all Seller gas production that meets certain identified specifications is marketable and will be purchased by Buyer at the wellhead, where custody transfers, production is measured, and the gas enters the Buyer's gathering system.[5] As found by auditors from the Montana Department of Revenue (DOR), gas produced by MCR is measured and transferred to MCR-T at the wellhead, where it enters MCR-T's gathering system and is transported to the Miners Coulee and Whitlash Compressor Stations for separation, compression, and dehydration before passing through a NorthWestern Energy (formerly MPC) sales meter and entering its intrastate pipeline.[6] Oil extracted at the wellhead is sold to CHS, Inc.; oil condensate extracted at the Compressor Stations is also sold to CHS, Inc. or to Plains Marketing of Canada.[7]

Montana DOR, acting under a cooperative agreement with ONRR, audited MCR's royalty reporting and payments under 29 oil and gas leases and communitization agreements for the period January 1, 2008, through December 31, 2010.[8] By letter dated July 18, 2013, Montana DOR informed MCR it had preliminarily determined that MCR owed additional royalties for improper valuation of gas, use of gas off lease but claiming a beneficial-use royalty exception, condensate sales, and other issues, which MCR promptly disputed.[9] ONRR agreed with Montana DOR and issued an Order to Pay that

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[3] *Id.*
[4] *See id.* at 2, 4 ("Through a series of transactions, MCR acquired the contracts from the producer side and MCR-T acquired the contracts from the purchaser side . . . . These transactions have been documented for and are well-known to the Montana [Department of Revenue] DOR (who acts as agent for the ONRR).").
[5] *See* Administrative Record (AR) at 320, Wellhead Contract, Article VIII (Buyer's and Seller's Obligation) and AR at 323, Article IX (Quality of Gas).
[6] *See* AR 174-75, Chart of Movement by DOR Auditor Jon Wicks, based on MCR Gas Flow Schematic, (Nov. 9, 2015).
[7] *Id.*
[8] *See* AR 1384, Montana DOR Audit Issue Letter (July 18, 2013) (DOR Audit Letter); AR 14, Decision by ONRR Director on Appeal of Order to Report and Pay Additional Royalties (July 18, 2018) (Director Decision).
[9] DOR Audit Letter; *but see* AR 1379, MCR Response (Aug. 21, 2013).

required MCR to pay $40,930.06 in additional royalties.[10] MCR appealed to the ONRR Director, who reversed the Order to Pay $7,056.02 in royalties on vented casinghead gas but affirmed all other aspects of the Order to Pay by decision dated July 18, 2018 (Director Decision).[11]

MCR timely appeals from that decision.[12]

DISCUSSION

In challenging ONRR's exercise of its authority regarding product valuation for royalty purposes, an appellant bears the burden of proving ONRR erred as a matter of law, committed a material error in its factual analysis, or that the decision is not supported by a record showing ONRR gave due consideration to all relevant factors and acted on the basis of a rational connection between the facts found and the choice made.[13] "'Mere expressions of disagreement'" are insufficient; "rather, '[t]here must a showing of clear error of law or demonstrable error of fact.'"[14]

We address each of the issues raised by MCR in the order presented.

I. Royalties on MCR gas sold at the wellhead to MCR-T.

Under the Mineral Leasing Act, royalty on oil and gas produced from an onshore Federal oil and gas lease is computed as a percentage of the "amount or value of the production removed or sold from the lease."[15] When valuing gas, Federal lessees must base that value on the gross proceeds accruing to the lessee from selling the gas, which is "the total monies and other consideration accruing to an oil and gas lessee for the disposition of the gas, residue gas, and gas plant product produced."[16]

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[10] AR 40, Order to Report and Pay Additional Royalties (Nov. 25, 2015) (Order to Pay).
[11] *See* Director Decision at 1, 6, 8.
[12] *See* Notice of Appeal (filed Aug. 14, 2018).
[13] *See, e.g., XTO Energy, Inc.*, 191 IBLA 110, 114 (2017); *W&T Offshore,* 184 IBLA 272, 278-79 (2014).
[14] *W&T Offshore,* 184 IBLA at 279 (quoting *California Wilderness Coal.*, 176 IBLA 93, 101-02 (2008)).
[15] 30 U.S.C. § 226(b)(1)(A) and (c)(1) (2018).
[16] 30 C.F.R. § 1206.151 (Definitions). The Order to Pay cited earlier versions of the Department's implementing regulations in the Code of Federal Regulations, but since they are the same as the current regulations, we cite the current version of those regulations for simplicity. *See Burlington Resources Oil & Gas Co.*, 183 IBLA 333, 338 n.11

The regulation at 30 C.F.R. § 1202.150 required MCR to pay royalty on all gas produced from its Federal leases, except gas unavoidably lost or used on or for the benefit of the lease. To value unprocessed gas sold under a non-arm's-length contract, MCR may properly value it at the gross proceeds accruing from its sale, but only if the gross proceeds are "equivalent to the gross proceeds derived from, or paid under, comparable arm's length contracts for purchases, sales, or other dispositions of like-quality gas in the same field. . . ."[17] In addition, MCR must "place gas in a marketable condition and market the gas for the mutual benefit of the lessee and the lessor at no cost to the Federal Government."[18] Marketable condition is defined as "lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area."[19] Consequently, a lessee cannot deduct from royalty value any of the costs it incurred to place its gas into a marketable condition, and a lessee's gross proceeds for royalty purposes "will be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the gas in marketable condition or to market the gas."[20]

A. State Audit, ONRR Order to Pay, and Director Decision

Montana DOR found gas extracted from Federal leases is sold by MCR to MCR-T at the wellhead, where it is measured and enters MCR-T gathering lines en-route to the Miners Coulee or Whitlash Stations owned by MCR, where "impurities in the gas stream are removed before it goes through the NorthWestern Energy receipt meter," where title is again transferred.[21] Montana DOR determined:

> A review of the process used by MCR to meet pipeline specification shows MCR is boosting pressure, removing water, oil condensate and any other natural gas liquids from the gas stream. Until the gas passes through the outlet of the dehydrator, the gas is not in marketable condition. Any reductions in the price used to pay federal royalties prior to the gas being placed into marketable condition needs to be added back to the gross

(2013) (citing 53 Fed. Reg. 1230, 1272-84 (Jan. 15, 1988); 75 Fed. Reg. 61,051, 61,072-74 (Oct. 4, 2010)).

[17] *Id.* § 1206.152(c)(1); *see id*. § 1206.152.

[18] *Id.* § 1206.152(i).

[19] *Id.* § 1206.151.

[20] *Id.* § 1206.152(i).

[21] DOR Audit Letter at unpaginated (unp.) 3.

> proceeds of the federal production. We have determined that the price federal royalties should be paid on for the audit period . . . is the price received when title passes at the custody transfer meter.[22]

The MCR-T's contract with NorthWestern Energy states the price paid for this gas is based on the AECO-C Index Price, less $0.05, and then further "reduced by costs associated with gathering, compression, dehydration, and separation to determine the price MCR-T pays MCR for the gas at the wellhead."[23]

The Order to Pay determined that MCR was "shifting costs of gathering, compressing, separation, and dehydration to MCR-T[,]" even though "MCR is the one responsible for placing the gas in marketable condition."[24] Since MCR had not "provided the actual costs to place gas into marketable condition," ONRR found the next best available information for determining the value of gas in marketable condition was to use the AECO-C index Price, less $0.05.[25] Based on these findings, MCR was ordered to pay $25,740.16 in additional royalties.

In appealing the Order to Pay, MCR claimed it properly calculated the value of its gas because the gross proceeds it received from MCR-T are equivalent to gross proceeds derived from comparable arms-length contracts in the area.[26] The ONRR Director disagreed. He affirmed the Order to Pay and its finding that "the gas was not in marketable condition when MCR sold it to MCR-T at the wellhead because the gas was at low pressure with high water content, and had to be compressed and dehydrated to be delivered to the mainline pipeline that takes it to market."[27] The Director rejected MCR's claim of a market for unprocessed gas in the area because it "present[ed] no persuasive evidence of a market for unconditioned gas at the wellhead" and had not shown the "volume, condition, or arm's-length nature of sales (if any) by other producers at the wellhead."[28] As a result, the ONRR Director found the price at which MCR-T sold the gas to a third-party after compression and dehydration was the "best available evidence of gross proceeds."[29]

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[22] *Id*. at unp. 4.
[23] AR 44, Order to Pay, Enclosure 1 - Explanation of Order in Case No: 12.00233.001, at 5 (Explanation of Order).
[24] *Id.* at 7.
[25] *Id.*
[26] MCR Appeal to ONRR Director at 2 (Dec. 21, 2015) (Appeal to Director).
[27] Director Decision at 3.
[28] *Id.*
[29] *Id.* at 5.

B. Appeal to and Decision by the Board

MCR asserts, as it had to the Montana DOR and ONRR Director, that its unprocessed gas is in the "exact same condition" as other gas purchased by MCR-T from other producers in the area, "under a sales contract typical for the field or area."[30] MCR explains that because BLM rules do not say all gas producers are "obligated to de-water, compress and transport the gas to render it in a 'marketable condition,'" unprocessed gas continues to be successfully marketed in the area,[31] and "[e]ssentially the same gas in the same condition is being sold at the wellhead to MCR-T (instead of MPC) via exactly the same contracts."[32] Thus, MCR contends the ONRR Director erred in determining that additional royalties are due under these circumstances.[33]

ONRR counters by claiming, "absent an evidentiary demonstration by a lessee that the gas is in marketable condition before it reaches the mainline pipeline, the mainline pipeline specifications set the standard for the determination that gas is (or is not) in marketable condition."[34] Thus, according to ONRR, since MCR has not proffered sufficient evidence to show there is a market for unprocessed gas in the area, MCR has not shown the Director erred in determining gas produced by MCR "was not in 'marketable condition' until after it was conditioned for market (compressed and dehydrated) to the mainline pipeline specifications."[35]

The question presented is whether MCR gas was in marketable condition at the wellhead when it was sold to MCR-T. As the court in *Amoco v. Baca* explained, whether gas is in marketable condition "is a fluid concept, wholly dependent on the particular facts of each case."[36] The facts presented by MCR do not show its gas was in marketable condition at the wellhead.

In *Amoco*, the Assistant Secretary found the price of gas at the wellhead in its natural condition was reduced to offset costs incurred by the purchasers to transport and condition gas for sale to end users because contracts typical for the field or area involved

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[30] SOR at 5.
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] Answer to MCR's Statement of Reasons at 6-7 (filed Apr. 17, 2019) (Answer).
[35] *Id.* at 7.
[36] *Amoco Products v. Baca*, 300 F. Supp. 2d 1, 7 (D.D.C. 2003), *aff'd sub nom. Amoco Prod. Co. v. Watson*, 410 F.3d 722 (D.C. Cir. 2005), *aff'd sub nom. BP Am. Prod. Co. v. Burton*, 549 U.S. 84 (2006).

gas with reduced carbon dioxide levels.[37] Consequently, the added costs of removal services performed by the purchaser were added to Amoco's gross proceeds.[38] On judicial review, based on the facts of that case, the court found the Assistant Secretary's application of the marketable condition rule was reasonable and affirmed the determination that Amoco's gas was not marketable unless it had reduced levels of carbon dioxide, which meant Amoco had to pay royalties on the cost of conditioning its gas.[39]

In this case, MCR sells unprocessed gas at the wellhead to MCR-T, which also buys unprocessed gas from other producers in the area for a similar price, but the fact MCR-T processes that gas and sells it to NorthWestern Energy and other third-parties for transport and sale to end users supports the Director's conclusion that the market in that area is for processed gas. While MCR claims there is an area market for unprocessed gas, its only evidence of such a market is the limited purchases by MCR-T from MCR and a few other producers in the area. The Director reasonably concluded that this evidence did not show that an area market existed for unprocessed gas.

Our conclusion is consistent with the Board's decision in *Xeno, Inc.*[40] Xeno operated gas wells in the Battle Creek producing area of Montana and formed a joint venture with other gas producers in the area to purchase their gas at the wellhead, and then gather, compress, and sell that gas to MPC at its pipeline.[41] The Board found the contract between Xeno and its joint venture affiliate was not sufficient to show their wellhead gas was in a marketable condition, but Xeno provided other, substantial evidence of a market for such gas by showing (among other things) offers from at least two non-affiliated firms to purchase the gas at the wellhead.[42] Based on the facts presented by Xeno, the Board vacated the Director's decision. Here, in contrast, the only known purchaser is MCR's affiliate, MCR-T.

In sum, MCR has not provided sufficient evidence of a market for unprocessed gas in this field or area to show the Director erred in using the price received by MCR-T for gas sold to NorthWestern to determine the value of gross proceeds for computing royalties due on Federal gas produced by MCR. Accordingly, we affirm ONRR's determination of royalties of $25,740.16, subject to any adjustment required by the Board's Modification Order.

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[37] *Id.* at 9.
[38] *Id.*
[39] *Id.* at 12.
[40] 134 IBLA 172 (1995).
[41] *See id*. at 173-74
[42] *See id.* at 182-83.

II. Royalty reporting on the beneficial use of gas.

The regulation at 30 C.F.R. § 1202.150(b)(1) provides limited exceptions from the requirement to pay royalty on produced gas: "All gas (except gas unavoidably lost or used on, or for the benefit of, the lease, including that gas used off lease for the benefit of the lease when such off-lease use is permitted by the [Department]) produced from a Federal lease . . . is subject to royalty." At the production times at issue, this exception for beneficially used gas was addressed in the Department's Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A).[43] NTL-4A states: "No royalty obligation shall accrue on any produced gas which . . . is used on the same lease, same communitized tract, or same unitized participating area for beneficial purposes . . . ."[44] It requires that such use be reported on Form 9-329, Monthly Report of Operations, and defines "beneficial purposes" as gas produced on a lease "which is used on or for the benefit of that same lease . . . for operating or producing purposes such as . . . fuel in the heating of oil or gas for the purpose of placing it in a merchantable condition [and] fuel in compressing gas for the purpose of placing it in a marketable condition . . . ."[45]

A. State Audit, ONRR Order to Pay, and Director Decision

Montana DOR found MCR's reported beneficial use of gas produced on three of its leases was not actually used on them but as their "allocated portion of the compressor plant fuel" at the Miners Coulee Compressor Station and to run a "heater treater and heat stock tanks" at a nearby, off-lease location.[46] Because these locations of use were not on MCR leases, Montana DOR determined such "does not qualify as beneficial use and royalty is due on this production."[47] ONRR agreed and issued the Order to Pay $5,357.42 in additional royalties.[48]

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[43] NTL-4A, https://www.blm.gov/sites/blm.gov/files/energy_noticetolessee4a.pdf (last visited Aug. 25, 2020). The beneficial use provisions of NTL-4A were superseded by the promulgation in 2016 of 43 C.F.R. subpart 3178. *Cf.* 43 C.F.R. 3178.3(a)(1) ("[R]oyalty is not due on . . . gas that is produced from a lease . . . and used for operations and production purposes (including placing oil or gas in marketable condition) on the same lease . . . without being removed from the lease . . . .").
[44] NTL-4A at unp. 1.
[45] *Id.* at unp. 2; *see Plains Exploration & Production Company*, 178 IBLA 327, 339-43 (2010).
[46] DOR Audit Letter at unp. 4, 5.
[47] *Id.*
[48] Order to Pay at 1; *see* Explanation of Order at 3-4 (citing NTL-4A).

MCR argued to the ONRR Director that this issue stems from a misunderstanding of its accounting entries on purchases from Wave, USA, because "Wave, USA wanted to establish a pricing mechanism by which its gas was valued at a higher price, without regard to adjustments for gas used to compress, dewater and otherwise ready the gas for sale to MCR-T's buyer."[49] According to MCR, rather than pay Wave a lower price, MCR-T set a higher price and then "reduced the amount due and owing to Wave by an accounting entry denominated 'less plant fuel.'"[50] The Director was unpersuaded, found MCR failed "to show how the accounting entries justify its failure to pay royalties on the volumes that it incorrectly reported as beneficial-use gas,"[51] and affirmed the Order to Pay.

B. Appeal to and Decision by the Board

ONRR recognizes that MCR reported the volume of beneficial-use gas used off-lease for the benefit of its leases (*i.e.*, heater treaters and stock tank heaters moved off-lease during the audit period and compressors at the Miners Coulee Compressor Station). Regardless of lease benefits, ONRR claims since MCR failed to show these beneficial uses occurred on its leases, the Director Decision should be affirmed.[52] And to the extent MCR was again raising its "accounting entries" argument, ONRR contends it should be rejected because "MCR has failed to cite any portion of the Administrative Record that support[s] its practice of intentional price manipulation."[53]

The Board has clearly and unequivocally held that "gas used as fuel in a compressor located off the lease, unit, or communized tract from which the gas is produced is royalty-bearing and not excepted from paying royalties."[54] And as to MCR's "accounting entries" argument, MCR has failed to submit evidence that shows the Director erred in rejecting its argument. Accordingly, we affirm the Director Decision and its requiring MCR to pay $5,232.41 in additional royalties, subject to any adjustment required by the Board's Modification Order.

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[49] Appeal to Director at 4.
[50] *Id.*; *see id.* ("As such, MCR paid 100% of the royalty owed on the gas, just as it paid 100% of the royalty to other producers.").
[51] Director Decision at 7.
[52] *See* Answer at 8.
[53] *Id*. at 9.
[54] *Plains Exploration & Production Company*, 178 IBLA at 339; *see also id*. at 339-43 (citing NTL-4A, *Marathon Oil Co. v. Andrus*, 452 F. Supp. 549 (D. Wyo. 1978), and *Gulf Oil Corp. v. Andrus*, 460 F. Supp. 15 (C.D. Cal. 1978)); accord *Encana Oil*, 185 IBLA 133, 145-46 (2014).

III. Royalties on Condensate

As previously noted by the Board, "royalties must be based on the volume of gas leaving the lease, and when gas is processed, valuation for royalty purposes must include condensate, residue gas, and gas plant products attributable to lease production, less applicable allowances that do not include the costs of placing the gas in marketable condition."[55] When gas is processed, as apparently occurs at MCR-T compressor stations before it is metered and sold to NorthWestern Energy, its entrained residue gas and gas plant products, including condensate, are allocated back to the Federal leases that produced them.[56]

A. State Audit, ONRR Order to Pay, and Director Decision.

Montana DOR found MCR-T compressor stations at Miners Coulee and Whitlash increase pressure and remove water vapor and other materials, including oil condensate, from gas produced on MCR leases.[57] MCR sold removed condensate to Plains Marketing Canada and CHS, Inc., but MCR did not allocate any of that condensate back to its federal leases.[58] Since "Federal regulations require that royalties be paid on all products recovered from federal properties that an operator or lessee receives compensation from," Montana DOR created a method for allocating condensate and computing royalties due on condensate allocated to each lease.[59] Because "MCR is required to pay royalties on all products recovered from Federal properties that an operator or lessee receives compensation from," but failed to do so, ONRR calculated royalties due under 30 C.F.R. § 1206.154(c)(2) (assuming uniform content), and directed MCR to pay additional royalties of $2,495.67.[60]

In appealing the Order to Pay to the ONRR Director, MCR claimed ONRR incorrectly assumed it had not paid royalties on the value of its condensate. According to

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[55] *Encana Oil*, 185 IBLA at 145 n.12.

[56] *See* 30 C.F.R. § 1206.154(c)(1) (procedures when gas is processed from only one lease), (2) (procedures when gas is processed from more than one lease of uniform content), (3) (procedures when gas is processed from more than one lease of nonuniform content), and (4) (lessees may request approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease).

[57] DOR Audit Letter at unp. 6.

[58] *Id.*

[59] *Id.*

[60] Explanation of Order at unp. 9; *see id*. ("[MCR] did not provide any documentation showing any kind of adjustments being made for the recovery of the product.").

MCR, it paid royalties on the price it received from MCR-T for its gas stream at the wellhead, which included entrained condensate and was "adjusted upward (if the gas is richer and can generate more by-products) and adjusted downward (if the gas is of poorer quality and will generate less of the by-products)," as demonstrated in its monthly settlement statements for each lease.[61] The Director was not persuaded: "Although MCR-T purchased the gas from MCR at the wellhead and transported it to [the compressor] stations, MCR—not MCR-T—sold the condensate to third parties."[62] He concluded: "If MCR-T had paid for the condensate, it would have owned the condensate and been entitled to sell it and receive the proceeds. Since MCR sold the condensate, the order correctly requires it to report and pay $2,495.67 in royalties on it."[63]

B. Appeal to and Decision by the Board

MCR makes virtually identical arguments to those it presented to the ONRR Director and again claims the Order to Pay was "based on the incorrect assumption that it has not already paid royalties on the value of these by-products."[64] MCR contends it is being required to "pay another royalty because it retained possession of the by-products."[65] ONRR counters that the Director correctly found MCR owed "royalties on the additional gross proceeds it received from the sale of the condensate because MCR (not MCR-T) sold the condensate and received the proceeds for it in addition to the proceeds that MCR received from MCR-T for the unconditioned gas."[66]

We agree that additional royalties are owed for the condensate sold to third-parties in this case. MCR's claim it already paid royalties on the price it received from MCR-T at the wellhead is unpersuasive, given that MCR, not MCR-T, received the proceeds from selling condensate to Plains Marketing and CHS at MCR-T compressor stations. The Director correctly observed that if entrained condensate was sold to MCR-T at the wellhead, as claimed by MCR, MCR-T would own it and be entitled to receive the proceeds of its sale to Plains Marketing and CHS. But such is not this case. We therefore affirm the Director Decision and its directing MCR to pay $2,495.67 in additional royalties, subject to any adjustment required by the Board's Modification Order.

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[61] *See* Appeal to Director at 4-5.
[62] Director Decision at 7-8.
[63] *Id.* at 8.
[64] SOR at 6.
[65] *Id.* at 7; *see id.* ("What possible difference does it make if MCR retains the by-products, so long as it pays 100% of the royalty by including the value of the by-products in the price received from MCR-T?").
[66] Answer at 9-10.

CONCLUSION

In sum, MCR has not carried its burden to show the Director erred in his decision regarding additional royalties due under any of three issues raised on appeal. Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior,[67] we affirm the Director Decision and its requiring MCR to pay a total of $33,874.04 in additional royalties, subject to the modification required by the Board's Modification Order.

/s/
James K. Jackson
Administrative Judge

I concur:

/s/
K. Jack Haugrud
Administrative Judge

[67] 43 C.F.R. § 4.1.