



June 27, 2023

Howard Cantor  
Director, Office of Natural Resources Revenue  
Bldg 85, Entrance N-1, RM 322  
Denver Federal Center  
Sixth Ave and Kipling St  
Denver, CO 80225

RE: Reconsideration of the Indian Index Price for Natural Gas, San Juan Basin, January 2023

Dear Director Cantor:

Western Energy Alliance and the Independent Petroleum Association of New Mexico (the Trades) request, on behalf of several independent producers in the San Juan Basin, that the ONRR revisit the calculation of the “Indian Index Price” for natural gas production during the month of January 2023 and consider use of its authority to exclude non-representative pricing points in future production months. The Trades believe that the Indian Index Pricing utilized for the San Juan Basin in January 2023, which was \$43.20/MMBtu, is not representative of the actual market conditions for gas produced in the San Juan Basin and use of such pricing is inequitable to natural gas producers. As reference, the pricing inputs for El Paso Natural Gas Co. San Juan and Transwestern Pipeline Co. San Juan (the two index pricing points used in the Indian Index Pricing calculation for the San Juan Basin) are set forth below, along with the “first of month” pricing and “daily average pricing” for both price points.

	<u>First of Month</u>	<u>Daily Average</u>	<u>Highest Reported</u>
El Paso San Juan	\$32.97	\$11.07	\$44.00
Transwestern San Juan	\$39.99	\$11.39	\$43.00
Average	<b>\$36.48</b>	<b>\$11.23</b>	<b>\$43.50</b>
Less allowable deduct			<b>(\$0.30)</b>
Indian Pricing			<b>\$43.20</b>

As you can see, the \$43.20/MMBtu used as the Indian Index Pricing for January 2023 is materially higher than the average “first of month” pricing and “daily average” pricing – 18.5% higher than the average “first of month” and an astounding 284% higher than the “daily average” pricing. Absent arrangements to take gas out of the basin via long-haul pipelines, producers are almost exclusively forced to sell using

some combination of “first of month” and/or “daily average” pricing, but in our experience would never be able to sell all natural gas produced during a month at the highest reported pricing for that month. Accordingly, use of highest reported pricing for valuation of royalty payments during a month like January 2023 is an inequitable burden on producers who cannot actually sell the applicable month’s production at a price that would even approach the highest reported pricing for that month. Further, because many Tribal Nations in the San Juan Basin tie taxes to ONRR’s calculated Indian Index Price, a significantly out-of-market Indian Index Price can result in an inequitable and unpredictable tax burden on producers in the area.

The Indian Index Pricing regulations authorize the ONRR to exclude certain pricing under 30 CFR 1206.172(d)(6), which reads:

ONRR may exclude an individual index price for an index zone in an ONRR-approved publication if ONRR determines that the index price does not accurately reflect the value of production in that index zone. ONRR will publish a list of excluded indices in the Federal Register.

Based upon the Trades’ understanding of the Indian Index Pricing calculation for the San Juan Basin during the month of January 2023, it appears that the ONRR elected not to exclude either index pricing point. However, as demonstrated above, the “highest reported price” at both the El Paso Natural Gas Co. San Juan and the Transwestern Pipeline Co. San Juan pricing points is materially above any pricing a producer in the San Juan Basin would have been able to realize in January 2023 under any combination of “first of month” and “daily average” sales. **Accordingly, for the January 2023 production month, the Trades request that the ONRR utilize the authorized power under 30 CFR 1206.172(d)(6) to exclude the highest reported price at both the El Paso Natural Gas Co. San Juan and the Transwestern Pipeline Co. San Juan index pricing points due to failure of such index pricing points to be representative of the actual value of production in the San Juan Basin.** The Trades believe that the most equitable solution for the January 2023 production month would be to utilize actual revenues received similar to the method used for federal royalties, but requests that some relief be provided in place of the clearly inequitable result caused by application of the Indian Index Pricing regulations in a highly unorthodox pricing environment without exercising the powers authorized under 30 CFR 1206.172(d)(6) to exclude out-of-market prices.

While the potential impact of the ONRR’s decision to utilize the authority to exclude certain out-of-market index pricing points is demonstrated in the January 2023 production month pricing, the Trades do not expect such a production month to be unique moving forward in a volatile natural gas market. **Accordingly, in addition to the request for equitable application of the Indian Index Pricing regulations to production during the January 2023 production month, the Trades request that the ONRR exercise its authority to exclude individual San Juan Basin index pricing points in any future production months where the “highest reported” price substantially exceeds prices actually available for natural gas sales in the San Juan Basin.** It is not equitable to producers to utilize the highest reported pricing for a production month as though such pricing could be obtained even by a single producer across the entire production month, much less by all producers across the production month, and the current rigid, fixed adjustments available to the use of such highest reported pricing without exercise of the ONRR’s authority to exclude non-representative indexes are woefully

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inadequate. Discretionary exclusion of one or both of the index pricing points in the calculation of the San Juan Basin Indian Index Pricing is critical to establishing a natural gas price which is relatively in-line with the proceeds actually realized by producers, which is consistent with the intent of the Indian Index Pricing regulations.

Thank you for your consideration.

Sincerely,



Kathleen M. Sgamma  
President



Jim Winchester  
Executive Director

cc: Robert Begay, Acting Director, Federal Indian Minerals Office  
Michelle Coy, Audit Supervisor, Federal Indian Minerals Office  
Ruth Welch, Program Director, ONRR  
Peter Christnacht, Supervisor, Royalty Valuation Guidance, ONRR