



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUL 26 2013

The Honorable John Hickenlooper
Governor of Colorado and Vice Chairman,
Western Governors' Association
1600 Broadway, Suite 1700
Denver, Colorado 80202

Dear Governor Hickenlooper:

Thank you for your letter of May 14, 2013, to Secretary Jewell concerning implementation of the Budget Control Act with respect to revenue sharing payments from mineral royalties and payments made under the Secure Rural Schools and Community Self-Determination Act. The Secretary has asked me to respond on her behalf.

I appreciate your concern about the impacts of the sequestration required by the Budget Control Act. The cuts made pursuant to sequestration have had and will continue to have profound effects on this Department, our programs, our partners, and the Nation. By its very nature, sequestration does not result in strategic cuts, but instead is applied to every program, project, and activity within sequestrable accounts. As a Governor, you are seeing some of the most harmful effects of cuts within the Department, including curtailed opportunities for conservation and wildlife grants, a shrinking base for contracts with small businesses, and reduced assistance to Indian tribes and communities across the Nation. I also appreciate the importance of Mineral Leasing Act (MLA) revenue sharing payments to your State, as well as payments made through the Secure Rural Schools (SRS) program.

With regard to sequestration's impact on MLA payments, I can provide answers to your questions as follows:

- What is the precise legal basis justifying the DOI's action in sequestering FY 2012 state mineral royalties?

Answer: The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended, is the basis for implementing sequestration. Pursuant to BBEDCA, budgetary resources in all accounts are subject to sequestration unless expressly exempted in law. The BBEDCA defines sequestration as "the cancellation of budgetary resources provided by discretionary appropriations or direct spending law." As indicated in the President's March 1, 2013 Sequestration Order, "budgetary resources" subject to sequestration are defined as new budget authority, unobligated balances of defense function accounts carried over from prior fiscal years, direct spending authority, and obligation limits.

Revenue sharing payments to states are made from the Mineral Leasing and Associated Payments account and constitute direct spending. Although the receipts may include

FY 2012 royalties, because the payments are made in FY 2013, they are FY 2013 direct spending authority and are therefore subject to sequester. There is no exemption for this account or for revenue sharing payments to states provided in the law, and thus these payments are subject to sequestration.

- Is this sequestration of state mineral royalties being applied with equal force to all states receiving mineral royalties? If not, why not?

Answer: The Department is applying sequestration reductions consistently to every program, project, and activity as required by applicable law, treating all states receiving mineral royalties in the same manner.

- If the DOI is determined to go through with such a questionable action, why does it not apply its action equitably? Should not the Federal share of royalties be reduced by a like margin? What is the legal justification for treating states different than the Federal Government treats itself?

Answer: Sequestration applies to Federal spending, not incoming Federal receipts. The revenue sharing payments to states from the Mineral Leasing and Associated Payments account are direct spending and thus subject to sequestration. The deposits into the U.S. Treasury from the collection of mineral leasing activities represent revenue from which payments to states are made, and are not subject to sequestration.

With regard to the issue of SRS payments, the Department defers to the U.S. Department of Agriculture regarding the payments it makes under the SRS program. The Department of the Interior is not seeking repayment from counties of the obligated and distributed SRS funding provided in FY 2013. The Bureau of Land Management (BLM) made an initial round of SRS payments on February 5, 2013. Payments totaling \$36 million were made to 18 western Oregon counties, and \$4 million was held back pending the outcome of legislative negotiations to avert sequestration. At the time we made the payments, the final amount to be sequestered was not known, so 10 percent of the total payment amounts were held back to ensure we would be able to comply with the March 1, 2013 sequester order. On May 23, 2013, we authorized BLM to make the balance of payments to the 18 counties. The May payments that should have reached the counties on May 29, 2013, provide an additional \$1.9 million. In total, 5.1 percent of the SRS payments were sequestered.

Similar letters are being sent to the Honorable Gary R. Herbert, Governor of Utah and Chairman, Western Governors' Association, and to Mr. James D. Ogsbury, Executive Director, Western Governors' Association.

Sincerely,



Rhea Suh
Assistant Secretary – Policy, Management
and Budget