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August 22, 1997

Department of the Interior
Minerals Management Service
Mail Stop 4700
381 Elden Street
Herndon, Virginia 20170-4817

Attention: Rules Processing Team

Re: OPA 90

Gentlemen:

Continental Land & Fur Co., Inc. respectfully submits the following comments on the Mineral Management Service's ("MMS") Notice of Proposed Rulemaking pertaining to OPA 90 Oil Spill Financial Responsibility for Offshore Facilities which was published in the Federal Register on March 25, 1997.

Based on our interpretation of the OPA 90 amendments, only facilities located on leases granted pursuant to the Outer Continental Shelf Lands Act and State leases are subject to this proposed rulemaking. Activities on private property in coastal Louisiana would not be subject to this proposed rulemaking. Comments made by MMS officials at the June 5, 1997 MMS OPA 90 workshop held in Metairie, Louisiana confirm our interpretation. Even under our interpretation, we believe the MMS' estimate of 19 companies operating in the Louisiana State coastal waters is far too small.

If our interpretation is incorrect and oil facilities on private lands are subject to this proposed rulemaking, then numerous small operators, many of which who could not comply, would be impacted. If this were the case, MMS would be required to hire additional inspectors to go out into the coastal areas of south Louisiana and examine the facilities. Even if the small operators could initially comply with this proposed rulemaking, the abandonment rates would surely increase as fields operated by the small operators would reach their economic limit sooner due to the additional cost burden. It must be remembered that Congress' intent was to cover traditional offshore facilities.

It is our view that the proposed rule extends the agency's authority beyond the geographic area intended by Congress. The proposed rule would extend regulation of facilities to include interior coastal areas which are subject to tidal influence. We believe that Congress's intention was to extend the agency's authority over bays and similar water bodies which are considered "inland waters". In many instances, the seaward limit of a bay has been recognized as constituting the "coastline". See United States v. Louisiana, 89 S.Ct. 773 (1969). While it is unfortunate that the statutory language does not precisely define the extent of coastal inland waters, we do not believe that the statutory language provides MMS with the flexibility to extend its authority nearly so far inland as suggested in the proposed rule. There is no reference to "tide" or "effect of the tide" in the statutory language and attempts by MMS to expand its authority to the extent of tidal influence is clearly beyond the authority

August 22, 1997
Minerals Management Service
Page 2

of the statute. It is our view that the agency's authority is limited to those coastal inland waters which lie adjacent to but inland of the "coastline".

The MMS also considered fixing a parallel line 50 to 100 miles from the coastline to define the area landward of the coastline that would be covered by the proposed rulemaking. Adopting this concept would cover massive amounts of inland areas and include many more facilities Congress did not intend to cover. More importantly, the literal language of the OPA amendments does not authorize the MMS to include the large areas as contemplated by this concept. Again, it was Congress' intent to cover only traditional offshore facilities and not facilities located 50 miles and certainly not 100 miles inland. If the MMS attempted to apply OPA 90 to this expanded area, it would require a massive undertaking by the agency as stated above.

We also do not agree with the MMS' opinion that there is little difference between the number of coastal oil facilities regardless if the tidal influence test or the 50-100 mile band test is employed. For the reasons stated above, we believe both tests will cover more area and thus more facilities than Congress intended.

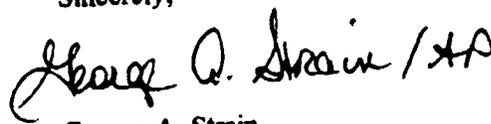
MMS is of the opinion that many facilities located in coastal areas will not be covered by the proposed rule because they will fall below the 1000 barrel de minimis test. The logistics and costs involved in the transportation of oil and condensate in barges from facilities in coastal Louisiana dictate minimum trips per facility. For this reason, it is our belief that many oil facilities in coastal Louisiana will not meet this test.

Louisiana has an oil spill program which requires operators to file oil spill response plans. There is also a fund available to pay for a spill if a responsible party cannot be found. It would seem that with this program in place, the proposed OPA 90 rulemaking is not warranted in coastal Louisiana.

It appears that insurance companies will not assume the Guarantor's role and agree to be subject to direct action for damages with respect to the oil spill financial responsibility. It is our understanding that insurance companies may agree to provide the required insurance by consortium only. For example, one company may agree to provide the required insurance by providing only a portion of a certain layer. Another company may be willing to provide another layer. The MMS proposed ruling states that if the total amount of insurance is \$35 million, it must not be layered. It may be difficult, or at the very least cost prohibitive, to find an insurance company who will provide a full \$35 million of coverage. Our concern is that the cost of oil spill financial responsibility via insurance will be so costly that it will exclude small independents from operating in the Gulf of Mexico.

Thank you for this opportunity to comment on the proposed OPA 90 rulemaking.

Sincerely,



George A. Strain
Vice President

GAS/ap