Congress of the United States
Washington, DC 20510

May 16, 2013

The Honorable Sylvia Burwell
Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Dear Director Burwell:

We write to you about the Department of the Interior's (DOI) recent decision to sequester revenue under the Mineral Leasing Act (MLA).

On March 22, 2013, DOI notified states that it would sequester over $109 million in revenue under the MLA and other statutes during the remainder of FY 2013. DOI explained that its decision to sequester these funds was "in accordance with the Balanced Budget and Emergency Deficit Control Act, as amended." We have heard from our states, including the Western Governors' Association, all of whom have significant concerns about the sequestration of MLA revenues. However, we understand that current law accords these funds special status and specifically makes them available for obligation in FY 2014. We ask you to confirm that DOI will in fact make the sequestered MLA revenue available to the states in FY 2014 and to ensure that DOI does so as soon as possible.

As is the case now, the United States faced a growing debt crisis during the 1980s. In response, Congress passed the Balanced Budget and Emergency Deficit Control Act (BBEDCA) of 1985. Under this legislation, DOI sequestered revenue under the MLA in FY 1986. However, we understand that DOI made the sequestered MLA revenue available to the states in FY 1987. It is our understanding that DOI relied on section 256(a)(2) of the BBEDCA which states that:

> Any amount of new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974), or obligation limitations which is sequestered or reduced pursuant to an order issued under section 252 is permanently cancelled, *with the exception of amounts sequestered in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act*. (emphasis added).

In short, DOI determined that the BBEDCA did not permanently cancel MLA revenue owed to states but that such revenue fell within the exception provided in section 256(a)(2). In subsequent years, Congress passed a series of changes to the BBEDCA which effectively amended and redesignated section 256(a)(2) as section 256(k)(6). Section 256(k)(6) states that:

Budgetary resources sequestered in revolving, *trust, and special fund accounts* and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but *shall be available in subsequent years to the extent otherwise provided in law*. (emphasis added).

Like section 256(a)(2), section 256(k)(6) provides that amounts sequestered in trust and special fund accounts shall be made available in subsequent fiscal years. While Congress has since made further changes to the BBEDCA, there is nothing in current law that would authorize DOI to apply section 256(k)(6) any differently to MLA revenue sequestered under the Budget Control Act (BCA) of 2011. In fact, section 302 of the BCA[1] explicitly states that: "Any reductions imposed under [the March 1st sequester] shall be implemented in accordance with section 256(k)." For that reason, DOI should make available in FY 2014 MLA revenue sequestered in FY 2013, just as it made available in FY 1987 MLA revenue sequestered in FY 1986.

MLA revenue is the economic lifeblood of many states and local communities across rural America. States, such as Colorado, New Mexico, North Dakota, Utah, and Wyoming, use MLA revenue to address, among other things, impacts from energy and mineral production. If MLA revenue sequestered in FY 2013 is not returned to the states, local communities across the West will experience severe hardships. We therefore ask that you ensure that DOI makes available in FY 2014 MLA revenue sequestered in FY 2013 and that it does so as soon as possible.

Thank you for your consideration and we look forward to your prompt response.

Sincerely,

John Barrasso, M.D.
United States Senator

Tom Udall
United States Senator

Michael B. Enzi
United States Senator

Martin Heinrich
United States Senator

Orrin G. Hatch
United States Senator

Heidi Heitkamp
United States Senator

[1] Section 251A(10) of the Balanced Budget and Emergency Deficit Control Act, as amended.

John Hoeven
United States Senator

Mark Udall
United States Senator

Mike Lee
United States Senator

Michael F. Bennet
United States Senator

Cynthia M. Lummis
U.S. Representative

Ben Ray Lújan
U.S. Representative

Rob Bishop
U.S. Representative

Jason Chaffetz
U.S. Representative

Chris Stewart
U.S. Representative

Stevan Pearce
U.S. Representative

Cory Gardner
U.S. Representative

Scott R. Tipton
U.S. Representative

Kevin Cramer
U.S. Representative

Mike Coffman
U.S. Representative

cc: Sally Jewell, Secretary of the Interior
Gregory J. Gould, Director, Office of Natural Resource Revenue, Department of the Interior