

COMMENTS TO BLM

My name is Tom Thoman and I am the Division President - Gases Production at Airgas, Inc. Airgas appreciates the opportunity to appear before you today because it has become clear that prompt action is required if the goals of the Helium Stewardship Act of 2013 are to be met.

Section 5 of the Act, amending Section 6 of the Helium Act, provides that as a condition to participating in sales or auctions, a refiner shall make excess refining capacity of helium available at commercially reasonable rates to any person prevailing in the auctions or otherwise acquiring helium from the Federal Helium Reserve after the date of enactment.

Several events since the enactment of the Helium Stewardship Act of 2013 make it clear that some of the refiners have no intention of making excess refining capacity available to non-refiners. *First*, on January 9, 2014, based on information it had received from the refiners, the BLM announced that the refiners' reported excess capacity for the balance of the fiscal year 2014 was a meager 50 MMcf. *Second*, in response to a request from Airgas for tolling services, one refiner said it had no tolling capacity due to pre-existing tolling commitments; one refiner quoted a very high price and said the tolling services were only offered on an "as available" basis; one refiner indicated that its capacity was already committed to another refiner; and the fourth refiner said that Airgas should instead respond to their RFQ. As to this last response, Airgas submitted a timely request and on February 14, 2014 received a three sentence email response stating, without explanation, that its offer had been rejected.

In its February 18, 2014 Notice, the Bureau states "*Purchasers of helium without refining plants are finding it difficult to process their crude helium during times of extreme shortage.*" The fact that there is a shortage, which has resulted in non-refiners like Airgas being placed on

years' long allocations, makes Airgas' inability to obtain tolling services more incomprehensible. If the refiners are not getting sufficient product from the BLM, what is causing their refineries to have so little capacity? The answer is obvious. Without incentives, be they positive or negative, the refiners will do everything possible to keep non-refiners like Airgas excluded. They made that clear in their testimony before Congress and they have made it clear by their actions since.

Airgas proposes the following to address the current lack of tolling services:

(a) Greater Transparency. It is not reasonable for the BLM and non-refiners to have nothing more to work with than a simple statement by the refiners that they have only a set amount of excess capacity. Starting with the name plate capacity of each refinery, the BLM should be advised of the specifics of each refiner's operating and supply picture. How much helium do they anticipate receiving from the Federal Helium Reserve and on which schedule? How much helium do they anticipate receiving from private sources and on what schedule? Have they reduced or do they anticipate reducing the capacity of their refineries and if so, which refinery, when and for how long, and why? If a refiner has voluntarily reduced its refining capacity, the amount of helium it is entitled to purchase should be adjusted to assure that such refiner has the same amount of excess capacity it would have had but for its decision to reduce its capacity.

(b) Established Priorities. Armed with greater information, the BLM must develop a fair method of determining relative priorities in terms of how much of the helium that each interested party has in storage at the Federal Helium Reserve will be released when the demand of the parties is greater than the capacity. Airgas suggests that the BLM work backwards from the helium most recently acquired, grouping together contemporaneous purchases in auction and

non-auction sales. Only after the release of helium acquired in sales after the enactment of the Helium Stewardship Act of 2013 should the BLM release helium acquired before that date.

(c) Incentives. If a refiner refuses to cooperate, the Secretary is empowered under the Act to bar that refiner, in whole or in part, from future sales and auctions and to accelerate the ramp-up in the amount of helium auctioned to non-refiners. The BLM must be prepared to provide the Secretary with the information necessary to make the determination of what action to take and the Secretary must be prepared to act.

Under the terms of the Act, a significant amount of helium will be available for auction in the summer of 2014. Without a clear understanding of if, how and when they will be able to get helium refined, non-refiners would be fool hardy to participate in those auctions. The clock is ticking and prompt action is in everyone's best interest.

Thank you.