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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

October 17, 2012

TODD YOUNG
CHIEF OF STAFF

Mr. Jacob Lew
Chief of Staff
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Lew:

Upon taking office, President Obama issued a memorandum to Department and Agency heads entitled “Scientific Integrity”¹ that stated: “The public must be able to trust the science and scientific process informing public policy decisions. Political officials should not suppress or alter scientific or technological findings and conclusions. If scientific and technological information is developed and used by the Federal Government, it should ordinarily be made available to the public.”

For more than two years, the Committee on Natural Resources (“Committee”) has sought information and documents to help explain the Obama Administration’s decision imposing a moratorium on oil and gas drilling in the Gulf of Mexico and the circumstances surrounding the editing of a May 2010 Department of the Interior (“Department”) report, entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“Drilling Moratorium Report”), that incorrectly suggested peer reviewers supported the moratorium. This moratorium cost thousands of jobs and led to decreased oil and gas production in the Gulf of Mexico.

To date, the Committee has received copies of communications between the Department and the peer reviewers as well as documents related to a 2010 investigation conducted by the Department’s Office of Inspector General (“IG”); Committee staff have also been allowed to inspect a small number of emails reflecting communications with the White House about edits to the peer review language. However, the Department’s refusal to fully comply with the Committee’s requests for documents or to make staff available for transcribed interviews by majority oversight staff necessitated the Committee voting earlier this year to authorize subpoenas to compel the production of documents and witnesses before the Committee.

¹ <http://www.whitehouse.gov/the-press-office/memorandum-heads-executive-departments-and-agencies-3-9-09>

The Committee's investigation has confirmed that political appointees at the White House and the Department were responsible for altering the Drilling Moratorium Report in a way that incorrectly implied engineering experts who had reviewed the report's technical safety recommendations also had reviewed and supported the moratorium decision when in fact they did not. However, one central question of the investigation that remains unanswered is whether the peer reviewer language was intentionally misrepresented to provide political cover for the economically devastating moratorium, as the peer reviewers themselves have asked.

The moratorium decision – which cost thousands of jobs and led to decreased oil and gas production in the Gulf of Mexico – apparently was made by political appointees in the Obama Administration without any scientific, technical, economic, or safety review to ensure that it would in fact increase safety of offshore drilling. The fact that President Obama supported the moratorium decision² is well known. Little known and less understood is the role played by White House political staff in analyzing and recommending the moratorium as a way to improve safety in offshore drilling in the first place and in developing and editing the Drilling Moratorium Report to misstate the peer reviewers' role.

The separate 2010 investigation by the IG “determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.” The IG's investigators interviewed three current or former Department officials, each of whom said that staff working for Assistant to the President for Energy and Climate Change Carol Browner were involved in editing the Drilling Moratorium Report to insert the incorrect and misleading peer review language.

The IG's investigators also obtained a limited number of documents from one of the Department officials who was interviewed, Counselor to the Secretary Steve Black. Included in these documents were copies of seven emails that were sent to or from White House staffers Joe Aldy, Heather Zichal, and Dan Utech between the dates of May 26 and May 27, 2010. At a September 13, 2012, full Committee oversight hearing, two Department officials confirmed the involvement of White House officials in several aspects of the Drilling Moratorium Report as well as the existence of other emails between Department and White House officials beyond the limited number obtained from Mr. Black by the IG during its investigation.

Although Department officials told the IG's investigators that they had not intended to misrepresent the work of the peer reviewers to provide cover for the moratorium decision, the IG was unable to independently verify the truthfulness and completeness of these witnesses' statements.

It now appears, based on information obtained by the Committee, that the IG's lead investigators were unable – or directed not – to obtain all documents and information they felt necessary to pursue the investigation, including an interview with Mr. Aldy. Significant questions have also been raised during the course of this investigation into the actions and independence of the Acting Inspector General, Mary Kendall, including the accuracy and

² White House Press Conference Call, May 27, 2010. See, <http://www.whitehouse.gov/the-press-office/secretary-salazar-and-assistant-president-energy-and-climate-change-carol-browner-h>.

completeness of testimony she gave to the Committee in June 2010. The Council of Inspectors General on Integrity and Efficiency is conducting an investigation into these questions. Ms. Kendall testified at a full Committee oversight hearing on August 2, 2012, that she is interested in having the President nominate her for the permanent Inspector General position.

According to a November 1, 2010 email from Deputy Secretary David Hayes to Ms. Kendall, Mr. Hayes said he had spoken with the White House Counsel's Office about the release of the aforementioned email exchanges involving White House officials and the potential for the IG's investigators to interview Mr. Aldy. The email concluded with Mr. Hayes saying that the Secretary's Office expected a reply from the White House Counsel's Office the following day. Ultimately, the IG's investigators were not allowed to interview Mr. Aldy, and the IG issued its final report on November 10, 2010 without having obtained any information from the White House.

A number of unanswered questions remain about how the moratorium decision was made without any apparent technical justification and the circumstances surrounding the editing of the Drilling Moratorium Report by political appointees at the White House and the Department. It is expected that current and former White House officials would be in a unique position, based on their involvement in the moratorium decision and developing and editing the Drilling Moratorium Report, to answer these questions.

The Committee has already contacted Mr. Aldy about scheduling a transcribed interview with Committee majority oversight staff, or in the alternative, appearing at a Committee oversight hearing. It is requested that the White House agree, by October 24, 2012, to make Ms. Zichal and Mr. Utech available for transcribed interviews with Committee majority oversight staff, at a mutually agreed upon time and place to occur no later than October 31, 2012.

In addition, the Committee requests complete and unredacted copies of the following documents by close of business on October 26, 2012:

- 1) All documents related to any request by the Department of the Interior, including the Office of Inspector General, to interview or obtain documents from any White House officials, including Carol Browner, Heather Zichal, Joe Aldy, and Dan Utech related to the IG's investigation of the drilling moratorium report.
- 2) All emails and other documents discussing or otherwise concerning edits to the Drilling Moratorium Report, including drafts of the report, changes to the peer review language, or responses to the peer reviewers' complaints, created, sent, or received by Carol Browner, Heather Zichal, Joe Aldy, and Dan Utech.
- 3) All documents, including calendar entries, agendas, minutes, or notes, of any meetings, concerning the accuracy of Ms. Kendall's Congressional testimony, her handling of the moratorium investigation, and her suitability for the permanent Inspector General position.

President Obama pledged to conduct the most transparent administration in history and that the Administration's decisions will be based on sound science, not politics. It is expected that the Administration will adhere to these pledges in complying with this request. Please contact me, or have your staff contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, on (202) 225-2761 to make arrangements for scheduling an interview with Ms. Zichal and Mr. Utech and producing the requested documents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman



September 7, 2012

Chairman Doc Hastings
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

This letter responds to your letter dated and transmitted electronically on September 5, 2012 by your Senior Counsel Byron Brown.

I appreciate the efforts of the Congress to investigate, understand, and learn lessons from the worst oil spill in U.S. history. As your letter notes, several Department of Interior officials will testify before the Committee on Thursday September 13 regarding a May 2010 Department report related to the oil spill. This will provide you and the Members of the Committee the opportunity to ask questions about the production and editing of the report of individuals involved with its development.

As a practical matter, my schedule will not permit me to travel to Washington within the next week to participate in an interview. As I noted in my letter dated September 6, I did not receive your initial letter until September 4. I am on paternity leave and have several child care obligations next week involving my four-month old son. I also have several work obligations and meetings throughout the week, which are the norm at the start of the semester.

Thus, I respectfully suggest that your staff follow up with me after the September 13 hearing in the event that you or your colleagues have outstanding questions regarding the report at issue.

Sincerely,

Joseph E. Aldy
Assistant Professor of Public Policy

cc: Representative Edward J. Markey, Ranking Member, Committee on Natural Resources

617-496-7213
joseph_aldy@hks.harvard.edu

79 John F. Kennedy Street, Box 57
Cambridge, Massachusetts 02138

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September 6, 2012

Chairman Doc Hastings
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

This letter serves to confirm electronic receipt of your letter dated September 5, 2012. I should note that I accessed and read the electronic version of your letter dated August 23 on September 4, 2012. As my faculty assistant informed your staff on August 21, I have been out of town – I am on paternity leave and I was on vacation with my family – and September 4 was my first day in the office since the electronic version of your letter dated August 23 was transmitted. I should also note that as of the close of business on September 5, I have not received the original version of the August 23 letter in the mail.

I will review the request in your letter and respond to your staff in a timely manner, per your request.

Sincerely,

Joseph E. Aldy
Assistant Professor of Public Policy

cc: Representative Edward J. Markey, Ranking Member, Committee on Natural Resources
Kathleen Hartnett, Associate Counsel to the President, The White House
Robert W. Iuliano, General Counsel, Harvard University

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
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Washington, DC 20515

September 5, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Joseph E. Aldy
Assistant Professor of Public Policy
John F. Kennedy School of Government
Taubman 382, Mailbox 57
79 John F. Kennedy Street
Cambridge, MA 02138

Dear Mr. Aldy:

On August 23, 2012, a letter was sent to you formally requesting your voluntary cooperation in scheduling, at a mutually agreeable time before September 7, 2012, a transcribed interview with the Committee on Natural Resource's majority oversight staff. The letter, which was sent only after the Committee's majority oversight staff was unsuccessful in its attempts to contact you by telephone and by email, requested a reply by close of business on August 30, 2012.

A response to this request has not yet been received directly from you. Although representatives from the White House Counsel's Office recently contacted Committee staff to confirm receipt of the August 23 letter and informally request that the Committee not pursue an interview with you at this time, they acknowledged they were not serving as your personal counsel and were unable to confirm on your behalf whether you plan to make yourself available voluntarily for a transcribed interview as requested.

This letter provides a final opportunity to establish by September 7, 2012 a mutually agreeable time for a transcribed interview with the Committee's majority oversight staff. Your cooperation is necessary to understand certain actions that are the subject of a long-running oversight investigation into how a May 2010 Department of the Interior ("Department") report entitled "Increased Safety Measures for Energy Development on the Outer Continental Shelf" ("Drilling Moratorium Report") was edited to incorrectly state that peer reviewers had supported a moratorium on offshore oil and gas drilling, when in fact they had not.

The Committee has taken a measured and reasonable approach to pursuing this investigation and seeking information from the Executive Branch. However, the Department's repeated refusal to fully comply with oversight document requests and to make officials available for transcribed interviews necessitated the issuance of a subpoena in April to the Department for documents and the Committee's action in August authorizing subpoenas for

testimony. The Committee now expects to hear from certain Department officials at a hearing on September 13, 2012.

A separate investigation by the Department's Office of Inspector General ("IG") in November 2010 determined that White House staff members were responsible for editing the peer reviewer language in the Drilling Moratorium Report. However, the IG's limited investigation was unable to verify whether the edits were intentionally made to misrepresent the work of the peer reviewers to provide cover for the moratorium decision. Questions have since been raised about the thoroughness and independence of the IG's investigation and whether the IG's lead investigators were unable – or directed not – to obtain all documents or speak to all witnesses they felt necessary.

In 2010, you served as Special Assistant to the President for Energy and Environment, and it appears, based on documents from the IG and the Department, that you were involved in developing the Drilling Moratorium Report and may have knowledge of how the inaccurate and misleading peer review language was added. However, according to these and other documents, the IG's lead investigators were not allowed to interview you.

It is expected that you would be in a unique position to discuss the editing of the Drilling Moratorium Report and to help advance the public's understanding of how the moratorium was imposed and justified in a way that the other witnesses and documents could not. Should you not agree to this interview request, however, a subpoena to compel your appearance at an oversight hearing is possible.

President Obama pledged to conduct the most transparent administration in history. It is expected that current and former government officials will adhere to this pledge and make themselves available to answer questions – in an accountable and transparent manner – about their actions while in public service. This is especially important here, where no one has been held to account or had to publicly explain how the moratorium decision was made without any technical or scientific justification and whether the peer review language was intentionally misrepresented to justify the economically devastating moratorium decision.

Sincerely,



Doc Hastings
Chairman

Cc: Kathleen Hartnett, Associate Counsel to the President

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 30, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Mr. Neal Kemkar
Office of the Secretary
(On detail to the Council on Environmental Quality)
U.S. Department of the Interior
1849 C. Street, NW
Washington, D.C. 20240

Ms. Mary Katherine Ishee
Office of the Secretary
U.S. Department of the Interior
1849 C. Street, NW
Washington, D.C. 20240

Dear Mr. Kemkar and Ms. Ishee:

On July 18, 2012, you were both invited to voluntarily appear at a planned July 25, 2012 Committee on Natural Resources ("Committee") hearing regarding the Obama Administration's decision imposing a Gulf of Mexico drilling moratorium and the drafting and editing of the May 27, 2010 report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf ("Drilling Moratorium Report"), which misrepresented that independent engineers had peer reviewed and supported the moratorium when they did not.

This hearing was scheduled only after the Department refused repeated requests to make you and other officials available for on-the-record interviews with the Committee's majority oversight staff and to comply with a duly authorized and issued subpoena to Secretary Salazar for documents.

Unfortunately, that hearing was postponed less than 20 hours prior to the scheduled start after all five witnesses and the Department refused to confirm attendance after multiple requests to do so. As a result of the refusal to arrange transcribed interviews or confirm attendance at the hearing, the Committee voted, 26-17, on August 1, 2012 to authorize the issuance of subpoenas to compel your attendance at a future hearing. Since the Committee's vote to approve subpoena authority, Department officials have indicated in writing and in conversations with the

Committee's majority staff that Secretary Salazar has committed to having you appear voluntarily at a rescheduled hearing.

Accordingly, it is requested that you personally confirm in writing, by close of business on September 4, 2012, your intention to appear voluntarily at an oversight hearing of the full Committee entitled, "*Committee Oversight of Department of the Interior: Questioning Key Department Officials*," scheduled for 10 am, Thursday, September 13, 2012, in room 1324 of the Longworth House Office Building. Failure to provide the requested confirmation by the September 4 deadline is likely to prompt the issuance of a subpoena to compel your cooperation and attendance at this hearing.

In preparing for your appearance, you should be prepared to answer questions on (1) your roles in assisting with developing, reviewing, and editing the Drilling Moratorium Report, (2) how the moratorium decision was made without any technical or scientific analysis, (3) whether the peer review language in the Drilling Moratorium Report was intentionally misrepresented to justify the economically devastating moratorium decision, and (4) the activities of the Office of Inspector General, and other Departmental matters of which you may have personal knowledge.

In July 2010, seven members of this Committee originally wrote to the Department's Office of Inspector General ("IG") to request an investigation into the editing of the Drilling Moratorium Report, similar to how it investigated other allegations of scientific misconduct in the previous administration. The Department and others have repeatedly sought to deflect the Committee's inquiries by arguing the IG's investigation found no wrong-doing.

The IG issued an 8-page report in November 2010 confirming that edits by White House officials led to the incorrect implication that the peer reviewers had supported moratorium. However, the IG was unable, based on its limited investigation, to independently verify witness statements (including from Mr. Kemkar) and failed to determine whether the edits were intentionally made to use the peer reviewers as "cover," as some of the peer reviewers had wondered.

Significant questions have since been raised that the IG's lead investigators were unable – or directed not – to obtain all relevant documents or allowed to interview key witnesses as may have been necessary. In addition, there are also questions about a lack of independence by the Acting Inspector General in overseeing this investigation and the accuracy of testimony the Acting Inspector General gave in a June 2010 Committee hearing.

During the course of its investigation, the IG's lead investigators interviewed Mr. Kemkar, who had personally assisted with developing the Drilling Moratorium Report, communicated with the peer reviewers, and transmitted edits with White House staff, but they apparently did not seek documents directly from Mr. Kemkar. In addition, they did not pursue documents from or an interview with Ms. Ishee, who then served as Deputy Director of the Minerals Management Service, despite a recommendation to do so from another witness. Your testimony and documents are important to understanding the actions surrounding the moratorium decision and the editing of the Drilling Moratorium Report.

The Committee has displayed considerable patience in the face of the Department's continuing lack of compliance with this legitimate oversight. A subpoena was issued to Secretary Salazar on April 3, 2012 for your documents concerning the Drilling Moratorium Report, among others. In response, the Department made a select few documents available, including additional peer reviewer communications as well as two draft versions of the Drilling Moratorium Report Executive Summary for review by Committee staff. However, the Department to date has not provided all of your documents covered by the subpoena. The Department has neither informed the Committee that a Constitutionally based privilege has been asserted, nor has a log of all your withheld documents been provided to the Committee as requested in the instructions for the April subpoena to the Secretary.

In order to assist the Committee members and staff in preparation for this hearing and to avoid any further delays, you are separately being compelled by subpoena to provide in advance of the hearing copies of all documents that were created, sent, or received by you between April 26, 2010 and June 30, 2010 related to the development, editing, review, issuance, response, or reaction to the Drilling Moratorium Report.

Enclosed with this letter are the parameters regarding written and oral testimony. Should you have any questions, please contact the Committee offices at 202-225-2761.

Sincerely,



Doc Hastings
Chairman

Enclosure

DOC HASTINGS, WA
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U.S. House of Representatives
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August 23, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Joseph E. Aldy
Assistant Professor of Public Policy
John F. Kennedy School of Government
Taubman 382, Mailbox 57
79 John F. Kennedy Street
Cambridge, MA 02138

Dear Mr. Aldy:

On May 27, 2010, the Department of the Interior (“Department”) issued a final report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“Drilling Moratorium Report”) that recommended a moratorium on offshore oil and gas drilling. The Executive Summary of the Drilling Moratorium Report incorrectly stated that peer reviewers had supported the moratorium, when in fact they had not. For more than two years, the Committee on Natural Resources (“Committee”) has sought answers about how the moratorium decision was made without any scientific or technical support and the Drilling Moratorium Report was edited to misrepresent the peer reviewers’ work.

It is my understanding based on documents obtained as part of this investigation that you, while serving as Special Assistant to the President for Energy and Environment, were involved in the development, review, and editing of the Drilling Moratorium Report and are likely to have information directly relevant to this inquiry.

An investigation by the Department’s Office of Inspector General (“IG”) in November 2010 “determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.” Although Department officials told the IG’s lead investigators that they did not intend to misrepresent the work of the peer reviewers to provide cover for the moratorium decision, the IG was unable to independently verify the truthfulness of the witnesses’ statements. It now appears that the IG’s lead investigators were prevented from obtaining all documents and information they felt necessary to pursue the investigation, including not being allowed to interview you. Our review of a limited number of documents that have been made available to us by the Department and the IG has raised a number of questions that possibly only you, given your role and involvement, would be expected to be able to answer.

The Committee is interested in conducting transcribed interviews with witnesses who were personally involved in the development, review, and editing of the Drilling Moratorium Report, including you. The Committee's majority oversight staff has been unsuccessful in its attempts to contact you by telephone and email concerning this matter. However, representatives from the White House Counsel's Office have contacted the majority staff and confirmed your receipt of these prior communications. This letter formally requests your voluntary cooperation in reaching, no later than the close of business on August 30, 2012, a mutually agreeable time for scheduling this interview to occur by September 7, 2012.

You may be represented by personal counsel at this interview. You would not be placed under oath in an interview; however, you are required by law to be truthful in answering questions from Congress. A witness or his or her personal counsel may raise an objection to a question. If such an objection cannot be resolved in the interview, the witness may be compelled to appear for a hearing. Under Committee rule 4(h), claims of common-law privileges are applicable only at the discretion of the Chairman. Witnesses will be given an opportunity to review at the Committee's offices any interview transcript generated as part of the interview and may be allowed to submit grammatical or typographical changes on a copy of the transcript itself but must submit in writing to the Committee any suggested substantive corrections to the transcript. Any such transcripts are for the official use of the Committee and copies of transcripts are not given to the witnesses. Careful consideration is given to any concerns a witness may raise regarding the public dissemination of any parts of the transcript.

Please contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, on (202) 225-2761 to make arrangements for the scheduling of this interview.

Thank you for your prompt attention to and cooperation with this matter.

Sincerely,



Doc Hastings
Chairman

Cc: Kathleen Hartnett, Associate Counsel to the President

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 22, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Mary Kendall
Deputy Inspector General
U.S. Department of the Interior
1849 C Street, N.W. – Mail Stop 4428
Washington, D.C. 20240

Dear Ms. Kendall:

For several months, the Committee on Natural Resources has been looking into questions about possible political interference, lack of independence, and conflict of interest involving an investigation by the Office of Inspector General (“IG”) into the editing of a Department of the Interior offshore drilling report in May 2010.

In order to learn more about the operations and activities of the IG during the Obama Administration, the IG was recently asked to provide lists of all audits, investigations, and reviews concerning the Department’s renewable energy programs on federal lands, restoration of the Klamath Basin, and the Department’s implementation of its scientific integrity policy, including any scientific integrity complaints investigated by the IG.

In a July 20, 2012 letter, you responded that “an evaluation conducted in 2010 on renewable energy was suspended following a meeting with the Department to discuss our draft report.” The letter goes on to explain that the broad review was abandoned due to questions about the accuracy and timeliness of the data obtained from the Department. Given the existing questions about possible political interference into IG activities, the circumstances surrounding the decision to abandon the renewable energy investigation are troubling.

In order to better understand the actions and the Department’s role surrounding the IG’s decision not to finalize 2010 renewable energy program evaluation, please provide the following information and documents no later than September 5, 2012:

1. Complete and unredacted copies of the draft IG report, including the version provided to the Department for review.

2. Complete and unredacted copies of all emails and other documents that were created, sent, or received by Mary Kendall, Steve Hardgrove, Kris Kolesnik, Bruce Delaplaine, Kim Elmore, Melanie Sorenson, Donald Cairns, John Dupuy, Scott Culver, Rob Knox, Michael Colombo, Charles Haman, David Brown, Jack Rohmer, and Keith Kuczka concerning any comments by or edits from any Department official on the draft report.
3. Complete and unredacted copies of all emails and other documents that were created, sent, or received by Mary Kendall, Steve Hardgrove, Kris Kolesnik, Bruce Delaplaine, Kim Elmore, Melanie Sorenson, Donald Cairns, John Dupuy, Scott Culver, Rob Knox, Michael Colombo, Charles Haman, David Brown, Jack Rohmer, and Keith Kuczka concerning the decision to not finalize the report.
4. Complete and unredacted copies of all calendar entries, meeting agendas, minutes, notes, emails and other documents concerning any meetings to discuss the IG's review of renewable energy programs that was not finalized with any Department official, including not limited to the Secretary, the Deputy Secretary, the Chief of Staff, the Solicitor, the Assistant Secretary for Policy Management and Budget, and the Assistant Secretary for Land and Minerals Management.

Please contact Byron Brown, Office of Oversight and Investigations, at (202) 225-2761 with any questions regarding this request, or to make arrangements for the production. Thank you for your prompt attention to this matter.

Sincerely,



Doc Hastings
Chairman

DOC HASTINGS, WA
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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 26, 2012

TODD YOUNG
CHIEF OF STAFF

Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, N.W. – Mail Stop 4428
Washington, D.C. 20240

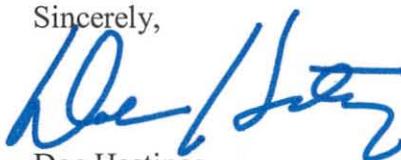
Dear Ms. Kendall:

The Committee on Natural Resources will hold an oversight hearing titled "*Oversight of the Actions, Independence and Accountability of the Acting Inspector General of the Department of the Interior*" on August 2, 2012. The Committee requests your attendance at this hearing to provide testimony and to answer questions.

In preparing for your testimony you should be prepared to answer questions on your role in overseeing the operations and actions of the Department of the Interior's ("Department") Office of Inspector General ("IG"), including circumstances surrounding 1) whether the Obama Administration intentionally misrepresented the views of engineering experts in order to justify the unilateral 6-month Gulf of Mexico drilling moratorium decision and the Administration's response to complaints by the engineering experts, 2) actions by the Office of Inspector General concerning its investigation into these matters, 3) the IG's response to a Committee subpoena for documents, 4) the independence and effectiveness of an Inspector General in an Acting capacity, and 5) previous testimony before the Committee by the Acting Inspector General, and other matters.

The hearing will begin at 10 a.m. on Thursday, August 2, 2012 at 1324 Longworth House Office Building. Enclosed with this letter are the parameters regarding written and oral testimony. Should you have any questions or need additional information, please have your staff contact Tim Charters, Staff Director of the Energy and Mineral Resources Subcommittee at 202-225-2761.

Sincerely,



Doc Hastings
Chairman

Enclosure



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

RECEIVED
COMMITTEE ON RESOURCES
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JUL 20 2012

The Honorable Doc Hastings
Chairman
Committee on Natural Resources
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter of May 30, 2012, in which you requested the following information:

1. A list (containing specific information) of all audits, inspections, program evaluations, investigations, or other IG actions initiated from January 1, 2009 through the present concerning the following topics:
 - a. Department programs and policies involving renewable energy on federal lands (both onshore and offshore);
 - b. Restoration of the Klamath Basin, including any reviews involving the adequacy of the science supporting the Department's restoration plan; and
 - c. Reviews of the Department's implementation of its January 2011 scientific integrity policy.

2. A list (containing specific information) of all claims or allegations of violations of the Department's scientific integrity policies, or any claims or allegations of any other policy protecting the rights of Department employees to communicate their professional views on science, that have been reviewed or investigated by the IG from January 1, 2009 through the present.

The lists you requested are enclosed. We also enclose lists of other energy-related IG reviews that are not specifically focused on renewable energy, as these reflect a significant body of our work. You will notice that an evaluation conducted in 2010 on renewable energy was suspended following a meeting with the Department to discuss our Draft Report. We had endeavored to conduct a comprehensive review of all of the Department's renewable/alternative energy efforts across bureaus. After conducting some follow up work subsequent to our meeting with the Department, we concluded that we could not verify all the information provided to us by the Department on such a comprehensive level without undertaking considerably more field work. Since our data was already dated at the time we met with the Department to discuss the draft, we chose, instead, to focus our attention on more manageable size efforts in which we could be confident of the timeliness and accuracy of our findings, and make more meaningful recommendations. We did this beginning with the Climate Friendly Parks, Program Startup, and BLM Renewable Energy Evaluations. We also have evaluations ongoing in Geothermal

Hydraulic Fracturing and Climate Change. We have Underground Injection Control and Bureau of Ocean Energy Management Renewable Energy Program in our plan for late Fiscal Year '12 and Fiscal Year '13. In conducting these more focused, individual efforts, if we find cross-cutting programmatic weaknesses, overlap, or opportunities for improving management efficiencies, we will roll these up in a more comprehensive compilation report.

We have several efforts listed on the Klamath Basin, but we have not conducted any formal reviews on the adequacy of the science supporting the Department's restoration plan. As a result of your inquiry, however, we did conduct an initial review of the public record.

The Klamath Hydroelectric Settlement Agreement was signed on February 18, 2010 by 48 entities, including the Department, "for the purpose of resolving among them the pending [Federal Energy Regulatory Commission] relicensing proceeding..." All parties are bound by this Agreement "until Facilities Removal has been fully achieved and all conditions of the Settlement have been satisfied." The Agreement covers: Implementation, Studies (including Study Process Guidelines and the Science Process), Environmental Reviews, Secretarial Determinations (that "Facilities Removal (i) will advance restoration of salmon fisheries of the Klamath Basin, and (ii) is in the public interest..."), Costs, Local Community Power (energy power, not physical power), Interim Operations (including an Interim Conservation Plan), and Decommissioning and Removing the Dams. The Klamath Basin Restoration Agreement for the Sustainability of Public and Trust Resources and Affected Communities was also signed on February 18, 2010. It covers: Legal Responsibilities, Precedents, Reservation of Rights, Party Obligations, Project Funding, Coordination and Oversight, Dispute Resolution, Klamath Basin Fisheries Restoration, Reintroduction, Monitoring Program, Water Resources Program, Drought, Climate Change, and Emergency Water Situations.

Based on these agreements, it appears that 33 separate scientific studies were planned in the areas of Data Collection, Engineering, Geomorphology, Construction, Water Quality, Biological, Economic, and Real Estate for use in the Secretarial Determination. Our review of the January 23, 2012 DRAFT Klamath Dam Removal Overview Report for the Secretary of the Interior indicates that more than the 33 studies were done. For example, a Cultural and Tribal study was done that was not listed in the planned studies.

Copies of the studies are available on-line, as are copies of the Peer Reviews done on each of the studies. Our review suggests that the peer reviewers agreed with the methodology and conclusions of the scientific reviews. In fact, a Peer Review was done on the DRAFT Klamath Dam Removal Overview Report to ensure none of the scientific study results were ignored when the Secretarial Determination was made. Meeting minutes for the Klamath Basin Coordinating Council are available from July 2010; a February 2012 Status of Implementation Report, a June 2011 Annual Implementation Report, copies of the Public Review Summaries for the Agreement, the NEPA Review and Environmental Impact Report are also available on-line to the public.

Given the comprehensiveness of the governing Agreements, the transparency being given to the process, and the complete absence (to date) of any complaints about the manner in which this effort is proceeding, the OIG does not have any plans to conduct any additional reviews at

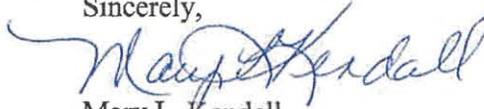
this time. That said, however, if the Committee is aware of any issues relating to Klamath, we will give careful consideration to any request for further inquiry by the OIG.

We have not conducted any formal reviews of the Department's Scientific Integrity Policy, but we have met with the Department, have provided our input into how the Scientific Integrity Board should interface with the OIG, and have agreed on how to coordinate between the Board and the OIG.

We have enclosed a list of all claims or allegations of scientific misconduct, violations of the Department's scientific integrity policies, or of any other policy protecting the rights of Department employees to communicate their professional views on science. While the OIG has, and presumably will again, investigate matters of scientific misconduct, the OIG is not generally qualified to opine on the underlying science in such cases. Therefore, given that the Department has published its Scientific Integrity Policy and established the Scientific Integrity Board means that it will be positioned to address the underlying science when such matters are raised.

If you have any questions, please do not hesitate to contact me, or your staff may contact Kris Kolesnik, Associate Inspector General for External Affairs, at 202-208-5745.

Sincerely,

A handwritten signature in blue ink that reads "Mary L. Kendall". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mary L. Kendall
Acting Inspector General

Enclosures (4)

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U.S. House of Representatives
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Washington, DC 20515

July 13, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

In a July 6, 2012, letter, the Department of the Interior (“Department”) was provided a final opportunity to establish by the close of business on July 12, 2012 a mutually agreed upon schedule for transcribed interviews of five Department officials by Committee on Natural Resources (“Committee”) majority oversight staff. These interviews were to be conducted the week of July 16, 2012.

These five individuals, among other officials, are believed to have personal knowledge directly relevant to the Committee’s long-running investigation into the Obama Administration’s decision imposing a Gulf of Mexico drilling moratorium and its drafting and editing of a May 2010 Department report (“Drilling Moratorium Report”) that falsely stated independent engineers had peer reviewed and supported the moratorium when they did not. The Committee originally requested to interview these five individuals in February 2012. The Department, however, did not respond in a timely manner to that request.

Although our respective staffs have engaged in discussions both yesterday and today, it is unfortunate that this deadline has passed without an agreement on an interview schedule.

In an effort to reach a mutually acceptable resolution to this dispute, the Department was offered as a significant compromise moving forward with transcribed interviews of only two Department officials during the week of July 16, followed by a transcribed interview with Steve Black the week of July 23, in order to accommodate Mr. Black being on travel on behalf of the Secretary. The remaining interview requests would be held in abeyance. The Committee majority staff also made clear that Department counsel are welcome to accompany witnesses to the interviews.

The Department rejected this reasonable compromise offer. The Department has instead offered to allow Mr. Black to speak with Committee staff off the record and to provide written answers to follow-up questions. The Department has also said it would entertain permitting Committee staff to speak with additional Department officials only on the condition that such

answers to follow-up questions. The Department has also said it would entertain permitting Committee staff to speak with additional Department officials only on the condition that such discussions are also off the record and only in exchange for the Committee providing written assurance that it will, for example, withdraw the April 3 subpoena to which the Department has not fully complied or not seek to enforce the subpoena through a contempt of Congress process for failing to comply.

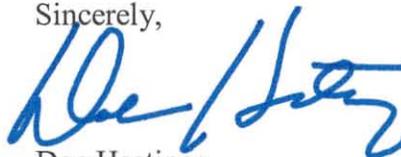
This offer of a *quid pro quo* is unacceptable. The Department's refusal to make any witnesses available for on-the-record, transcribed interviews with Committee staff is especially troubling here, where to date, no one at the Department or the White House has fully answered questions or fully explained the circumstances that led to imposition of the economically devastating 6-month moratorium or the inclusion of the misleading peer review language in the Drilling Moratorium Report. The Department is insisting that any discussions with Department staff involved in the Drilling Moratorium Report occur only off the record, away from public scrutiny. It is especially disappointing that it has taken the Department more than four months since the original interview request was made to even make this offer.

The Department has not articulated a legitimate reason to justify conducting these interviews off the record. Although informal briefings can serve an important and useful purpose, they are not appropriate in this oversight investigation where the actions of Department and Obama Administration officials are under review. Conducting these interviews off the record undermines the integrity of the Committee's legitimate oversight investigation, could lead to questions about the accuracy of witness statements before Congress, and is inconsistent with past practice involving other Congressional investigations where interviews of Administration officials were routinely conducted on the record.

As explained in the July 6 letter, the Department's continuing refusal to provide all documents covered by the April subpoena has left the Committee no choice other than to continue to pursue compliance with the subpoena, including to seek necessary information directly from the officials who were most involved in interacting with the peer reviewers and drafting and editing the Drilling Moratorium Report.

For many months, indeed for well over a year, the Committee has sought to be clear, patient, and reasonable, but there are few options that remain where subpoenas for documents are not complied with and requests to interview witnesses in an accountable and transparent manner are uniformly refused. Because of the Department's unwillingness to date to make Mr. Black and other officials available for transcribed interviews, the Committee intends to invite these witnesses, and possibly other Department officials as necessary, to an oversight hearing of the full Committee so that their testimony and answers to questions may be received on the record.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman

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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 6, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

For more than a year, the Department of the Interior (“Department”) has consistently refused to provide documents and information that would allow Congress to conduct a thorough and independent review of the Obama Administration’s decision imposing a Gulf of Mexico drilling moratorium and its drafting and editing of a May 2010 Department report (“Drilling Moratorium Report”) that misrepresent that independent engineers had peer reviewed and supported the moratorium when they did not.

To date, no one at the Department or the White House has answered questions or fully explained the circumstances that led to imposition of the economically devastating 6-month moratorium without any scientific support or the inclusion of the misleading peer review language in the Drilling Moratorium Report. For more than three months, the Department has flouted a duly authorized and issued Congressional subpoena for documents that would shed light on these actions, which led to thousands of lost jobs and decreased American energy production in the Gulf of Mexico.

Absent a valid assertion of a Constitutionally based privilege, the Department’s continuing refusal to provide certain requested documents violates the subpoena and frustrates Congress’ ability to fulfill its Constitutional oversight responsibilities. As such, the Committee is left with no choice other than to continue to pursue compliance with the subpoena, as well as seek necessary information directly from the officials who were most involved in interacting with the peer reviewers and drafting and editing the Drilling Moratorium Report.

In a February 23, 2012 letter, I wrote to request that several Department officials who were personally involved in developing the Drilling Moratorium Report be made available for transcribed interviews by the Committee on Natural Resources (“Committee”) majority oversight

staff. The interviews are necessary to obtain information relevant to the Committee's oversight investigation, and the need for them is heightened given the Department's repeated refusal to provide documents even in the face of a duly authorized and issued Congressional subpoena.

In a February 28, 2012 letter, the Department said it "expects to respond to the Committee more fully before the end of the week" on the request for these interviews. No such response has occurred, nor have these individuals been made available for interviews. The request to interview these officials, and others as may be necessary, was reiterated in an April 25, 2012 letter to the Department.

The Department's most recent correspondence, dated May 18, 2012, made no mention of the interview request. Instead, it offered to make two documents available for inspection by the Committee's majority oversight staff – a step that is far short of full compliance with the Committee's April 3, 2012 subpoena for documents. The staff review of these documents, which consisted of two versions of the draft Executive Summary for the Drilling Moratorium Report, was disappointing and did not satisfy the Committee's significant and ongoing oversight interest in conducting a thorough and independent review of the circumstances surrounding the drafting and editing of the drilling moratorium report.

The limited number of documents that have been made available largely concern communications with the peer reviewers, but not the internal deliberations within the Department or the White House that would shed light on the moratorium decision or how the Drilling Moratorium Report was edited to mischaracterize the peer reviewers' work. The documents suggest the officials to be interviewed would be able to shed light on questions central to this investigation, including whether political appointees used the peer reviewers as "cover," as some of the peer reviewers had wondered in emails to Department officials, to justify the economically devastating moratorium.

In the past, the Department and others have argued this investigation has been unnecessary because the Department's Office of Inspector General ("IG") had already looked into the editing of the Drilling Moratorium Report. However, the Committee's investigation has identified and revealed serious inadequacies and questionable omissions in the IG's report and handling of this matter. This includes the recent revelations that Acting Inspector General Mary Kendall participated in meetings with these same Department officials about the development of the Drilling Moratorium Report. These revelations, coupled with allegations that the IG's lead investigators were unable – or instructed not – to seek all relevant documents from senior Department officials, call into question the independence, impartiality, and thoroughness of the IG's investigation into the editing of the Drilling Moratorium Report and highlight the need for these interviews. These revelations also raise significant concerns about the accuracy of Ms. Kendall's testimony before the Committee on June 17, 2010 in which she testified she "was not involved in the process of developing that report."

The Department's failure to respond to the request to schedule interviews calls into question the sincerity of its recent statements about wanting to reach a mutually agreeable accommodation of the Committee's oversight interest into this matter. Accordingly, this letter

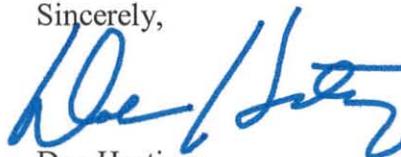
provides the Department with a final opportunity to establish a mutually agreed upon schedule by the close of business on July 12, 2012 for interviews with the following officials:

- Steve Black, Counselor to the Secretary
- Neal Kemkar, Special Assistant to Mr. Black (currently on detail to the White House Council on Environmental Quality)
- Mary Katherine Ishee, former Deputy Administrator, Minerals Management Service (currently serving as Senior Advisor, Office of Surface Mining, Reclamation and Enforcement)
- Walter Cruickshank, former Deputy Administrator, Minerals Management Service (currently serving as Deputy Director, Bureau of Ocean Energy Management)
- Kallie Hanley, former White House Liaison & Special Assistant (currently serving as Senior Advisor, Office of the Assistant Secretary-Indian Affairs)

It is expected that these interviews will take place the week of July 16, 2012. As explained in the prior letter to arrange these interviews, Department counsel may be allowed to accompany the witness and be present during an interview with employees of the Department on a case-by-case basis where such presence would not involve a conflict of interest or otherwise potentially impede the ability to conduct an effective, fair, and efficient interview. Witnesses are not placed under oath in an interview; however, witnesses are required by law to be truthful in answering questions from Congress. A witness or his or her personal counsel may raise an objection to a question. If such an objection cannot be resolved in the interview, the witness may be compelled to appear for a hearing. Under Committee rule 4(h), claims of common-law privileges are applicable only at the discretion of the Chairman. Witnesses will be given an opportunity to review at the Committee's offices any interview transcript generated as part of the interview and may be allowed to submit grammatical or typographical changes on a copy of the transcript itself but must submit in writing to the Committee any suggested substantive corrections to the transcript. Any such transcripts are for the official use of the Committee and copies of transcripts are not given to the witnesses. Careful consideration is given to any concerns a witness may raise regarding the public dissemination of any parts of the transcript.

Thank you in advance for the Department's cooperation in making these witnesses available for interviews.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written over a white background.

Doc Hastings
Chairman

DOC HASTINGS, WA
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 22, 2012

EDWARD J. MARKEY, MA
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NIKI TSONGAS, MA
PEDRO R. PIERLUISI, PR
JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI
PAUL TONKO, NY

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, NW – Mail Stop 4428
Washington, DC 20240

Dear Ms. Kendall:

As you know, the Committee on Natural Resources (“Committee”) has for almost two years been seeking information about how a May 27, 2010 Department of the Interior (“Department”) report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“Drilling Moratorium Report”) was drafted and then edited in a manner that misrepresented independent engineers had peer reviewed and supported the drilling moratorium when in fact they did not.

At a June 17, 2010 Committee oversight hearing, Congressman Doug Lamborn asked you whether the Office of Inspector General (“IG”), given its past investigations of scientific integrity issues, was investigating the circumstances surrounding the editing of the Drilling Moratorium Report. You responded to Congressman Lamborn’s question by stating:

“Congressman Lamborn, we have not. I understand right now that the 60-day moratorium is the issue of a lawsuit brought against the Department by industry. It has been the Office of Inspector General’s practice for as long as I have been with the office that when a matter is in another forum, such as a Federal District Court, unless there is a compelling need for us to get involved and, in this case, we have not heard from either of the parties—either the Department or the industry—we would not investigate that. I think it would be inappropriate.

I mean, I have heard all the things that you have itemized here. **I was not involved in the process of developing that report, and I think it would be inappropriate for me to comment on it.**¹ (Emphasis added).

¹ June 17, 2010 Hearing Transcript, at page 35 <<http://www.gpo.gov/fdsys/pkg/CHRG-111hrg56979/pdf/CHRG-111hrg56979.pdf>>

Congressman Lamborn followed up your response by adding: “And by the way, I didn’t want to make any suggestion that you were involved. In fact, it is good that you are not so that you can be a disinterested, objective observer because there needs to be an investigation.”

After additional questioning from Congressman Lamborn, you agreed to consider opening an investigation into the editing of the Drilling Moratorium Report. On July 20, 2010, Congressman Lamborn and I, along with five other members of this Committee, sent you a follow up letter requesting an IG investigation of the Drilling Moratorium Report. You responded by letter dated July 21, 2010 that the IG was already conducting an investigation. The IG’s November 2010 investigation report found that White House officials were involved in the editing of the Drilling Moratorium Report but was unable to independently confirm whether the edits were intentionally made to misrepresent the peer reviewers’ views on the moratorium.

It was publicly announced on April 30, 2010 that Secretary Salazar asked you, as acting Inspector General, to serve on the Outer Continental Shelf Safety Board along with Assistant Secretaries Wilma Lewis and Rhea Suh. It is unclear what role you, as a member of the Outer Continental Shelf Safety Board, would have had in developing the Drilling Moratorium Report and whether this role posed any conflicts of interest with your role as acting Inspector General overseeing investigations into the Deepwater Horizon accident and the circumstances surrounding the drafting and editing of Drilling Moratorium Report.

Documents previously obtained from your office raise significant questions about the thoroughness and independence of the IG’s investigation into the circumstances surrounding the Drilling Moratorium Report. Specifically, there are questions about whether the lead investigators were able – or directed not – to obtain all internal Department documents necessary to independently confirm witness statements and other facts at issue in the investigation, as opposed to only a select few documents provided by the same senior Department officials subject to the investigation or publicly available documents.

Now, documents more recently obtained by the Committee raise serious questions about the accuracy of your June 17, 2010 statement before this Committee that you were not involved in the process of developing the Drilling Moratorium Report.

For example, the Committee has obtained a calendar invitation for a May 25, 2010 meeting and conference call to which you were invited, along with Steve Black, Neal Kemkar, Mary Katherine Ishee, Kallie Hanley, Wilma Lewis, Rhea Suh and others. The subject of this calendar invitation is listed as: “Follow up call with NAE Peer Review Panel (30-Day Safety Report attached).” A document titled “Interim Measures Report 100525 nk Final.pdf” was attached to the invitation.

In another recently obtained document, an email chain dated May 28, 2010, you wrote to Mr. Black requesting a copy of the letter Secretary of the Interior Ken Salazar sent to the President transmitting the Drilling Moratorium Report. Your email goes on to state:

“We are launching teams next week to respond to the Secretary’s request that we determine whether specific deficiencies in [Minerals Management Service] policies or

practices exist that need to be addressed to ensure that operations on the [Outer Continental Shelf] are conducted in a safe manner protective of human life, health, and the environment. **We do not, however, want to duplicate effort that you have already made (your effort has been tremendously impressive, by the way!).**" (Emphasis added).

Mr. Black responded by saying, in part:

"And thanks for your kind words, Mary, and **for your participation in so many of the meetings and interviews leading up to this report.** I have attached the final 30-day report and the transmittal letter that went to the White House yesterday. Please don't hesitate to call me if you have any questions." (Emphasis added).

I am troubled that these documents suggest you played a significant role in developing the Drilling Moratorium Report, including participating in meetings with senior Department officials prior to the report's issuance, and commented to one of the principal authors of the Drilling Moratorium Report that that his "effort has been enormously impressive" and yet you told this Committee only a few weeks later that you were "not involved in the process of developing that report, and I think it would be inappropriate for me to comment on it."

Your apparent involvement also raises new questions about the IG's independence and impartiality in conducting the investigation of the Drilling Moratorium Report and whether it was appropriate for you to oversee this investigation in the first place or whether you should have disclosed your involvement and recused yourself from all matters concerning the investigation.

In order to better understand your role in developing the Drilling Moratorium Report, your service on the Outer Continental Shelf Safety Oversight Board, and your previous Congressional testimony, please provide no later than 12 noon on June 4, 2012, complete and unredacted copies of the following:

1. All documents that were created, sent, or received by you between April 20, 2010 to the present date concerning communications or meetings with David Hayes, Steve Black, Neal Kemkar, Mary Katherine Ishee, Kallie Hanley, Laura Davis, Reah Suh, and Wilma Lewis about the Drilling Moratorium Report;
2. All documents that were created, sent, or received by you concerning your selection to serve on the Outer Continental Shelf Safety Oversight Board;
3. All documents that were created, sent, or received by you concerning drafts of the Outer Continental Shelf Safety Oversight Board's September 1, 2010 report to Secretary Salazar; and
4. All documents that were created, sent, or received by you concerning your June 17, 2010 appearance before the Committee.

Please contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, with any questions regarding this request, or to make arrangements for the production of the requested material. An attachment to this letter provides additional instructions for responding to this request.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.

4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request

shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.

3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.

4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.

5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.

6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.

7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.

8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.

9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and

recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
LOUIE GOHMERT, TX
ROB BISHOP, UT
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MARK AMODEI, NV

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 10, 2012

EDWARD J. MARKEY, MA
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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, NW – Mail Stop 4428
Washington, DC 20240

Dear Ms. Kendall:

Thank you for meeting with me recently to discuss your response to the April 12, 2012 subpoena for documents related to the Office of Inspector General's ("IG") investigation into the May 27, 2010 Department of the Interior ("Department") report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf" ("Drilling Moratorium Report").

The moratorium – inserted into a technical safety report by political appointees during the middle of the night without any scientific justification – has caused significant economic hardship and decreased oil and gas production from the Gulf of Mexico region for which no one has been held to account.

Members of the House Committee on Natural Resources called upon your office in July 2010 to conduct a thorough and independent review of circumstances surrounding the Drilling Moratorium Report and how it was drafted and then edited in a manner that misrepresented independent engineers had peer reviewed and supported the drilling moratorium when in fact they did not.

Documents recently obtained from your office raise serious questions about the thoroughness and independence of the IG's investigation, including whether the lead investigators were able to obtain, or were directed not to obtain, all internal Department documents necessary to independently confirm witness statements and other facts at issue in the investigation, as opposed to only a select few documents provided by the same senior Department officials subject to the investigation or publicly available documents. This approach seems in direct contrast to how the IG handled similar high-profile investigations of alleged scientific misconduct in the previous Administration.

Secretary of the Interior Ken Salazar stated in a November 9, 2010 letter to you that the report "confirms there was no wrongdoing or intent to mislead the public." However, the IG's November 2010 report confirmed that White House officials were involved in editing the report

and were responsible for the incorrect peer review language but did not address the central question of whether the peer reviewer's role was intentionally misconstrued to mislead the public and provide cover for the moratorium.

Notwithstanding its apparent shortcomings, the IG's November 2010 report has been used by the Department to justify its refusal to provide documents that would allow Congress to evaluate for itself the circumstances surrounding the editing of the Drilling Moratorium Report and the imposition of the moratorium.

After more than a year of trying to obtain documents from the Department, much is still unknown about these events. The Department has consistently refused to release drafts of the Drilling Moratorium Report or internal documents between the senior Department and White House political appointees who were involved in editing the Drilling Moratorium Report. The Department has never disclosed – either to the IG or to Congress – the internal Department emails surrounding the edits to the Drilling Moratorium Report.

Although the IG has provided internal documents from the lead investigators, and is expected to soon provide additional documents concerning its November 2010 investigation, the IG has not provided the Committee with certain documents obtained by the IG during its investigation, including copies of emails with White House officials and drafts of the Drilling Moratorium Report, pursuant to a vague claim of confidentiality by the Department's Solicitor's Office.

This lack of responsiveness and transparency about what really led to the moratorium and the incorrect peer review language necessitated the issuance of subpoenas to both the Department and the IG. I am deeply frustrated by the Department's – and now the IG's – reliance on vague and unsubstantiated claims of confidentiality as justification to refuse to comply with these duly issued and authorized subpoenas.

Your April 18, 2012 letter states that the IG and the Department have developed a protocol whereby the IG consults with the Department before releasing any Departmental information and the IG will agree not to disclose information that the Department has claimed as confidential or privileged.

Your letter states this arrangement helps to ensure Departmental cooperation with IG investigations, notwithstanding your authority under the Inspector General Act ("IG Act") "to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available" to the Department. However, documents obtained from your office suggest the IG's lead investigators were unable to access all Department documents and officials they felt necessary to pursue a thorough and independent investigation, even with this agreement.

As explained at our meeting, this arrangement has significant potential for abuse without any apparent institutional controls and could be used by the Department to shield wrong doing from public disclosure and transparency.

According to information provided by your office, the IG apparently has not received from the Department a specific assertion of Executive Privilege for the documents at issue –

either before or since the subpoenas were issued – just a generalized claim from the Department’s Solicitor’s Office in September 2010 that it would assert common law “privileges and withhold these documents from disclosure under Exemption 5 of the Freedom of Information Act [(“FOIA”)] as well in response to discovery requests in litigation.” I am troubled that, out of deference to vague and unsubstantiated confidentiality claims by the Department from 2010, and absent a valid claim of Executive Privilege, the IG will not provide certain documents even after receiving a Congressional subpoena.

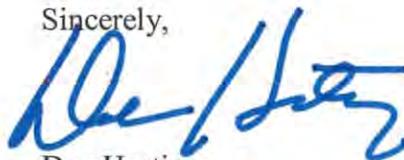
This arrangement also appears to undermine the IG’s independence as envisioned by Congress with the Inspector General Act. I understand, based on our meeting, that your staff negotiated with the Department to obtain access to certain documents as part of the IG’s investigation and the Department provided documents with the expectation that the information was to be kept confidential.

Your April 18 letter claims that nothing in the IG Act authorizes an IG to waive any privileges asserted by a department of the Executive Branch. However, nothing in the IG Act allows an IG to withhold information from Congress. In fact, this arrangement directly contradicts with the IG Act, which states, “nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.” Further, the FOIA prohibits withholding exempt information from Congress, see 5 U.S.C. § 552(d), and you agreed at our meeting that the IG regularly provides FOIA-exempt information to Congress and would do so in the future.

Finally, any suggestion that the IG cannot provide this information to Congress because to do so would waive privileges asserted by the Department is unpersuasive and not a valid legal basis to refuse to comply with a Congressional subpoena. First, a formal assertion of privilege has not been made for these documents. Second, the disclosure of privileged, FOIA-exempt information to Congress is not a waiver of such privileges or exemptions and would not prevent an agency from withholding the documents in response to future FOIA requests. See *Murphy v. Department of the Army*, 613 F.2d 1151 (D.C. Cir. 1979).

Absent a legitimate assertion of Executive Privilege, I see no justification for the Department or the IG to refuse to comply with a duly issued and authorized subpoena based solely on the confidentiality claims articulated to date. Given the significance of the harm caused by the moratorium and of the questions raised by the IG’s investigation, it is important that Congress and the American public have a full accounting from the IG and the Department into the circumstances surrounding the Drilling Moratorium Report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written over a white background.

Doc Hastings
Chairman

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

April 25, 2012

EDWARD J. MARKEY, MA
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PAUL TONKO, NY

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

One year ago today, the Department of the Interior (“Department”) was first asked to provide documents and information relating to the Obama Administration’s decision imposing a drilling moratorium and its drafting of a May 2010 report entitled, “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“Drilling Moratorium Report”). For 366 days, the Department has refused to cooperatively comply with repeated requests for this information, notwithstanding President Obama’s pledges of openness and transparency. Now, with its April 10 and 13 response letters, the Department is in violation of an official subpoena.

The Department Has Not Complied with the Subpoena

The April 3, 2012 subpoena sought two categories of information comprising a narrow subset of the information previously sought from the Department for a year. The expectation was that the subpoenaed material would be readily producible by the Department.

After the subpoena was issued, you were quoted as saying, “The bottom line is I’m very comfortable with everything we did including the time out and reset button that we had to put in place in the Gulf of Mexico. ... So, you know, it’s that time of season in Washington, D.C., where congressional committees will spend their time going after issues that are not of significant importance ... [W]e will do everything we can to cooperate with the committee.”¹

In failing to comply with the subpoena, the Department’s official response does not live up to your publicly stated pledge of doing “everything we can to cooperate” and similarly fails to uphold President Obama’s pledge of unprecedented transparency by his Administration. It is very troubling that you characterize the drilling moratorium and the substantial toll it inflicted on

¹ See Politico, April 3, 2012 (<http://www.politico.com/news/stories/0412/74790.html#ixzz1sPreCzjO>).

the economy of the Gulf of Mexico and American energy production as not being of “significant importance.” Thousands of lost jobs and higher energy prices are serious and important, and the refusal to comply with an official Congressional subpoena examining these matters is even more serious.

In its noncompliant responses to the subpoena, the Department seeks credit for providing a limited number of documents that were first requested in April 2011. Many of the 229 documents the Department provided in response to the subpoena were redacted or missing attachments, in violation of the subpoena instructions. The Department continues to refuse to provide even an accounting of the documents it possesses and is continuing to withhold and refuses to release documents it has prevented the Inspector General from providing to the Committee.

If the Department is as comfortable in defending its action as publicly declared and reported in the news article, then it should cease its year-long effort to withhold documents and communications that will explain how the drilling moratorium decision was made and how the Drilling Moratorium Report was drafted and then edited in a manner that misrepresented that independent engineers had peer reviewed and supported the drilling moratorium. If the Department has nothing to hide, then it should stop hiding these documents and its decisions from appropriate Congressional oversight.

Committee’s Oversight Authority is Clear and Well Established

In its April 10 response to the subpoena, the Department inexplicably claims – after a year’s time, multiple conference calls, and eight request letters – not to fully understand the nature and purpose of the Committee’s oversight interest in this matter. On an April 16, 2012 conference call, Department staff again expressed uncertainty over the Committee’s oversight interest. The Department has willfully ignored and repeatedly misconstrued, first, the scope of the Committee’s oversight requests and, now, this subpoena by trying to limit their scope to communications with peer reviewers and a November 2010 Inspector General (“IG”) report into the editing of the Department’s Drilling Moratorium Report.

Please direct your attention to the oversight request letters sent to the Department on April 25, 2011, July 18, 2011, August 15, 2011, September 28, 2011, October 13, 2011, January 25, 2012, January 31, 2012, and February 23, 2012. As you will see, these letters in no way limit our oversight interest to documents related to the IG’s November 2010 report or communications with peer reviewers.

Since April 2011, the requests have been clear and consistent in requesting information from the Department that would allow an independent review of the circumstances surrounding the 6-month Gulf of Mexico drilling moratorium and the development of the Drilling Moratorium Report, including whether it was intentionally edited to incorrectly state the views of the peer reviewers.

There should be no confusion or further attempts to delay compliance with the subpoena with this baseless excuse. The Department should cease its efforts to misconstrue or obfuscate the clear focus and facts surrounding this oversight investigation. The subpoena is clear in stating the documents to be produced and disclosed by the Department.

Department's Additional Excuses for Not Complying are Without Merit

In failing to comply with the subpoena, the Department's April 10 response also questions the Committee's oversight authority in this matter. This criticism is without merit. Pursuant to House Rule X(1)(m), the Committee has broad oversight jurisdiction over the Department and its activities, particularly as it relates to energy production on federal lands, both onshore and offshore. Oversight of the Executive Branch is necessary for Congress to fulfill its responsibilities under the Constitution. Under House Rule X(2)(a)-(b), the Committee is responsible for conducting oversight to evaluate the application, administration, execution, and effectiveness of Federal laws under its jurisdiction and for considering enactment of changes in Federal law, the organization and operations of Federal agencies, and conditions or circumstances that may indicate the necessity of new or additional Federal legislation.

In its April 10 response, the Department also repeats the previously discredited claim it has made for many months that disclosure of the requested material would intrude upon Executive Branch deliberations. As the Department has been repeatedly informed for many months, this is not a legitimate justification for refusing to comply with Congressional oversight, and especially an official subpoena. There is a clear and compelling justification and need for Congress to acquire this information, especially considering the passage of time, the high-profile nature of the activities, and the seniority of the political appointees involved. Senior Administration officials and political appointees are not allowed to shield their communications from public view just because they may prove embarrassing, especially here where the economic harm caused by the drilling moratorium is so significant.

The Department's April 10 response also claims that this investigation is unnecessary given the IG's November 2010 report. The report in question was requested by five Republican members of this Committee who in July 2010 urged the IG to investigate the editing of the report and examine whether any laws were broken, who made the decision to misrepresent the views of the scientists, were the changes influenced by the White House, and were the changes recommended by outside groups, as news media accounts suggested. On November 8, 2010, the IG issued an 8-page report that "determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts."

Notably, the Department's April 10 response fails to mention that the IG admitted in a May 11, 2011 letter that, in preparing its November 2010 report, it was "unable to independently conclude whether the implications contained in the 30-Day Report were intentional or not." The IG's report left a number of questions unanswered and inadequately discussed the actual documents, drafts and communications surrounding this important issue and overall lack of transparency. Our April 25, 2011 request for information sought to answer these questions.

Despite the Department's assertions, the IG's abbreviated report into this matter does not excuse the Department from refusing to provide all of the documents covered by this subpoena.

Requests for Interviews with Department Personnel

On February 23, 2012, we requested that five current Department employees who were involved in the matters under investigation be made available for interviews by Committee majority staff. Only two of these individuals were previously interviewed by the IG, but each is expected to have personal knowledge relevant to this investigation.

On February 28, 2012, the Department acknowledged receipt of our request and said it expected to respond "more fully by the end of the week." We have not received any further response from the Department to this request for two months. We continue to seek the Department's cooperation in making these individuals, and others as may be necessary, available for interviews.

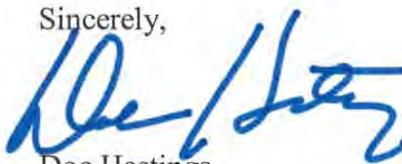
Full and Prompt Compliance is Expected

In its April 10 response, the Department offers to allow Committee staff to inspect two additional withheld documents. This offer of accommodation does not satisfy the subpoena, which directed that copies of these two documents and all other documents be provided to the Committee over two weeks ago.

That the documents in question may undermine the Administration's oft-stated goals of scientific integrity and transparency or embarrass senior Obama Administration officials does not absolve the Department from its responsibility to comply with Congressional oversight requests or this duly authorized and issued subpoena.

As has been explicitly expressed in multiple letters and conference calls, generalized claims of Executive Branch confidentiality interests, common law privileges, and Freedom of Information Act exemptions are not sufficient legal bases for withholding information from Congress or in response to a duly authorized and issued Congressional subpoena. We note that the Department's April 10 response fails to assert any Constitutionally based privilege and does not request the subpoena be held in abeyance pending an assertion of Executive Privilege by the President. Absent a valid claim of Executive Privilege for these documents, the Department has a duty to fully and promptly comply with the duly authorized and issued subpoena. I am prepared to initiate further action, should the Department continue to refuse to comply.

Sincerely,



Doc Hastings
Chairman



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

RECEIVED
COMMITTEE ON RESOURCES
2012 APR 24 PM 4: 50

APR 24 2012

The Honorable Doc Hastings
Chairman
Natural Resources Committee
U. S. House of Representatives
Washington, DC 20515

The Honorable Doug Lamborn
Chairman, Subcommittee on Energy and Mineral Resources
Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairmen:

This is in response to your April 6, 2012 request for additional documents and information relating to the report from my office entitled, "Federal Moratorium on Deepwater Drilling."

Your first request is that I describe any steps my office has taken since the issuance of the report to further "investigate the circumstances at issue in the original report." Since the issuance of our November 2010 report, my office has not received any additional allegations or evidence that relate to the drafting of the Executive Summary to the Department of the Interior Report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf." My office does not reopen an investigation unless we receive additional information that would lead us to believe a further inquiry is warranted. As we received no such information, we have not engaged in any further investigation into the matter.

Your second and third requests are for all documents created, sent, or received by OIG investigator Richard Larrabee and OIG Program Integrity Division Director Harry Humbert from May 27, 2010, to the present that relate to our Drilling Moratorium report. Those documents are enclosed. The only items that have been removed from these documents are the identical documents that the Natural Resources Committee has subpoenaed from the Department of the Interior. As you are aware, the Department has declined to provide these documents to the Committee asserting that they "implicate important Executive Branch confidentiality interest." As I expressed in my April 18, 2012 response to the Committee, my office is intent on preserving our ability to obtain information that is essential for conducting robust oversight and I feel that a claim of privilege articulated by the Department is not ours to waive.

The enclosed documents contain information which is exempt from disclosure to the public under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, and are therefore subject to redaction prior to any such release. Information

contained in these documents is also exempt from disclosure under the attorney-client and deliberative process privileges. Members of your staff who review the documents should be informed of the confidentiality of the documents and we respectfully ask that they be treated accordingly. A second set of documents is enclosed for the Ranking Member at your discretion.

If you have any questions, please do not hesitate to contact me, or your staff may contact Kris Kolesnik, Associate Inspector General for External Affairs, at 202-208-5745.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary L. Kendall". The signature is fluid and cursive, with the first name "Mary" and last name "Kendall" clearly distinguishable.

Mary L. Kendall
Acting Inspector General

Enclosures



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

APR 18 2012

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On April 11, 2012, the Office of Inspector General (OIG) received a subpoena from the House Committee on Natural Resources (Committee) commanding production of:

Unredacted and complete copies of:

1. All documents identified on the enclosure (Bates number 00032227 SOL-WDC-B01-00001-00000I) to the Department of the Interior's October 13, 2011 letter to the Committee relating to the May 27, 2010 Department report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf."

These documents were created or obtained by the Department of the Interior (DOI or Department) relative to the May 27, 2010 report and Executive Summary to the report. In the Executive Summary, the Secretary of the Interior recommended a six-month moratorium in the Gulf of Mexico, following the *Deepwater Horizon* disaster. Despite requests by the Committee, followed by a subpoena, the Department has declined to provide these documents to the Committee, saying that they "implicate important Executive Branch confidentially interest."

For the reasons we have conveyed to Committee staff multiple times, and describe in detail below, I respectfully refer the Committee back to the Department for production of the subject documents.

I want to clarify at the outset, however, that neither DOI political appointees nor any other DOI employees interfered with the OIG investigation at issue or ordered the OIG to withhold the subject documents. Rather, the OIG followed long-standing protocol in the handling and disposition of the documents at issue, a process that ensures the integrity of the access authority granted to Inspectors General in the Inspector General Act of 1978, as amended (IG Act).

The IG Act envisions a unique and carefully calibrated role for each OIG. While organizationally situated within the Executive Branch and DOI, this OIG also maintains a high degree of independence from DOI, in order to provide effective oversight of its programs and operations without interference from the Secretary or other departmental officials. Among other powers and responsibilities, an important tool enabling our unimpeded oversight is our authority

under the IG Act to have unfettered “access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations.” 5 U.S.C. App. 3 Section 6(a)(1). The IG Act does not authorize Inspectors General to waive privileges asserted by a department or agency of the Executive Branch.

Although this language is quite clear in its intent, our access to Department documents has been enhanced by the force of the DOI Secretary’s commitment to cooperating with the OIG, as memorialized most recently in an April 20, 2010 directive (copy enclosed). This commitment to provide the OIG unfettered access to all manner of documents and information is something we have secured from each of the last three Secretaries, including Secretary Gale Norton, Secretary Dirk Kempthorne, and Secretary Ken Salazar.

The Secretary’s directive notes that OIG access extends to “information that may be privileged, confidential, or otherwise exempt from disclosure under law.” The directive and the DOI Manual reflect an important understanding between the OIG and the rest of the Department that disclosure of privileged information by the Department to the OIG does not constitute a waiver of the privilege. This understanding, and the protocol that arises from it, promotes the free flow of information to the OIG and allows us to execute our oversight responsibilities to the fullest extent possible under the IG Act. One result of this arrangement is that oversight committees such as yours have the benefit of truly probing OIG reports that are based on examination of all relevant Department information, even information that may be subject to a cognizable claim of privilege.

The information access protocol we employ is not unique to this OIG. Rather, it is a long-standing practice in the Inspector General community that source documents belonging to an agency or department, obtained pursuant to OIG statutory authority, not be released by the OIG, as they are not the OIG’s documents. Furthermore, if privilege attaches to Department documents, the privilege is not the OIG’s to waive.

Were the OIG to release documents that “implicate important Executive Branch confidentially interest,” as articulated by the Department in its October 13, 2011 letter to you, we believe that we would compromise our own ability to obtain information from the Department that is essential for conducting robust oversight. Such a release of documents could have the same negative impact on the entire Inspector General community.

I do not take lightly my decision to decline to provide the documents requested, yet I hope the Committee can appreciate the important principle that I have described here. Our unfettered access to information and documents created and held by the Department is of paramount importance to our success in performing our oversight role. I look forward to future opportunities to assist your Committee in exercising its oversight role.

Sincerely,

A handwritten signature in black ink that reads "Mary L. Kendall" with a stylized flourish at the end.

Mary L. Kendall
Acting Inspector General

Enclosure

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
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BILL JOHNSON, OH
MARK AMODEI, NV

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

April 6, 2012

EDWARD J. MARKEY, MA
RANKING DEMOCRATIC MEMBER
DALE E. KILDEE, MI
PETER A. DEFazio, OR
ENI F.H. FALCOMAVAEGA, AS
FRANK PALLONE, JR., NJ
GRACE F. NAPOLITANO, CA
RUSH D. HOLT, NJ
RAÚL M. GRIJALVA, AZ
MADELEINE Z. BORDALLO, GU
JIM COSTA, CA
DAN BOREN, OK
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JOHN GARAMENDI, CA
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PAUL TONKO, NY

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, NW – Mail Stop 4428
Washington, DC 20240

Dear Ms. Kendall:

We write concerning the Committee on Natural Resource's ("Committee") long-running investigation into the May 27, 2010 Department of the Interior ("Department") report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf" ("Drilling Moratorium Report").

As you know, Republican members of the Committee called upon your office in July 2010 to investigate the circumstances surrounding the editing of this report and its Executive Summary, which implied peer reviewers had reviewed and endorsed a 6-month Gulf of Mexico oil and gas drilling moratorium when in fact they had not. The Office of Inspector General ("IG") issued an 8-page report in November 2010, finding that "the White House edit of the original [Department] draft Executive Summary led to the implication that the moratorium had been peer reviewed by the experts."

As you are also aware, we wrote to the Department and the IG on April 25, 2011 requesting documents related to the editing of the report and the IG's investigation. I appreciate your office's cooperation to date in responding to our requests for information. In your May 11, 2011 response letter, you confirmed that the IG was unable to independently confirm whether the implication that the peer reviewers had endorsed the moratorium was intentionally made.

The IG has been unable to provide the Committee with 13 documents relevant to its investigation, per directions from the Department's Office of the Solicitor. In addition to these IG documents, the Department is continuing to withhold an untold number of documents relevant to the investigation. On April 3, 2012, a subpoena was issued to the Department to compel its production of certain withheld documents, including copies of the 13 IG documents.

As this investigation continues, we request the IG's cooperation in providing the following information and documents no later than April 24, 2012:

1. Please describe what, if any, steps the IG has taken since the issuance of its November 2010 report to investigate the circumstances at issue in the original report, including requesting or receiving additional documents from the Department or other current or former federal officials and conducting additional witness interviews. Please provide complete and unredacted copies of any such documents, emails, interview notes, or transcripts.
2. Complete and unredacted copies of all emails, notes, or other documents created, sent, or received by Senior Special Agent Richard Larrabee from May 27, 2010 to the present date concerning the Drilling Moratorium Report.
3. Complete and unredacted copies of all emails, notes, or other documents created, sent, or received by Program Integrity Division Director Harry Humbert from May 27, 2010 to the present date concerning the Drilling Moratorium Report.

If you have any questions about this matter or to make arrangements for production, please have your staff contact Byron R. Brown, Senior Counsel, Office of Oversight and Investigations. We look forward to continued cooperation in this matter.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

FEB 28 2012

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Hastings,

Thank you for your February 23, 2012, letters to Secretary Salazar and to Neal Kemkar. Because Neal Kemkar is a Department of the Interior employee who is detailed to the Council on Environmental Quality, the Department will respond to both of the Committee's letters. At this time, the Department is reviewing both letters as well as the requests made within them and expects to respond to the Committee more fully before the end of the week.

We look forward to continued cooperation with the Committee.

Sincerely,

Christopher Mansour
Director, Office of Congressional and Legislative Affairs

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
LOUIE GOHMERT, TX
ROB BISHOP, UT
DOUG LAMBORN, CO
ROBERT J. WITTMAN, VA
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BILL JOHNSON, OH
MARK AMODEI, NV

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

February 23, 2012

EDWARD J. MARKEY, MA
RANKING DEMOCRATIC MEMBER
DALE E. KILDEE, MI
PETER A. DeFAZIO, OR
ENI F.H. FALGOMAVAEGA, AS
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JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

On April 25, 2011, we wrote the Department of the Interior (“Department”) to request documents about White House edits to the Executive Summary of the final report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“ISM Report”). On the same date, we wrote separately to the Department’s Office of Inspector General (“OIG”) requesting documents related to its investigation into the editing of the ISM Report. The OIG’s November 2010 report of its investigation “determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.”

To date, the OIG has provided us 34 documents, including copies of its final report and investigator notes. However, the OIG has been unable to provide copies of 13 documents pursuant to directions from the Department’s Solicitor’s Office to withhold them from us. In the 9 months since our request, the Department has provided us copies of 86 separate documents that largely reflect communications between senior Department officials and the peer reviewers after the ISM Report was issued. In its February 2, 2012 response, the Department mischaracterized our investigation as focusing on the OIG report, when we have been clear from the outset that we are reviewing the edits made to the ISM Report by Departmental and White House officials and that the OIG report does not adequately describe the documents and communications surrounding this issue. As part of this response, the Department also provided a copy of a 1-page memorandum dated April 20, 2010 from Secretary Salazar to senior managers instructing them to cooperate with OIG investigations generally. This memorandum predated the development of the ISM Report and the OIG’s investigation into the White House edits and is not responsive to our request. The Department is continuing to withhold an untold number of documents that do

get to the heart of our investigation, including drafts of the ISM Report, instructions to the peer reviewers and their comments on the draft ISM Report, and communications internal to the Department and between the White House concerning the editing of the ISM Report and the peer reviewer's comments.

On February 17, 2012, the Department made available three of these 13 OIG documents for inspection by the Committee's majority oversight staff and provided limited information about other withheld OIG and Department documents. The limited number of documents that the Department has made available to us has left significant questions unanswered. The Departmental staff who accompanied these documents for review by the Committee's majority oversight staff did not have first-hand knowledge of the activities that are the subject of our investigation and were not in a position to provide the information we are seeking. The Committee's majority oversight staff will be conducting interviews of Department officials who may have knowledge of the activities that are the subject of this investigation. As a first step in this process, we request that a schedule be established by the close of business on February 28, 2012 for the interviews of the following officials:

- Steve Black, Counselor to the Secretary
- Mary Katherine Ishee, Senior Advisor, Office of Surface Mining, Reclamation and Enforcement (former Deputy Administrator, Minerals Management Service)
- Walter Cruickshank, Deputy Director, Bureau of Ocean Energy Management (former Deputy Administrator, Minerals Management Service)
- Kallie Hanley, White House Liaison & Special Assistant

Witnesses may be represented by personal counsel at these interviews. Department counsel may be allowed to accompany the witness and be present during an interview with employees of the Department on a case by case basis where such presence would not involve a conflict of interest or otherwise potentially impede our ability to conduct an effective, fair, and efficient interview. Witnesses are not placed under oath in an interview; however, witnesses are required by law to be truthful in answering questions from Congress. A witness or his or her personal counsel may raise an objection to a question. If such an objection cannot be resolved in the interview, the witness may be compelled to appear for a hearing. Under Committee rule 4(h), claims of common-law privileges are applicable only at the discretion of the Chairman. Witnesses will be given an opportunity to review at the Committee's offices any interview transcript generated as part of the interview and may be allowed to submit grammatical or typographical changes on a copy of the transcript itself but must submit in writing to the Committee any suggested substantive corrections to the transcript. Any such transcripts are for the official use of the Committee and copies of transcripts are not given to the witnesses. Careful consideration is given to any concerns a witness may raise regarding the public dissemination of any parts of the transcript.

Please contact us, or have your staff contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, to make arrangements for the scheduling of these interviews.

Thank you for the Department's prompt attention to and cooperation with this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings".

Doc Hastings
Chairman
Natural Resources Committee

A handwritten signature in blue ink, appearing to read "Doug Lamborn".

Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
LOUIE GOHMERT, TX
ROB BISHOP, UT
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

EDWARD J. MARKEY, MA
RANKING DEMOCRATIC MEMBER
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NIKI TSONGAS, MA
PEDRO R. PIERLUISI, PR
JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

February 23, 2012

Neal Kemkar
Deputy Associate Director
for Energy and Climate Change
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Dear Mr. Kemkar:

On April 25, 2011, we wrote the Department of the Interior (“Department”) to request documents about White House edits to the Executive Summary of the final report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“ISM Report”). On the same date, we wrote separately to the Department’s Office of Inspector General (“OIG”) requesting documents related to its investigation into the editing of the ISM Report. The OIG’s November 2010 report of its investigation “determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.”

Our review of the limited number of documents that have been made available to us by the OIG and the Department has raised a number of questions in this matter that remain unanswered, including questions about your role in the editing of the ISM Report and the response to the peer reviewers’ objections. The Committee’s majority oversight staff will be conducting interviews of current and former Department officials, including you, who may have knowledge of the activities that are the subject of this investigation. We request your voluntary cooperation in scheduling this interview to occur at a mutually agreeable time during the week of February 27, 2012.

Witnesses may be represented by personal counsel at these interviews. Department or agency counsel may be allowed to accompany the witness and be present during an interview on a case by case basis where such presence would not involve a conflict of interest or otherwise potentially impede our ability to conduct an effective, fair, and efficient interview. Witnesses are not placed under oath in an interview; however, witnesses are required by law to be truthful in

answering questions from Congress. A witness or his or her personal counsel may raise an objection to a question. If such an objection cannot be resolved in the interview, the witness may be compelled to appear for a hearing. Under Committee rule 4(h), claims of common-law privileges are applicable only at the discretion of the Chairman. Witnesses will be given an opportunity to review at the Committee's offices any interview transcript generated as part of the interview and may be allowed to submit grammatical or typographical changes on a copy of the transcript itself but must submit in writing to the Committee any suggested substantive corrections to the transcript. Any such transcripts are for the official use of the Committee and copies of transcripts are not given to the witnesses. Careful consideration is given to any concerns a witness may raise regarding the public dissemination of any parts of the transcript.

Please contact us contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, on (202) 225-2761 to make arrangements for the scheduling of this interview.

Thank you for your prompt attention to and cooperation with this matter.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



United States Department of the Interior RECEIVED
OFFICE OF THE SECRETARY COMMITTEE ON RESOURCES
Washington, DC 20240 2012 FEB -9 PM 6:37
FEB -9 2012

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Mr. Chairman,

This letter responds to your letters dated January 25 and January 31, 2012, requesting additional information regarding the manner in which the scope of peer review was described in the Executive Summary of the Department of the Interior's (Department's) 2010 report entitled "Increased Safety Measures for Energy Development on the Outer Continental Shelf" (ISM Report). Although the scope of the peer review as described in the executive summary of the ISM Report has already been publically addressed by the Department and thoroughly examined by the independent OIG, which found no intent to mislead, with this letter the Department continues to provide documents and make offers of accommodation as part of the Department's ongoing effort to accommodate the Committee's information needs.

Both the Committee's January 25 and 31 letters include a request for additional documents concerning communications with the peer reviewers as well as documents related to an apology letter sent by Deputy Secretary David Hayes to peer reviewers, additional documents regarding meetings between Secretary Salazar and the peer reviewers, and documents concerning drafts of any press releases or communications materials concerning the release of the ISM Report. The Department is in the process of reviewing the vast amount of material it has gathered related generally to the moratorium while initiating a new search for responsive documents from the specific individuals mentioned in the January 25 and 31 letters. As an initial production, the Department is producing 36 pages of internal Departmental emails, which we are transmitting to the Committee on the enclosed CD, entitled "00035235_Hastings_002". These materials supplement the production of correspondences with the peer reviewers previously produced by the Department on October 24, 2011. The Department is also prepared to provide your staff with the opportunity to review additional documents *in camera* regarding communications and meetings with the peer reviewers. We expect to supplement these offers in the near future.

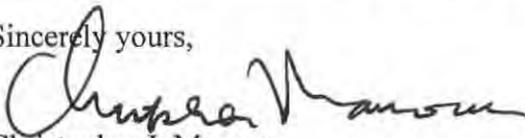
The Committee also requested documents related to edits to the executive summary of the report made after May 25, 2010. All documents that include edits, revisions, or changes to the draft executive summary of the ISM Report that illustrate the manner in which the placement of language regarding the peer review changed in the course of editing the executive summary and which lead to concerns that its scope was misrepresented were included by the OIG as six attachments to its report. We have engaged in a process of accommodation to meet the Committee's interest in those materials while respecting Executive Branch confidentiality interests, including offers of *in camera* review. In addition, documents regarding edits to the

executive summary that did not contain changes relevant to the description of the scope of the peer review were among the seven documents in the OIG's possession that were not attached to the OIG report. In each of its last three letters, the Department has offered to describe the nature of these documents to Committee staff, an offer the Department extends again here. We look forward to hearing from the Committee regarding this offer.

Through the Committee's April 25, 2011, letter and subsequent letters, we understood the Committee's intent to exercise Congress's oversight authority to investigate the manner in which the peer review was described in the executive summary of the ISM report and whether there was an intent to mislead the public regarding its scope. The Committee described in the April 25, 2011, letter its interest in reviewing the documents reviewed by the OIG. We have cooperated with the Committee to accommodate this interest in the description of the peer review. The Committee's most recent letter seeks specific information regarding the Department's decision-making about the moratorium while it was responding to a national emergency, and its work to develop the executive summary of the ISM Report that extend beyond the oversight interest articulated and implicate the Executive Branch's well-established confidentiality interests regarding its internal deliberations. These interests are especially strong here as the Committee's new requests implicate confidential, deliberative documents and communications of senior Executive Branch officials. As discussed above, we have worked to accommodate the Committee's oversight interests with respect to its interest in the description of the scope of the peer review in the executive summary and will continue to do so. We take this opportunity, however, to raise our serious concerns with respect to the Committee's suggestion that it intends to conduct oversight of the Department's work and decision-making more generally.

We look forward to continued cooperation with the Committee to work to satisfy its interest in the manner in which the scope of the peer review was described in the executive summary of the ISM Report and look forward to scheduling an opportunity for the *in camera* review of documents offered in this letter. If you have any questions or need additional assistance, please do not hesitate to contact me at (202) 208-7693.

Sincerely yours,



Christopher J. Mansour,
Director, Office of Congressional
and Legislative Affairs
U.S. Department of the Interior

cc: The Honorable Edward Markey
Ranking Member

The Honorable Doug Lamborn
Chairman, Subcommittee on Energy
and Mineral Resources

The Honorable Rush Holt
Ranking Member, Subcommittee on Energy
and Mineral Resources



United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

RECEIVED
COMMITTEE ON RESOURCES

2012 FEB -2 PM 5: 03

FEB 2 2012

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department of the Interior ("Department") is in receipt of your letter dated January 25, 2012, regarding the Department's ongoing response to the Committee's April 25, 2011, letter. In that letter, the Committee seeks information regarding the Department's Office of Inspector General 2010 Report of Investigation into the description of the peer review in the executive summary of the Department's 2010 report entitled "Increased Safety Measures for Energy Development on the Outer Continental Shelf" (ISM Report). The Department also received your letter of January 31, 2012, acknowledging that Committee staff have located the Department's October 24, 2011, submission to the Committee that provided both documents and an additional offer of accommodation responding to each of the information needs prioritized by the Committee in its last communication prior to the January 25 letter.

The Department respectfully disagrees with the characterization in your January 25 letter that the Department has failed to respond to your requests in a meaningful way or has defied repeated efforts by the Committee to obtain relevant documents and communications related to it. Instead, the communications between your office and the Department reflect the many efforts the Department has made to accommodate the Committee's requests for information related to the OIG investigation of the description of the peer review in the executive summary of the ISM Report.

Although the description of the peer review in the executive summary was already publicly addressed by the Department and thoroughly examined by the independent OIG, which found no intent to mislead, the Department has made offers of accommodation that include providing responsive documents, indices of attachments in the OIG report that implicate Executive Branch confidentiality interests, and offers to view material related to the OIG report that also implicate these interests. These offers were based on the Committee staff's identification of the Committee's most important information needs regarding the description of the peer review. These offers were accepted by Committee staff, who came to the Department to review documents. It is our view that when Department and Committee staff have engaged, it has resulted in a productive dialogue and a respectful accommodation of the constitutional interests of the legislative and executive branches. We believe that continued open communication between the Department and the Committee will allow the Department to continue to work to

meet the Committee's information needs regarding the description of the peer review and can help avoid any concerns and confusion about responsiveness in the future.

Contrary to the Committee's assertion in its January 31 letter, the documents provided with the Department's October 24 response, which comprised emails between Steve Black and Neal Kemkar and the Department's peer reviewers of the ISM Report, were responsive to the Committee's request for these documents in previous letters. In providing these documents, the Department has demonstrated transparency and dedication to accommodating the Committee's requests.

In addition, our previous letters have addressed the 13 OIG documents requested by the Committee. As noted in our letter on October 13, 2011, we have informed Committee staff both informally and formally that, of the 13 documents, six are copies of the same attachments to the 2010 OIG report for which the Department provided an index on August 2, 2011, and three of which Committee staff have reviewed *in camera* at the Department. With regard to the remaining seven, the Department provided an index describing all 13 documents, including the remaining seven on October 13, 2011 at which time the Department noted that these seven documents, although collected by the OIG, were not related to the Committee's articulated interest concerning how the peer review was described in the Executive Summary to the ISM report. Still, the Department offered in both its October 13 and 24 letters to accommodate the Committee's interest while respecting the Executive Branch confidentiality interests by meeting with Committee staff to provide more information on the nature of these documents. Although we have received no response, we continue to extend that offer of accommodation to the Committee.

In addition to the documents discussed in the preceding paragraph, the Committee's January 25 and 31 letters request additional documents to be produced by February 2. With respect to the request for documents sent by the Department to Committee staff with instructions for responding to the OIG's 2010 investigation, Secretary Salazar has instructed all employees of their obligations to cooperate with the OIG. A copy of his 2010 directive is included on the enclosed CD, titled "00035235_Hastings_001."

With regard to specific documents, it is the OIG that makes requests of individuals during the course of its investigation. We would be happy to brief the Committee regarding the manner in which the Department responded to the OIG requests as well as the manner in which the Department has handled the Committee's request for documents in this matter. The Committee also requested a copy of any index of administrative record prepared for the *Hornbeck* litigation. That litigation was terminated before an administrative record was completed and filed with the court. Accordingly, there was no administrative record index prepared for the *Hornbeck* litigation.

We look forward to continuing to work with the Committee over the coming weeks to meet the Committee's specific information needs regarding the description of the peer review and, as always, we remain committed to working to accommodate those needs to the fullest extent consistent with Executive Branch confidentiality interests and the Department's limited resources.

If you have any questions or need additional assistance, please do not hesitate to contact me at (202) 208-7693.

Sincerely yours,

A handwritten signature in blue ink that reads "Christopher Mansour". The signature is fluid and cursive, with the first name "Christopher" written in a larger, more prominent script than the last name "Mansour".

Christopher J. Mansour
Director, Office of Congressional
and Legislative Affairs
U.S. Department of the Interior

cc: The Honorable Edward Markey
Ranking Member

The Honorable Doug Lamborn
Chairman, Subcommittee on Energy
and Mineral Resources

The Honorable Rush Holt
Ranking Member, Subcommittee on Energy
and Mineral Resources

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

January 31, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

This letter is a follow up to our January 25, 2012 letter providing the Department of the Interior (“Department”) a final opportunity to comply with our April 25, 2011 request for documents about White House edits to the Executive Summary of the final report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf” (“ISM Report”) and notice of our intent to move to compel production of these documents if the Department does not voluntarily provide them. The edits in question implied that the moratorium had been peer reviewed by technical experts, who had provided input into the report’s recommendations when, in fact, they had not reviewed or endorsed the moratorium in the Executive Summary of the final report. A November 8, 2010 report from the Department’s Office of Inspector General (“OIG”) “determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.” As explained in our January 25 letter, almost 4 months passed before the Department released 15 pages of documents that had not already been provided by the Department’s OIG. In a letter dated August 16, 2011, the Department provided copies of 7 almost identical form letters sent by Deputy Secretary David Hayes apologizing to the peer reviewers for falsely conveying their endorsement of the six-month drilling moratorium, totaling 14 pages, along with a copy of the 1-page internal management clearance form for the final report.

Our January 25 letter also expressed concern with the adequacy of the Department’s search for documents. For example, during an August 19, 2011, meeting, Department staff informed Committee staff they had not identified any emails sent *after* the report was issued between Department staff and the peer reviewers. However, they explained the search had been limited to only the email files of only one DOI official, Steve Black. Committee staff responded that the Department needed to search the email files of additional Department staff, Neal Kemkar. In a September 28, 2011 letter, we said we expected the Department to produce by

October 5, 2011 emails sent between the additional Department staff and peer reviewers after release of the ISM Report. After passage of this deadline with no response, we sent a letter on October 13, 2011 reiterating our request for these emails. Several days later, we received a letter dated October 13, 2011 from Department staff stating the Department was still in the process of searching for and processing these emails and it expected “to respond to the Committee’s request regarding these communications in the near future.”

Since our January 25 letter, a review of our files identified a letter from the Department dated October 24, 2011, stating that a search of the Department’s email archives identified communications between the peer reviewers and both Mr. Kemkar *and* Mr. Black. The Department’s October 24 letter also stated it was providing 112 documents totaling 919 pages. While this production expands the number of pages provided by the Department beyond the 15 not already provided by the OIG, a review of this material shows that the Department has provided only 70 unique documents, not 112 documents as the letter suggests.

To be clear, Department staff informed Committee staff on August 19 that a search of Mr. Black’s emails had not identified any responsive records. When pressed by the Committee to conduct an additional search focusing on Mr. Kemkar’s files, the Department belatedly found emails involving Mr. Black that the Department had previously said did not exist. It is also unclear from the Department’s response whether it is withholding any responsive documents from Mr. Black’s and Mr. Kemkar’s files, including any internal DOI communications concerning the peer reviewers’ comments. Based on this response, we remain seriously concerned about the Department’s efforts to comply with our request.

Given the uncertainties involving the Department’s prior searches for documents, the Department should be conducting new searches as necessary to respond to our January 25 letter. That letter specifically sought documents generated by, received by, or prepared for Elizabeth Birnbaum, Walter Cruikshank, Mary Katherine Ishee, David Hayes, Steve Black, Neal Kemkar, Hilary Tompkins, Constance Rogers, Wilma Lewis, and Rhea Suh between the dates of April 20, 2010 and June 30, 2010, including any documents prepared for or sent to Secretary Salazar. Based on our review of the material provided by the OIG, it is expected that such documents exist and the Department should be able to locate them without any undue delay or burden. We also continue to object to the Department’s refusal to provide us with copies of the 13 OIG documents that the Solicitor’s Office has claimed are covered by an Executive Branch confidentiality interest or do not pertain to our investigation.

The materials provided with the October 24 response do not fully satisfy any of the final requests we made in last week’s letter, and we continue to expect the Department to provide the documents identified in our January 25 letter, in accordance with our stated deadlines. An attachment to this letter provides additional information about responding to the Committee’s request, including definitions and instructions for compliance.

We continue to request the Department provide this information by February 9, 2012:

1. Documents concerning the decision to include a moratorium in final ISM Report, including any analysis of legal authority for or economic impacts from the 6-month moratorium included in the Executive Summary.
2. Documents, including emails or other communications, concerning edits, revisions, or changes to the draft Executive Summary of the ISM Report made prior to May 25, 2010.
3. Documents, including emails or other communications, concerning edits, revisions, or changes to the draft Executive Summary of the ISM Report made on or after May 25, 2010.
4. Documents concerning communications with the peer reviewers, including emails or other documents transmitting drafts of the ISM Report and/or Executive Summary to the peer reviewers and talking points or other materials, meeting summaries, or staff notes concerning any conference calls or meetings with peer reviewers that occurred in May 2010.
5. Documents related to the apology letter David Hayes sent to peer reviewers on or about June 4, 2010, including drafts of the letters.
6. Documents concerning any conference calls and/or any follow up meeting between Secretary Salazar and peer reviewers during June 2010, including emails, calendar entries, talking points or other briefing materials, and meeting notes.
7. Documents concerning drafts of any press releases or communications materials concerning the release of the ISM Report and/or the 6-month moratorium referenced in the Executive Summary of the ISM Report.

In addition, due to the Department's lack of compliance to date, we request the Department provide the following information by February 2, 2012:

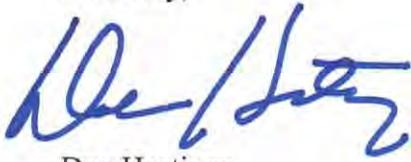
8. Documents, including emails or memoranda, sent by the Department to staff with instructions for assisting with or responding to the OIG's 2010 investigation into the editing of the ISM Report.
9. Documents, including emails, sent by the Department instructing staff to search for and/or collect records responsive to our April 25 request to the Department.
10. Copies of the 13 OIG documents the Department claims are either not responsive or withheld on a claim of Executive Branch confidentiality interest.
11. Copies of any emails related to communications with the peer reviewers, as described in our September 28 and October 13, 2010 letters, not previously provided to us.

12. A copy of any index of administrative record prepared for the *Hornbeck* litigation challenging the 6-month moratorium referenced in the Executive Summary of the ISM Report.

Please contact us, or have your staff your staff contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, with any questions regarding this request, or to make arrangements for the production of the requested material.

Thank you for the Department's prompt attention to this matter.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also

required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on

Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.

9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

January 25, 2012

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

It is with disappointment and deep frustration that we must again write regarding the Department of the Interior's failure to comply in a meaningful way to our April 25, 2011 request seeking 5 categories of documents related to White House edits that led to the inclusion of the 6-month Gulf of Mexico drilling moratorium in the Executive Summary of the final May 27, 2011 report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf" ("ISM Report"). The revisions in question implied that the moratorium had been peer reviewed by technical experts, who had provided input into the report's recommendations, when in fact, they had not reviewed or endorsed the moratorium in the Executive Summary of the final report. A November 8, 2010 report from the Department's Office of Inspector General ("OIG") "determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts." Many months have passed and yet the Department has provided virtually no responsive materials and, in fact, has blocked the OIG from providing documents requested by the Committee. This letter provides notice of our intent to move to compel cooperation and production of documents and communications in accordance with the deadlines listed below.

I. Department's Failure to Comply

Since our April 25, 2011 request, the Department has flouted this inquiry and defied repeated efforts to obtain documents and communications related to this matter. To be clear, during this nine months the Department has provided 15 pages of documents responsive to the requests that were not already disclosed by the OIG.

Following our April 25, 2011 request letter, an inquiry was received from Department staff in May 2011 seeking clarification of one part of the request, which was promptly provided.

Then, not a single page of responsive material was provided by the Department until August 1, 2011, when the Department provided us copies of the OIG's report and 11 attachments – all of which the OIG had already promptly provided to us on May 11, 2011. Despite having provided no information that was not already in our possession, the Department said in this August 1, 2011 communication that it could not further respond to our request without additional clarification. Our original April 25, 2011 request sufficiently described the narrow universe of information sought and the fact that the Department produced not a single document or communication that was not assembled and already disclosed by the OIG is not due to a lack of clarity, but a lack of compliance.

The request seeks 5 categories of documents related to the editing of the Executive Summary, including drafts and emails transmitting edits to Executive Summary of the final ISM Report and communications with the peer reviewers on the draft. The Department is certainly aware of which Department officials, likely limited in number, would have been engaged in editing and review of this document, and these activities occurred only during a defined period of time between April and June 2010. However, the Department has provided zero documents in response.

During an August 2, 2011 meeting, Committee staff reiterated that full compliance with the request was expected and provided specific subjects within our request that we wanted the Department to address in its response: information about who from the White House was involved in editing the document, communications between the Department and the peer reviewers before and after the ISM Report was issued, and the internal management clearance form for the report. In an August 15, 2011 letter, we encouraged the Department to seek clarification promptly of the request as necessary, adding the “fact that an item request may require the production of a large number of documents or documents that DOI prefers not to produce does not make the request unclear.” In a letter dated August 16, 2011, the Department provided copies of seven almost identical form letters sent by Deputy Secretary David Hayes apologizing to the peer reviewers for falsely conveying their endorsement of the six-month drilling moratorium, along with a copy of the internal management clearance form for the final report. We do not understand why it took the Department almost 4 month to provide us with these 8 documents totaling just 15 pages. All the more incredible is that these 15 pages are the sum total to date of the Department's own efforts to respond to our request.

We also have very real concerns about the adequacy of the Department's search for documents. For example, during an August 19, 2011, meeting, Department staff informed Committee staff they had not identified any emails between Department staff and the peer reviewers sent *after* the report was issued and explained the search had been limited to only the email files of only one DOI official. Committee staff responded that the Department needed to search the email files of additional Department staff. In a September 28, 2011 letter, we said we expected the Department to produce by October 5, 2011 emails sent between the additional Department staff and peer reviewers after release of the ISM Report. After passage of this deadline with no response, we sent a letter on October 13, 2011 reiterating our request for these emails. Several days later, we received a letter dated October 13, 2011 from Department staff stating the Department was still in the process of searching for and processing these emails and it

expected “to respond to the Committee’s request regarding these communications in the near future.” We are still awaiting the Department’s response three months later.

To be clear, documents concerning communications between Department officials and White House staff or with the peer reviewers about drafts of the ISM Report were included within the scope of our original April 25 request, and our subsequent efforts to provide clarity to the Department were intended to prod compliance and in no way diminished our repeatedly stated interest in obtaining all documents concerning these communications. Our understanding is that Department officials communicated with the peer reviewers on or about May 23, 2010 as part of their review of the draft ISM Report, that after the final report was issued one of the peer reviewers personally contacted a DOI official who later informed you about his concerns with the Executive Summary and then drafted the apology letter, and that you hosted a conference call with the peer reviewers in June 2010. Yet the Department has provided no documents on these matters in the nine months since our request, including drafts of the apology letters, emails concerning the peer reviewers comments to DOI staff before and after the ISM Report was issued, or the June 2010 conference call with the peer reviewers.

II. Department’s Deliberate Withholding of Office of Inspector General Documents

In addition to its near total defiance of our oversight requests, the Department has intervened and frustrated our attempts to obtain information from the OIG about its investigation into the editing of the ISM Report. The Department has actively prevented the OIG from providing documents to us.

As described above, we sent a separate request to the OIG also on April 25, 2011. The OIG promptly responded on May 11, 2011 and provided us with a copy of its November 2010 investigative report and copies of 11 attachments to the report. The OIG’s response, however, informed us it was unable to provide 6 additional attachments that the Department’s Office of Solicitor had claimed “reflect or constitute predecisional and deliberative interagency communications relating to the manner in which the 30-Day Safety Report was finalized, and thus raise important confidentiality interests of the Executive Branch.” The OIG’s letter said the Solicitor’s Office would be communicating directly with us to discuss its claim. The OIG concluded by clarifying that its investigation was “unable to independently conclude whether the implications contained in the 30-Day Report were intentional or not.”

We did not receive any communication from the Department about its concerns until after we sent a follow up letter on July 18, 2011. During a July 29, 2011 conference call, Solicitor’s Office staff offered to provide an index of the 6 withheld attachments and to allow Committee staff to review 1 of the 6 withheld attachments. Committee staff agreed to this as an interim step but reiterated that we continued to expect compliance with the full request. During the August 2 meeting described above, Committee staff reviewed this 1 attachment: a copy of an OIG document summarizing emails between DOI senior officials and White House staff sent May 26, 2010 and May 27, 2010 that were transmitting edits to the Executive Summary.

In a letter dated August 1, 2011 letter, Department staff stated that it was unable to provide us with a copy of that one withheld attachment because it implicated important Executive Branch confidentiality interests. It did not provide any explanation about why it could not provide the other 5 documents being withheld. As described above, we sent a letter to you on August 15, 2011 expressing frustration with the Department's response to this and two other requests for information. In a letter dated August 16, 2011, your staff offered to make available for inspection two more of the withheld attachments to the OIG report. [As described above, this letter also transmitted copies of the apology letter Deputy Secretary Hayes sent to the peer reviewers and the internal management clearance form for the final report.]

On August 19, 2011, Committee staff reviewed these 2 withheld OIG attachments: copies of two emails between Department officials and White House staff transmitting the drafts of the Executive Summary that were discussed in the other OIG attachment Committee staff had reviewed on August 2. The Department's August 16 letter states these two emails "constitute all of the email communications between senior officials in the Department and White House staff that were described in the [previously reviewed OIG document]." However, this narrow response does not make clear whether the Department has other potentially responsive documents reflecting communications with the White House or edits made by the White House that were not described in the OIG document.

In a letter dated August 17, 2001, the OIG provided us an additional 22 documents and informed us that it was unable to provide an additional 7 documents it had identified per directions from the Department's Solicitor's Office. So, at the aforementioned August 19, 2011 meeting, Committee staff requested copies of the 7 newly identified OIG documents that the Department was withholding, to which Department staff responded they could not provide these 7 documents until after they had reviewed them. In the letter dated September 28, 2011 discussed above – sent almost a month and a half after we were first informed that the Department needed to review the 7 newly identified OIG documents – we reiterated our request for the 7 documents supposedly undergoing review. After no response, we sent yet another letter on October 13, 2011, demanding full and complete compliance with the request. It is difficult to comprehend how it could legitimately take the Department two months to review these 7 documents.

By letter dated October 13, 2011, Department staff responded that the 7 newly identified OIG documents concern Executive Branch confidentiality interests and "do not pertain to the subject of your inquiry." It is not appropriate for the Department to unilaterally determine what does or does not pertain to our investigation. It also strains credulity to say the documents in question, which were compiled by the OIG as part of its investigation into the White House's editing of the ISM Report, do not pertain to our investigation into the White House's editing of the ISM report. The Department has also asserted that these documents implicate some confidentiality interest without claiming any specific privilege and offers a belated "accommodation" of providing Committee staff with more information on these documents. This is unacceptable and is consistent with the pattern of delay the Department employs in response to the Committee's requests.

We have difficulty understanding the Department's concern about releasing these OIG documents, other than the fact some of them discuss communications between Department officials and White House staff. That alone is an insufficient excuse for withholding the OIG documents from the Committee. The events discussed in the documents are already publicly known and reflected in the OIG's public November 2010 report. Furthermore, disclosure of these documents could not injure an ongoing deliberative process, as the ISM Report was finalized and publically released a year and a half ago and already subject to litigation, which the Department lost. The production of all 13 documents that the Department has blocked the Inspector General from providing is expected by February 1, 2012 absent a valid claim of Executive Privilege by the President.

III. Department's Vague Privilege Claims are Without Merit

We have exhibited considerable patience and restraint in light of the Department's disregard for this legitimate oversight request. The Department has generally and vaguely said a number of the documents we are seeking implicate confidentiality interests of the Executive Branch. As has been explicitly expressed in multiple letters and staff conference calls, the generalized claim of an Executive Branch confidentiality interest is not a legal basis for withholding information from Congress. Even if this claim could be considered a privilege assertion, as we have noted to you on numerous occasions, including our April 25 request letter and July 18 and August 15 follow up letters, claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are applicable only at the discretion of the Chairman. We are especially troubled by the Department's apparent disregard for our oversight authority, notwithstanding the President's stated commitment to create "*an unprecedented level of openness in Government.*" See Memorandum for the Heads of Executive Departments and Agencies regarding Transparency and Open Government, Jan. 21, 2009. (Emphasis added.)

The President has advised agencies that "*[i]n the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve.*" See Memorandum for the Heads of Executive Departments and Agencies regarding Freedom of Information Act, Jan. 21, 2009. (Emphasis added.) As part of the Department's efforts to implement the President's policy in favor of openness, you issued a memorandum on July 2, 2009 to all Department employees that, "*The Department will only withhold information when we reasonably can foresee that its release would harm an interest protected by a FOIA exemption (e.g., our national security or the privacy interests of individuals) or when disclosure is prohibited by statute. The President's and Attorney General's messages extend beyond the boundaries of the FOIA. They call upon agencies to aggressively increase proactive disclosures of information that is of interest to the public, thus vastly increasing information that is available on the internet. Our goal is to increase transparency.*" (Emphasis added.)

To date, the Department has asserted a generalized claim of an Executive Branch confidentiality interest as the reason for refusing to provide requested material. As we expressed in the letter dated August 15, 2011, this is not a legal basis for withholding information from Congress. The Department has failed to provide a detailed privilege log identifying the documents it is withholding in full or in part and the legal basis that would justify applicability of a privilege to the withheld information, despite repeated requests for the Department to do so.

As best we understand the Department's arguments to date, the Department considers certain withheld information to be protected from disclosure to Congress by the deliberative process privilege. As a qualified privilege, the deliberative process privilege is not an absolute bar against disclosure and, regardless, cannot be used to shield purely factual information. Even under its faulty logic, the Department would be obligated to examine each document and provide non-privileged portions in response to a public request under the Freedom of Information Act ("FOIA"). The Department's response to our April 25 request appears to fall short even of what it would be obligated to provide the public under FOIA. In contrast, the Department here is making a blanket claim of the privilege to withhold broad categories of information from Congress and appears to be refusing to provide even non-exempt documents or portions of documents or a detailed explanation of its search and withholdings. This is unacceptable and cannot continue.

IV. Final Opportunity for the Department to Comply

It is expected that the following items will be provided by the Department no later than February 9, 2012. Although these subject areas were encapsulated within the categories of documents in our April 25 request, we request the Department provide copies of these specific documents described below by this date. This in no way limits or excuses the Department from full compliance with complying with these prior, standing requests not reflected below. Please focus your response on documents generated by, received by, or prepared for Elizabeth Birnbaum, Walter Cruikshank, Mary Katherine Ishee, David Hayes, Steve Black, Neil Kemkar, Hilary Tompkins, Constance Rogers, Wilma Lewis, and Rhea Suh between the dates of April 20, 2010 and June 30, 2010, including any documents prepared for or sent to Secretary Salazar. Based on our review of the material provided by the OIG, it is expected that such documents exist and the Department should be able to locate them without any undue delay or burden. An attachment to this letter provides additional information about responding to the Committee's request, including definitions and instructions for compliance.

1. Documents concerning the decision to include a moratorium in final ISM Report, including any analysis of legal authority for or economic impacts from the 6-month moratorium included in the Executive Summary.
2. Documents, including emails or other communications, concerning edits, revisions, or changes to the draft Executive Summary of the ISM Report made prior to May 25, 2010.

3. Documents, including emails or other communications, concerning edits, revisions, or changes to the draft Executive Summary of the ISM Report made on or after May 25, 2010.
4. Documents concerning communications with the peer reviewers, including emails or other documents transmitting drafts of the ISM Report and/or Executive Summary to the peer reviewers and talking points or other materials, meeting summaries, or staff notes concerning any conference calls or meetings with peer reviewers that occurred in May 2010.
5. Documents related to the apology letter David Hayes sent to peer reviewers on or about June 4, 2010, including drafts of the letters.
6. Documents concerning any conference calls and/or any follow up meeting between Secretary Salazar and peer reviewers during June 2010, including emails, calendar entries, talking points or other briefing materials, and meeting notes.
7. Documents concerning drafts of any press releases or communications materials concerning the release of the ISM Report and/or the 6-month moratorium referenced in the Executive Summary of the ISM Report.

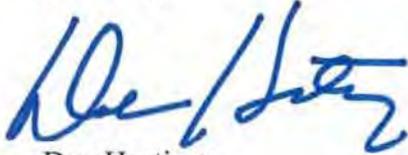
In addition, due to the Department's lack of compliance to date, we request the Department provide the following information by February 2, 2012:

8. Documents, including emails or memoranda, sent by the Department to staff with instructions for assisting with or responding to the OIG's 2010 investigation into the editing of the ISM Report.
9. Documents, including emails, sent by the Department instructing staff to search for and/or collect records responsive to our April 25 request to the Department.
10. Copies of the 13 OIG documents the Department claims are either not responsive or withheld on a claim of Executive Branch confidentiality interest.
11. Copies of any emails related to communications with the peer reviewers, as described in our September 28 and October 13, 2010 letters.
12. A copy of any index of administrative record prepared for the *Hornbeck* litigation challenging the 6-month moratorium referenced in the Executive Summary of the ISM Report.

Please contact us, or have your staff your staff contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, with any questions regarding this request, or to make arrangements for the production of the requested material.

Thank you for the Department's prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings".

Doc Hastings
Chairman
Natural Resources Committee

A handwritten signature in blue ink, appearing to read "Doug Lamborn".

Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also

required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on

Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.

9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

OCT 24 2011

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

Your September 28 and October 13, 2011 letters to the Department requested additional information regarding thirteen documents the Office of Inspector General (OIG) held back from a document production to the Committee and certain email communications between Neal Kemkar and the engineers who peer reviewed the 30-Day Safety Report. The Department responded to your request regarding the OIG documents in a letter dated October 14, 2011 with information and an offer to discuss the documents further.

With this letter, the Department is providing email communications between Neal Kemkar and Steve Black and the peer reviewers regarding the portrayal of the scope of the peer review in the Executive Summary of the report. A search of the Department's email archives identified email communications between the peer reviewers and both Neal Kemkar and Steve Black, and communications with both are included on the enclosed CD, which is titled "00032227_Hastings_001" and contains 112 documents totaling 919 pages. Several of the documents contain minor redactions to protect personally identifiable information.

We look forward to continued cooperation with the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
And Legislative Affairs

Enclosure

cc: The Honorable Doug Lamborn
Chairman, Subcommittee on
Energy and Mineral Resources

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
LOUIE GOHMERT, TX
ROB BISHOP, UT
DOUG LAMBORN, CO
ROBERT J. WITTMAN, VA
PAUL C. BROUN, GA
JOHN FLEMING, LA
MIKE COFFMAN, CO
TOM MCCLINTOCK, CA
GLENN THOMPSON, PA
JEFF DENHAM, CA
DAN BENISHEK, MI
DAVID RIVERA, FL
JEFF DUNCAN, SC
SCOTT R. TIPTON, CO
PAUL A. GOSAR, AZ
RAÛL R. LABRADOR, ID
KRISTI L. NOEM, SD
STEVE SOUTHERLAND II, FL
BILL FLORES, TX
ANDY HARRIS, MD
JEFFREY M. LANDRY, LA
CHARLES J. "CHUCK" FLEISCHMANN, TN
JON RUNYAN, NJ
BILL JOHNSON, OH

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

October 13, 2011

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RAÛL M. GRIJALVA, AZ
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PEDRO R. PIERLUISI, PR
JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

On September 28, 2011, the Committee once again wrote you to request that the Department of the Interior (DOI) provide documents and information relating to the Committee's investigation into whether senior officials of DOI, in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts. Specifically, the Committee requested copies of the seven emails that were withheld by DOI's Office of the Inspector General per instructions from DOI's Office of the Solicitor, and any email communications between Mr. Kemkar and the engineers following the release of report "Increased Safety Measures for Energy Development on the Outer Continental Shelf" by October 5, 2011. The Committee did not receive a response from DOI.

As you are aware, the Committee began its investigation in July 2010 and the Committee's first request for documents and information to DOI was made in April 2011. Although some documents have been made available for review by Committee staff, taken as a whole, DOI's response can best be characterized as an exercise in deliberate delay and noncompliance. Couched with claims of limited resources and privilege concerns, DOI continually professes the desire to be responsive to the Committee's requests, but has only allowed a limited review of several documents or provided publically available documents and often does not provide any written response until after the deadline imposed by the Committee has passed. We are frustrated by these tactics and pattern of delay and the non-response to official Congressional oversight of DOI. Over six months have passed, and on numerous occasions, the Committee has requested DOI produce the requested documents and information, and the Committee continues to wait for DOI to fully comply with all the requests.

Consequently, this letter serves as a final request for complete compliance with the requests for documents and information under the terms contained in the Committee's letters dated information and documents by letters of April 25, 2011; July 18, 2011; August 15, 2011; and September 28, 2011. DOI's response is due no later than October 17, 2011. If DOI fails to once again meet the Committee's deadline, we will consider exercising the Committee's authority to compel compliance with the requests through the issuance of subpoenas.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings".

Doc Hastings
Chairman
Natural Resources Committee

A handwritten signature in blue ink, appearing to read "Doug Lamborn".

Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

OCT 13 2011

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

This letter responds to your letter of September 28, 2011 requesting additional information regarding the manner in which the scope of the peer review was presented in the Executive Summary of the 30-Day Safety Report.

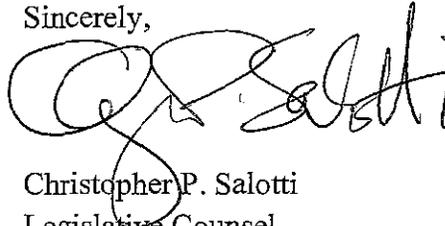
In your September 28 letter, you refer to thirteen documents the Office of Inspector General (OIG) held back from a document production to the Committee. An attachment describing these thirteen documents is enclosed with this letter.

As Department of the Interior staff conveyed to your Committee staff at the meeting referenced in your letter, six of the thirteen documents are the same as the six attachments to the OIG's 2010 Report entitled "Federal Moratorium on Deepwater Drilling" which, as the Department previously explained, implicate important Executive Branch confidentiality interests. In an effort to accommodate the Committee's oversight interests in a manner consistent with these confidentiality interests, the Department shared information with your staff regarding those six documents, and provided your staff with the opportunity to review *in camera* three of those documents at the Department, including two of the seven emails (Attachments #13 and #15) referenced by the OIG in its August 17, 2011 letter.

The remaining seven documents also implicate important confidentiality interests of the Executive Branch. Unlike the attachments to the OIG report, however, none of these documents pertain to the subject of your inquiry – that is, the exchange described in the OIG report concerning edits made to the peer review reference in the Executive Summary. In order to accommodate the Committee's interest while respecting the Executive Branch confidentiality interests described above, Department staff are able to meet with Committee staff to provide more information on these documents at their convenience.

The Department is in the process of searching for and processing communications between Neal Kemkar and the engineers who peer reviewed the technical recommendations included in the 30-Day Report regarding the portrayal of the peer review in the Executive Summary. We expect to respond to the Committee's request regarding these communications in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Salotti". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

Item No.#	Document Type	Document Description
12	OIG Investigative Activity Report	OIG's analysis of differences between drafts of executive summary of the draft 30-day report Attachment #12 to OIG Report
13	E-mail	E-mail from Black to Aldy transmitting draft of 30-day report Attachment #13 to OIG Report
14	Draft report (attachment to e-mail in Attachment 13)	Draft 30-day report Attachment #14 to OIG Report
15	E-mail	E-mail from Aldy to Black transmitting two edited versions of the draft 30-day report Attachment #15 to OIG Report
16	Draft report (attached to e-mail in Attachment 15)	Revised version of the draft 30-day report Attachment #16 to OIG Report
17	Draft report (attached to e-mail in Attachment 15)	Revised version of draft 30-day report Attachment #17 to OIG Report
27	Draft reports	Two revised drafts of the report that were included as Attachments 16 and 17 to the OIG Report and described in Attachment 12
29	Draft memo and draft report	Draft cover memo and draft of the 30-day report
30	E-mail	E-mail from Black to Aldy transmitting a draft of the 30-day report
31	E-mail, two draft reports	E-mail from Black to Kemkar transmitting two revised versions of draft of the 30-day report
32	E-mail, two copies of draft report, draft memo	E-mail from Kemkar to Aldy transmitting two copies of a draft 30-day report and draft cover memo
33	E-mail, draft report	E-mail from Black to Aldy with draft 30-day report
34	E-mail	E-mail from Kemkar to Black transmitting two revised versions of draft of the 30-day report

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
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CHARLES J. "CHUCK" FLEISCHMANN, TN
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 28, 2011

EDWARD J. MARKEY, MA
RANKING DEMOCRATIC MEMBER
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JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

As you are aware, the Committee is conducting an investigation into whether senior officials of the U.S. Department of the Interior (DOI), in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts. The Committee has requested documents and information from both DOI and DOI's Office of the Inspector General.

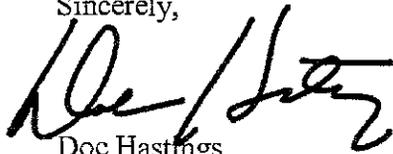
On August 17, 2011, DOI's Office of the Inspector General produced a number of documents to the Committee, but withheld thirteen documents, including seven documents which are email communications between senior DOI officials and the White House based on instructions received from DOI's Office of the Solicitor. On August 19, 2011, Committee staff met with DOI staff to review attachments 13 and 15 the DOI's Office of Inspector General's Report of Investigation on the Federal Moratorium on Deepwater Drilling (Report of Investigation). This meeting was part of an ongoing process that Committee staff has been engaged in with DOI staff to obtain responsive documents from DOI. During this meeting, Committee staff requested copies of the seven emails that were withheld by DOI's Office of the Inspector General. DOI staff indicated that they had recently learned of the emails and had not yet completed a review of the emails. Because it has been several weeks since this meeting, the Committee is confident that DOI has had sufficient time to review these seven emails, and requests that the seven emails now be provided to the Committee no later than October 5, 2011. These emails clearly fall within the Committee's original request to DOI for documents and information relating to the Report of Investigation made in April and reiterated in July.

Additionally, at the August 19th meeting, DOI staff informed Committee staff that they had conducted a search for any email communications between DOI and the engineers after the Report "Increased Safety Measures for Energy Development on the Outer Continental Shelf"

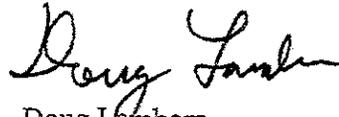
was made public and that no emails had been located. Committee staff had requested these emails be produced during a meeting with DOI staff held on August 2nd. DOI staff, however, limited the search to Steve Black's email account. At the August 19th meeting, Committee staff requested that the search be expanded to include a search of Neil Kemkar's archived email account. The Committee requests that copies any email communications between Mr. Kemkar and the engineers following the release of the report referenced above also be produced to the Committee no later than October 5, 2011.

We look forward to DOI producing these documents and fulfilling its obligation to respond to Committee's requests.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

AUG 17 2011

The Honorable Doc Hastings
Chairman
Committee on Natural Resources
Washington, DC 20515

Dear Mr. Hastings:

This is in response to your August 1, 2011 request for additional documents relating to the report from my office entitled, "Federal Moratorium on Deepwater Drilling." On August 10, members of my staff met with Committee on Natural Resources Chief of Staff Todd Young and Senior Counsel Traci Rodriguez and had a productive discussion that has assisted us in preparing this response.

We have identified the universe of documents that my office has that relate to our Moratorium report. We are providing you in the enclosed DVD an indexed copy of all of these documents with the exception of those documents described below that the Department of the Interior (Department), Office of the Solicitor has identified as "reflecting confidential, deliberative documents and/or communications between senior officials in the Department and the White House." My office is not asserting any privilege with respect to these documents. However, pursuant to written Department policies that were the product of negotiations between my office and Department officials (copies of which were provided to Mr. Young and Ms. Rodriguez at the August 10 meeting), my office is given access to all documents we request and the Department maintains the right to assert a privilege before any document is released, as it has done here.

There are 47 separate documents that we have identified and we are providing you all but thirteen of those documents. Of the thirteen excluded documents, seven documents are email communications between senior Department officials and the White House (some of which contain attachments of drafts of the "Increased Safety Measures for Energy Development on the Outer Continental Shelf" Report (ISM Report)); one is a May 26 draft memorandum from the Secretary to the President with a draft of the ISM Report; four are drafts of the ISM Report; and one is an Investigative Activity Report detailing our analysis of email communications between senior Department staff and White House staff.

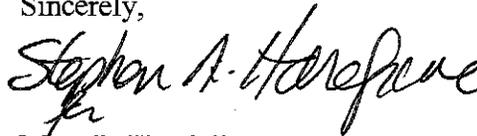
Your August 1 letter also asked us to identify individuals that we interviewed and sought to interview in connection with our Report of Investigation. The identity of the individuals we did interview are contained in the enclosed interview reports and agent interview notes. We are also providing you the transcript of the one interview that was recorded. No individuals declined to be interviewed during the course of our investigation. With respect to item (d) of your August 1 letter, we are not aware of any individuals or entities who received versions of the draft report

beyond those individuals identified in our report. If any such individuals do exist, that information would be with Department officials.

These documents contain information which is exempt from disclosure to the public under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. We respectfully request that you and your staff treat all of this information accordingly.

If you have any questions, please do not hesitate to contact me, or your staff may contact Kris Kolesnik, Associate Inspector General for External Affairs, at 202-208-5745.

Sincerely,

A handwritten signature in black ink that reads "Stephen A. Harpune". The signature is written in a cursive style with a large, sweeping "S" and "H".

Mary L. Kendall
Acting Inspector General

Enclosures



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 16 2011

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Hastings:

We are in receipt of your letter of August 15, 2011, regarding the Department's response to your April 25, 2011, letter seeking information on the Department of the Interior's Office of Inspector General Report of Investigation on the Federal Moratorium on Deepwater Drilling.

What follows is a response we had prepared to your April 25 request in light of our August 2, 2011 meeting with Committee staff. Because we believe the letter we have prepared responds to most of the requests you have identified as priority interests, we are providing this response as planned while we work to understand and accommodate remaining needs articulated to us.

While we disagree with some of the characterizations made in your August 15 letter, we very much appreciated the opportunity to meet with Committee staff in person on August 2 to facilitate their review of Attachment 12 of the the Office of Inspector General's 2010 report entitled "Federal Moratorium on Deepwater Drilling." This letter responds to the conversation between Committee staff and Department of the Interior personnel in that meeting regarding your April 25 letter.

The April 25 letter stated the Committee's view that the Office of Inspector General's report inadequately discussed the drafts of the Executive Summary and communications that the OIG reviewed, and requested information and documents "reviewed by the OIG in reaching its conclusion." Although the topic the Committee has expressed interest in – the manner in which the scope of the peer review was presented in the Executive Summary of the 30-Day Safety Report – was already publicly addressed by the Department and thoroughly examined by the independent OIG, which found no intent to mislead, the Department is committed to assisting the Committee in meeting its information needs regarding this issue.

We regret that your Committee staff was unable to fully access the information on the CD, including the eleven attachments to the OIG report. However, we have confirmed by testing a duplicate of the disk provided to the Committee that attachments 1 – 11 are available by either clicking on the citations to the attachments themselves within the text of the report, or by

clicking on the paper clip icon in the lower left-hand margin of the document. Should your staff continue to have difficulties accessing the information on the CD, we would be happy to assist them at their convenience.

We are pleased that the Department and Committee staff have engaged in a productive dialogue to help the Department accommodate the Committee's request for additional information regarding the documents at the heart of the OIG investigation.

We also appreciate acknowledgment in your August 15 letter of the accommodation reached with your staff regarding the review of an attachment to the OIG report that had not been included with the OIG report. As acknowledged in your letter, we had determined that attachment, an OIG Investigative Activity Report (IAR), implicates important confidentiality interests of the Executive Branch, as it describes in detail confidential, deliberative documents and communications between senior officials in the White House and the Department. This document provides the OIG's independent analysis and details the documents that your April 25 letter had criticized the OIG for inadequately describing in its report. The Department shared this document with Committee staff in order to assist the Committee with its oversight responsibilities while respecting Executive Branch interests.

As part of our July 29 conversation with Committee staff, as confirmed in our August 1 letter, we also had agreed to provide the Committee staff with an index of the remaining attachments to the OIG report that we have not provided because they implicate Executive Branch confidentiality interests. That document was provided on August 2, when Committee staff visited the Department to review the OIG IAR.

With this letter, the Department is offering additional accommodations in response to the questions raised by Committee staff in our August 2 meeting related to the scope of the peer review of the 30-Day Safety Report. Although attachments 13 and 15 of the OIG Report implicate important Executive Branch confidentiality interests, as an accommodation to the Committee, the Department invites Committee staff to the Department to view these documents at your convenience. Those attachments constitute all of the email communications between senior officials in the Department and White House staff that were described in the IAR.

As a further accommodation, we also are providing with this letter additional documents that the Committee has requested: copies of letters sent to the peer review scientists immediately following publication of the 30-Day Safety Report (we are not aware of any emails sent after the report regarding the representation of the scope of the peer review), as well as the official surname record of internal clearance of the 30-Day Safety Report. These documents are contained on the enclosed CD, titled "00028004_Hastings_001," and index.

We are committed to exploring further means of accommodating any remaining questions that the Committee has regarding the scope of the peer review for the 30-Day Safety Report in a way that respects Executive Branch confidentiality interests and the Department's resources. We

look forward to continuing to work with you on this matter, including by scheduling a time for Committee staff to view the documents described above.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Mansour". The signature is fluid and cursive, written over the printed name.

Christopher J. Mansour
Director
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Doug Lamborn
Chairman, Subcommittee on
Energy and Mineral Resources

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
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JON RUNYAN, NJ
BILL JOHNSON, OH

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 15, 2011

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COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Mr. Secretary:

The Committee is in receipt of the August 1, 2011 letter from the Department of the Interior's (DOI) Office of Congressional and Legislative Affairs relating to the status of several formal document and information requests the Committee has made to the DOI and its bureaus during the 112th Congress. Although the August 1st letter discusses the requests collectively, because the issues regarding DOI's compliance in each matter vary, for the purpose of clarity, the Committee will address each in separate correspondences. In this letter, the Committee will specifically speak to DOI's response to date and statements contained in the August 1st letter concerning the DOI's Office of Inspector General's Report of Investigation on the Federal Moratorium on Deepwater Drilling (Report of Investigation). The Committee's original request to DOI for documents and information relating to the Report of Investigation was made by letter dated April 25, 2011 and the request was reiterated in the Committee's July 18, 2011 letter.

The Committee appreciates DOI's statement in its August 1st letter that DOI recognizes this Committee's legitimate and important oversight responsibilities and pledge to work with the Committee to provide materials responsive to the Committee's needs. It is important that this recognition and pledge result in actual compliance. The Committee has reservations based on DOI's actions to date and failure to produce any responsive documents to the Committee's April 25th letter until August, months after the May 13th deadline imposed by the Committee. To avoid any confusion, your August 1st letter reference to a production of approximately 10,500 pages of documents by DOI concerns a separate document request the Committee has made to DOI regarding OSM's revision of the 2008 Stream Buffer Zone Rule. The Committee notes that the disc that was produced to the Committee on August 1, 2011 relating to the Moratorium contains only an unredacted version of the OIG's report, a report that the OIG provided the Committee in May. The disc does not contain the eleven attachments that your letter states were also being produced to the Committee.

In the August 1st letter, DOI noted that there have been conversations with Committee staff seeking clarity regarding request item (e) as set forth in the Committee's April 25th letter. On May 19, 2011, the first telephone conference call was held between DOI and Committee staff regarding the Committee's April 25th letter. During this call, DOI sought clarification about request item (e) and that Committee staff provided clarification via email that same day, noting that "in item 'e,' we are referring to the 6-month moratorium on deepwater drilling in the Gulf of Mexico that was imposed and immediately followed the May 27, 2010 Report entitled 'Increased Safety Measures for Energy Development on the Outer Continental Shelf.' This safety report was the subject of the Inspector General's Report of Investigation – Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562-I." Despite that prompt clarification, no documents or information was forthcoming from DOI nor were there any further requests for clarity until after the Committee's letter of July 18th. These requests for further clarity came on the July 29th telephone call and DOI's letter of August 1st. While the Committee encourages DOI to seek clarification when necessary, it is disappointing for DOI to seek clarification of requests only after the original document production deadline has passed and the Committee has been forced to send a follow up letter. It creates the impression that DOI is not truly seeking clarification, but is engaged in unwarranted delay. If DOI has specific requests for clarification and explanation, they should be stated promptly. In reviewing each item request made by the Committee, they are stated plainly and clearly. The fact that an item request may require the production of a large number of documents or documents that DOI prefers not to produce does not make the request unclear.

Also during the July 29th conference call between DOI and Committee staff, Committee staff was invited to review the OIG Investigative Activity Report (IAR) and an index of withheld attachments to the IG Report. The IAR and the documents listed on the index had been previously withheld as privileged materials by DOI's Acting Inspector General based on instructions received from DOI's Office of the Solicitor. The Committee staff's review occurred on August 2, 2011. The Committee believes that this was a positive step taken by DOI to comply with the Committee's requests.

The Committee, however, disagrees with the assertion contained in your August 1st letter that after the review of the IAR, Committee staff had "committed that if the Committee ha[d] further information needs after reviewing the IAR and the index, the Committee would work with the Department to narrowly focus the Committee's request in a manner that respects Executive Branch confidentiality interests and the Department's limited resources." As indicated in an email sent to DOI staff prior to the review and consistent with July 29th conversation held between Committee staff and DOI, the Committee fully reserved the right to continue to seek a more complete response to the document request contained in the Committee's April 25th letter and referenced in the Committee's July 18th letter. The email also noted that although the Committee was aware of the DOI's concerns about Executive Branch confidentiality interests, the Committee had not agreed to limit its original request nor was this limited review a substitute for complete compliance.

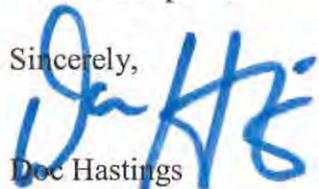
Cognizant of DOI's concerns, the Committee has previously provided DOI instructions in the April 25th letter on how to produce responsive documents that may contain information that implicate DOI's confidentiality concerns. If compliance with the document request cannot be

made in full, compliance shall be made to the extent possible and shall include an explanation why full compliance is not possible. *See* Instructions, ¶7. Further, in the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author and recipient; and (e) the relationship of the author and recipient to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are ultimately up to the discretion of the Committee. *See* Instructions, ¶8. This request is continuing in nature and applies to any newly discovered information. *See* Instructions, ¶11. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the deadline set out in the original request, shall be produced immediately upon location or discovery subsequent thereto. *Id.*

Following the review of the IAR and index on August 2nd, Committee staff did provide some guidance to DOI staff about some specific items to help DOI focus its search for responsive documents and information. Committee staff also made it abundantly clear that this guidance did not limit the requests outlined in the April 25th letter nor was production of this focused information considered DOI's complete response to the Committee's requests. Specifically, DOI was requested to provide further details to the index Committee staff reviewed, such as who received carbon copies of the Attachment 13 and Attachment 15; identify who was involved in the editing of the drafts exchanged between DOI and the White House on May 26, 2011 and May 27, 2011; the surname of the Draft 30-Day Report (all versions); and any and all emails exchanged between DOI and the engineers after the Report "Increased Safety Measures for Energy Development on the Outer Continental Shelf" was made public. The Committee asks that this information be received by the Committee no later than August 29, 2011 and include the eleven attachments that DOI failed to include on the disc produced to the Committee on August 1st.

We look forward to DOI producing additional documents and fulfilling its obligation to respond to Committee's requests.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

August 1, 2011

The Honorable Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, NW – Mail Stop 4428
Washington, DC 20240

Dear Ms. Kendall:

On April 25, 2011, we requested the underlying documents, drafts and communications reviewed by the Office of Inspector General (OIG) in reaching its conclusion and issuing its Report of Investigation – Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562-I. Specifically, we requested the following items:

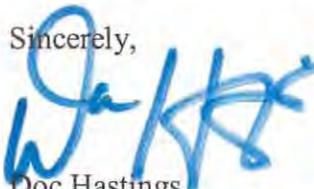
Any and all documents, referring, relating, or pertaining, directly or indirectly, to:

- a. The Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to emails or other communication regarding the Executive Summary or any portion of the draft report “Increased Safety Measures for Energy Development on the Outer Continental Shelf;”
- b. Drafts, revisions, excerpts, inserts, deletions, or other alterations or modifications of the Executive Summary or any portion of the draft report “Increased Safety Measures for Energy Development on the Outer Continental Shelf;”
- c. Witnesses or individuals interviewed or sought to be interviewed, whether formally or informally, in connection with the Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to interview transcripts, notes, summaries, letters, or other communications;
- d. Individuals or entities including their titles and telephone and mailing contact information receiving any version, in whole or in part, of the draft report pertaining to the “Increased Safety Measures for Energy Development on the Outer Continental Shelf” and the dates on which draft reports were received; and
- e. A moratorium on drilling including but not limited to communications.

A complete written response was to be provided to the Committee no later than May 13, 2011. On May 11, 2011, OIG provided the Committee with two copies of Report of Investigation – Federal Moratorium on Deepwater Drilling Case with eleven attachments. Six other attachments were withheld as potentially privileged per instructions given to OIG by DOI Deputy Solicitor Arthur Gary. In the letter which accompanied this production, OIG indicated that Mr. Gary would be contacting the Committee to assert DOI's claim of privilege over these withheld documents. Mr. Gary has not contacted the Committee in any manner to assert a privilege nor to extend an invitation to communicate directly with his office to reach a mutually agreeable accommodation regarding the six withheld attachments. Following the May 11th production, OIG has not produced any additional documents, including the names of the individuals or entities receiving any version, in whole or in part, of the draft report pertaining to the "Increased Safety Measures for Energy Development on the Outer Continental Shelf" and the dates on which draft reports were received or an inclusive listing of the witnesses or individuals interviewed or sought to be interviewed as requested in items c and d of the April 25th letter. See Request c,d.

Because it has been several months since OIG's production of documents, we write to ask OIG to confirm that its May 11th response is its complete written response to the Committee's April 25th letter. If not, the Committee requests that OIG provide additional responsive documents no later than August 16, 2011. Your response should conform with the Instructions included in the Committee's April 25th letter to you.

If you have any questions about this matter or to make arrangements for production, please do not hesitate to contact Traci Rodriguez, Senior Counsel, Office of Oversight and Investigations. We look forward to your timely response.

Sincerely,

Doc Hastings
Chairman
Natural Resources Committee


Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 01 2011

The Honorable Doc Hastings, Chairman
House Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Hastings:

The Department of the Interior is in receipt of your three letters, dated July 18, 2011, that relate to the status of several of the requests for documents and information that you have made to the Department and its bureaus during the 112th Congress.

Specifically, these letters address requests for documents and information that relate to -

- all lawsuits currently filed or pending against the Department of the Interior and its bureaus, agencies, and offices;
- the Office of Surface Mining, Regulation and Enforcement's ongoing Stream Protection rulemaking; and
- the Report of Investigation on the Federal Moratorium on Deepwater Drilling issued by the Department's Office of Inspector General.

As an initial matter, I want to be clear that the Department recognizes the legitimate and important oversight responsibility of the Natural Resources Committee, and we are committed to working with the Committee and its staff to provide material responsive to the Committee's information needs while respecting important Executive Branch confidentiality interests and recognizing the limited resources of the Department. In our efforts to respond to your letters, the Department has already responded with five letters that included substantial information responsive to the Committee's requests and over 10,500 pages of documents all of which required extensive staff time and resources. These responses, in the view of the Department, and as indicated in our letters, closed out many of the requests you have reiterated in your letters of July 18, 2011. Moreover, the Department continues to expend significant resources and staff time to collect, review and process documents for production to the Committee regarding your remaining requests.

Following a conversation with your Committee staff on Friday, July 29, 2011, we now understand that two of the Department's letters and accompanying documents delivered to the Committee in April and June, respectively, were apparently misrouted after delivery and never received by the appropriate staff. We have since redelivered the letters and documents.

We also remain committed to working with you and your staff to address any specific remaining needs of the Committee regarding responses that have been completed.

A detailed response addressing the substance of each of these letters is provided below.

Request for Information Related to Lawsuits

One of your July 18 letters relates to your May 4, 2011 request for information related to all lawsuits currently filed or pending against the Department and its bureaus, agencies, and offices, and delineates additional information relating to each case that you requested.

Along with staff from the Department's Office of the Solicitor, I discussed this request with Committee staff on May 19 and June 7. In both conversations, we indicated that the Department of the Interior does not have a centralized tracking system to enable us to readily provide information you requested and that we would coordinate with staff at the Department of Justice (DOJ) to most expeditiously obtain information from their litigation tracking systems. As you note in your letter, that information – provided by DOJ's Civil and Environment and Natural Resources Divisions and the Executive Office of United States Attorneys – was provided to you on June 20. The information provided was in the form of three indexes, comprising more than 240 pages.

Your July 18 letter indicates that "in subsequent conversations DOJ and Committee staff agreed that DOI could first provide the Committee with a list of lawsuits which provided a majority of the requested information and then supplement this response with a list of the statutes implicated in each of the lawsuits." This is not our recollection of the conversations. We noted in those discussions that not all of the lists provided by the DOJ contained all of the information requested – in particular, identification of the statutes implicated in each of the lawsuits. Committee staff encouraged the Department to send what was available and indicated they would determine later whether any additional information was necessary. The Department did not commit to providing any further information and, in fact, has no other comprehensive source of such information available. As we noted in our June 20 letter, that letter and the enclosed DOJ tracking lists constituted our complete response to the Committee's May 4 request.

In a third conversation with your Committee staff on July 29 we explained that devoting staff time and departmental resources to searching publically available court dockets to determine the statutes at issue for each of the many hundreds of cases would be extremely burdensome for the Department. Committee staff agreed that this kind of search was not necessary at this time. We agreed to your staff's request that as a next step, the Department will again contact DOJ to

confirm that there is no readily available source for the information you've requested and to determine whether there are any alternative sources of information, such as statistics kept, that would fulfill the Committee's information needs. We will report to the Committee as soon as we have further definitive information from DOJ.

Request for Information Related to Stream Protection Rule

Another July 18 letter addressed responses to your requests to the Office of Surface Mining, Regulation and Enforcement and the Department regarding OSM's ongoing Stream Protection rulemaking, and seeks certain information requested in your February 10, 2011, letter to OSM and April 1, 2011, letter to the Department.

Your letter expresses your concern that in producing "some limited information and documents" and in making "representations to Committee staff about forthcoming productions and documents," the Department "has largely failed to provide a written response to a number of requests." In responding, let me first summarize our responses delivered to the Committee so far, two of which we now understand from Committee staff were apparently misrouted after delivery and never received by the appropriate staff:

- On June 17, the Department responded in writing to the February 10, 2011 letter, providing documents in response to items numbers 2 and 3 and explaining that item 1, in which the Committee seeks information on meetings and correspondence between the Director's office and other federal agencies and offices, implicates important Executive Branch confidentiality interests concerning deliberations on ongoing rulemaking proceedings, which constrain the Department's ability to respond.
- In letters dated May 13 and June 17, the Department responded in writing regarding three items of the four items listed in your April 1, 2011 letter and providing documents and information and explaining that item 2 implicated important Executive Branch confidentiality interests and that documents responsive to the remaining item (item 1) would be forthcoming.
- In letters dated March 1, April 6, and May 13, the Department provided written responses to the Committee's February 8 letter regarding the same rulemaking and provided the Committee both information and documents:
- OSM Director Joe Pizarchik has repeatedly offered to again make himself personally available to discuss where OSM was in the rulemaking process and the basis for the actions under consideration at the time, as well as to update you as OSM moves forward in the process (March 1, 2011, response; May 13, 2011, response; June 17, 2011, response). To our knowledge, the Committee has not taken the Director up on his offers.

In summary, the Department has worked diligently to accommodate the Committee's oversight interest in the Stream Protection rulemaking and related matters and responded in letters dated March 1, 2011; April 6, 2011; May 13, 2011; and June 17, 2011 with information and over 10,000 pages of documents. We continue to collect, review and process and will soon be in a position to share additional documents responsive to the April 1, 2011 letter. In a July 29 phone conversation with Committee staff, the Department learned that the letters and accompanying information delivered to the Committee on June 17 and April 6 did not reach appropriate staff for review. Those letters and documents have been redelivered to the Committee.

In our July 29 conversation, Committee staff agreed that they would review those responses before determining what, if any, specific additional information needs exist regarding the February 10 letter and items 2 through 4 from the April 1 letter. The Department committed to begin production of documents responding to item 1 of the April 1 letter by August 5 and stated our hope to complete that production within one month.

In addition to providing further documents in response to this one item in the April 1 letter, we remain ready and committed to working with the Committee to accommodate any specific concerns articulated by the Committee regarding responses already provided in a manner that satisfies those concerns while respecting the Executive Branch's confidentiality interests and the Department's limited resources.

Request for Information Related to Inspector General Report

Finally, your third letter addresses your request for documents underlying the Report of Investigation on the Federal Moratorium on Deepwater Drilling issued by the Department's Office of Inspector General (OIG) in November 2010. In that report, the OIG found no intent to mislead the public after a thorough investigation of the edits to the Executive Summary of the 30-Day Report to the President. Furthermore, the IG found that the Department had adequately remedied any concerns by communicating directly with the experts, offering a formal apology, and publicly clarifying the nature of the peer review of the 30-Day Report.

As we have explained in conversations with Committee staff, the documents and information requested in item (e) of your April 25 letter relate directly to the OIG's conduct of its investigation and are in the possession of the OIG. Through discussions between the Office of the Solicitor and staff in the OIG, we understand that some of the documents requested in your letter have been provided to you by OIG staff. With this letter, we are providing on a disk those documents relating to the OIG investigation that are in our possession and which do not implicate important Executive Branch confidentiality interests: the unredacted OIG report and eleven attachments.

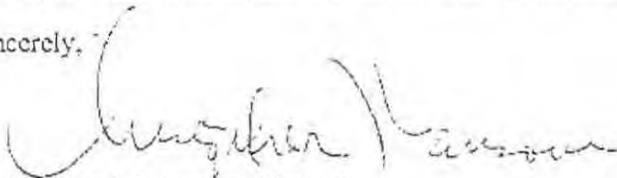
Regarding the remaining items in that letter, we have had several conversations with your staff seeking to fully understand the Committee's specific oversight interests in the hopes that we might better focus our search and accommodate the Committee's interests while still honoring

important confidentiality interests that serve to facilitate Executive Branch deliberations and respecting the limits of the Department's resources. Your staff have clarified that the request in item (e) regarding the "moratorium" references the 6-month moratorium on deepwater drilling in the Gulf of Mexico that was imposed and immediately followed the May 27, 2010 Report entitled "Increased Safety Measures for Energy Development on the Outer Continental Shelf." However, additional clarity regarding your information needs in this area as well as for the request as a whole would help expedite our Department's response to your request and provide you with the information your Committee needs to fulfill its oversight function.

To help facilitate that process and provide an initial response to the Committee, in our July 29 conversation, the Department invited Committee staff to the Department to review one attachment to the OIG report that the OIG withheld from the Committee because it implicates important Executive Branch confidentiality interests. We continue to believe that the attachment, an OIG Investigative Activity Report ("IAR"), raises important confidentiality interests of the Executive Branch, as it describes in detail confidential, deliberative communications between senior officials in the White House and the Department. However, as an accommodation, we are prepared to share this OIG document with the Committee at this time in order to meet the Committee's information needs. Your staff agreed that this offer was a good step toward meeting the information needs of the Committee and that review has been scheduled for tomorrow, August 2. At the request of your staff, the Department agreed to provide an index of the remaining withheld attachments to the IG report. That index will be provided to your staff on August 2 when they arrive at the Department to review the IAR. Further, your staff committed that if the Committee has further information needs after reviewing the IAR and the index, the Committee would work with the Department to narrowly focus the Committee's request in a manner that respects Executive Branch confidentiality interests and the Department's limited resources.

We remain open to further discussion of this matter, as well as the status of the ongoing processing of these documents and any additional means of accommodation with your staff. We are hopeful that we can continue to move forward in a mutually respectful relationship.

Sincerely,



Christopher J. Mansour, Director
Office of Congressional and Legislative Affairs
U.S. Department of the Interior

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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 18, 2011

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JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240-0001

Dear Mr. Secretary:

On April 25, 2011, we sent you a letter that requested documents, drafts and communications related to the Report of Investigation – Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562- issued by the Office of Inspector General. Specifically, we requested the following items:

Any and all documents, referring, relating, or pertaining, directly or indirectly, to:

- a. The Executive Summary or any portion of the draft report, which was subsequently published by DOI as "Increased Safety Measures for Energy Development on the Outer Continental Shelf" on May 27, 2010;
- b. Drafts, revisions, excerpts, inserts, deletions, or other alterations or modifications of the Executive Summary or any portion of the draft report "Increased Safety Measures for Energy Development on the Outer Continental Shelf;"
- c. Witnesses or individuals interviewed or sought to be interviewed, whether formally or informally, in connection with the OIG Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to interview transcripts, notes, summaries, letters, or other communications;
- d. Individuals or entities including their titles and telephone and mailing contact information receiving any version, in whole or in part, of the draft report pertaining to the Increased Safety Measures for Energy Development on the Outer Continental Shelf and the dates on which draft reports were received; and
- e. A moratorium on drilling including but not limited to communications.

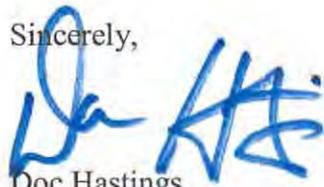
We requested that a complete written response be provided to the Committee no later than May 13, 2011. Two months have passed since this deadline, and we still have not received any written response to this letter from DOI. This is simply unacceptable.

Under the Rules of the House of Representatives, the Committee has general and continuing oversight and investigative authority over the subject matter of the activities, policies, and programs of DOI. DOI has the responsibility and obligation to be responsive to requests for information from this Committee so it can fulfill its Constitutional oversight duties. Given DOI's failure to meet the previous deadline, we request that a complete written response be provided to the Committee no later than August 1, 2011.

Your response should be consistent with the Instructions outlined in the April 25th letter to DOI. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation why full compliance is not possible. *See* Instructions, ¶7. Further, in the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author and recipient; and (e) the relationship of the author and recipient to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are ultimately up to the discretion of the Committee. *See* Instructions, ¶8. This request is continuing in nature and applies to any newly discovered information. *See* Instructions, ¶11. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the deadline set out in the original request, shall be produced immediately upon location or discovery subsequent thereto. *Id.* Please be advised, under the Rules of the House of Representatives, the Committee can compel the production of documents.

If you have any questions about this matter or to make arrangements for production, please do not hesitate to contact Traci Rodriguez, Senior Counsel, Office of Oversight and Investigations, or Tim Charters, Staff Director of the Subcommittee on Energy and Mineral Resources. We look forward to your timely response.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

MAY 11 2011

The Honorable Doc Hastings
Chairman
Committee on Natural Resources
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your letter of April 25, 2011, in which you requested additional documents relating to the report entitled, "Federal Moratorium on Deepwater Drilling" issued by the Office of Inspector General (OIG) for the Department of the Interior (Department).

At the time we were prepared to issue our report, officials in the Department's Office of the Solicitor advised us that they believed several of the attachments contained potentially privileged information. My office requested that the Department specify those attachments to which the claim of privilege applies. When this information was not forthcoming, we chose to release the report without the attachments. Since receiving your letter, we were notified by Deputy Solicitor Arthur Gary that six of the attachments, Attachments 12-18, "reflect or constitute predecisional and deliberative interagency communications relating to the manner in which the 30-Day Report was finalized, and thus raise important confidentiality interests of the Executive Branch." Mr. Gary has communicated this assertion to the Committee on Science, Space, and Technology and we understand he will be making the same assertion to your Committee. We also understand that Mr. Gary will be inviting your Committee to communicate with his office directly to reach a mutually agreeable accommodation. Because the claim of privilege is the Department's to assert - not the OIG's - we believe it is for the Department to resolve with the Committee.

Therefore, we are providing two copies of our report along with the 11 attachments that the Department does not assert as potentially privileged, one copy for you to share with the minority should you choose to do so. The attachments contain information that is exempt from disclosure to the public under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. We respectfully request that the Committee treat all of this information accordingly.

The attachments contain information that is exempt from disclosure to the public under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. We respectfully request that the Committee treat all of this information accordingly.

Finally we would like to clarify that while we reported that, "All Department officials interviewed *stated* that it was never their intention to imply the moratorium was peer reviewed by the experts, but rather rushed editing of the Executive Summary by DOI and the White House

resulted in this implication.”(emphasis added), we were unable to independently conclude whether the implications contained in the 30-Day Report were intentional or not.

If you have any questions, please do not hesitate to contact me, or your staff may contact Kris Kolesnik, Associate Inspector General for External Affairs, at 202-208-5745.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary L. Kendall". The signature is fluid and cursive, with a large initial "M" and "K".

Mary L. Kendall
Acting Inspector General

Enclosures

DOC HASTINGS, WA
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

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COLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

April 25, 2011

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Secretary Salazar:

On July 20, 2010, we requested the Office of Inspector General to conduct an investigation into whether senior officials of the U.S. Department of the Interior (DOI), in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts. In a brief 8-page report, issued on November 8, 2010, the Office of Inspector General (OIG) concluded that although the White House edited the original DOI draft Executive Summary leading to the "implication" that the moratorium recommendation had been peer reviewed by experts, the OIG's report nonetheless stated that it was not the intention of DOI officials to create that "implication." Surprisingly, the OIG's report neither attaches nor provides detailed excerpts of draft documents or communications that would allow this Committee and the public to reach an independent conclusion based on the documents versus credibility determinations - of DOI officials interviewed - that were made by the OIG.

Because the OIG's report inadequately discusses the actual documents, drafts and communications surrounding this important issue and lacks transparency overall, the Committee requests the underlying documents, drafts and communications reviewed by the OIG in reaching its conclusion and issuing its Report of Investigation - Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562-I. Accordingly, we request the following items:

A. Documents and Items to be Produced

Any and all documents, referring, relating, or pertaining, directly or indirectly, to:

- a. The Executive Summary or any portion of the draft report, which was subsequently published by DOI as "Increased Safety Measures for Energy Development on the Outer Continental Shelf" on May 27, 2010;

- b. Drafts, revisions, excerpts, inserts, deletions, or other alterations or modifications of the Executive Summary or any portion of the draft report "Increased Safety Measures for Energy Development on the Outer Continental Shelf;"
- c. Witnesses or individuals interviewed or sought to be interviewed, whether formally or informally, in connection with the OIG Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to interview transcripts, notes, summaries, letters, or other communications;
- d. Individuals or entities including their titles and telephone and mailing contact information receiving any version, in whole or in part, of the draft report pertaining to the Increased Safety Measures for Energy Development on the Outer Continental Shelf and the dates on which draft reports were received; and
- e. A moratorium on drilling including but not limited to communications.

B. Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. The term "draft report" means any version, adaption, portion, version, change, variation, or iteration of the report pertaining to the moratorium (also known as the 30-day report) or safety measures for energy development on the outer continental shelf including but

not limited to any proposed, contemplated, recommended, or distributed outlines, inserts, deletions, modifications, alterations, attachments, appendices, visual aids, summaries, or synopses.

5. As used herein, "referring" or "relating" means and includes "constituting," "pertaining," "evidencing," "reflecting," "describing," or "having anything to do with," and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

C. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the document requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information

requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.

7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author and recipient; and (e) the relationship of the author and recipient to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are ultimately up to the discretion of each Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipient) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
12. Send all responsive documents and records to:

Morgan Kim or Tim Charters
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

We expect a complete written response to be provided to the Committee no later than May 13, 2011.

If you perceive a problem providing the information in that timeframe, or have any questions about this request, please feel free to contact Morgan Kim or Tim Charters of the Committee staff.

Thank you in advance for your cooperation with the Committee in its review of this matter. Your continued attention to this important matter is appreciated.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

DOC HASTINGS, WA
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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

April 25, 2011

Mary Kendall
Acting Inspector General
U.S. Department of the Interior
1849 C Street, NW – Mail Stop 4428
Washington, DC 20240

Dear Ms. Kendall:

On July 20, 2010, we requested the Office of Inspector General to conduct an investigation into whether senior officials of the U.S. Department of the Interior (DOI), in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts. In a brief 8-page report, issued on November 8, 2010, the Office of Inspector General (OIG) concluded that although the White House edited the original DOI draft Executive Summary leading to the "implication" that the moratorium recommendation had been peer reviewed by experts, the OIG's report nonetheless stated that it was not the intention of DOI officials to create that "implication." The OIG's report neither attaches nor provides detailed excerpts of draft documents or communications that would allow this Committee and the public to reach an independent conclusion based on the documents versus credibility determinations - of DOI officials interviewed - that were made by the OIG.

Because the OIG's report inadequately discusses the actual documents, drafts and communications surrounding this important issue and lacks transparency overall, the Committee requests the underlying documents, drafts and communications reviewed by the OIG in reaching its conclusion and issuing its Report of Investigation – Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562-I.

We request the following items:

A. Documents and Items to be Produced

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- a. The Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to emails or other communication regarding the Executive Summary or any portion of the draft report “Increased Safety Measures for Energy Development on the Outer Continental Shelf;”
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- c. Witnesses or individuals interviewed or sought to be interviewed, whether formally or informally, in connection with the Report of Investigation – Federal Moratorium on Deepwater Drilling, including but not limited to interview transcripts, notes, summaries, letters, or other communications;
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Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

We expect a complete written response to be provided to the Committee no later than May 13, 2011.

If you perceive a problem providing the information in that timeframe, or have any questions about this request, please feel free to contact Morgan Kim or Tim Charters of the Committee staff.

Thank you in advance for your cooperation with the Committee in its review of this matter. Your continued attention to this important matter is appreciated.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Doug Lamborn
Subcommittee Chairman
Energy and Mineral Resources

NICK J. RAHALL II, WV
CHAIRMAN
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JOHN P. SARBANES, MD
CAROL SHEA-PORTER, NH
NIKI TSONGAS, MA
FRANK KRATOVLJ, JR., MD
PEDRO R. PIERLUISI, PR

JAMES H. ZOIA
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 20, 2010

DOC HASTINGS, WA
RANKING REPUBLICAN MEMBER
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TODD YOUNG
REPUBLICAN CHIEF OF STAFF

Ms. Mary Kendall
Acting Inspector General
U.S. Department of the Interior
Office of Inspector General
1849 C Street NW - Mail Stop 4428
Washington, D.C. 20240

Dear Inspector General Kendall,

In testimony before the House Committee on Natural Resources, Secretary Salazar agreed to cooperate with any Inspector General investigation into the changes made to the Interior Department's 30-Day Safety Report¹ after it had been peer-reviewed. As you know, this report, which included a recommendation for a six-month deepwater drilling moratorium on the Outer Continental Shelf, was presented to the President and the American people as having been peer-reviewed by a group of prominent engineers. Specifically, the language of the report states that "the recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering."² Following the release of the report it was discovered that this statement was patently false. The engineers have come forward to declare that the report was edited by political appointees after their review but prior to presentation to the President.

There are important questions about this incident that must be answered. Who in the Administration ignored the recommendation of scientists and made these changes? Were any laws broken? Who made the decision to misrepresent the views of the scientists? Were the changes influenced by the White House? Were the changes recommended by outside groups? Recent media reports suggest the Administration is acting on advice and recommendations made by the *Center for American Progress* including the recommendation for a moratorium on the OCS.

When testifying before the Committee, you initially asserted that the Inspector General office may not be able to investigate because the issue of the moratorium is subject to an ongoing court case. However, you later indicated that it would be possible to open an investigation. To be clear, we are not asking you to investigate the moratorium. We are asking you to investigate the changes made to the 30-Day Safety Report by political appointees that were presented to the public as a peer-reviewed scientific paper.

¹ Also known as the "Increased Safety Measures for Energy Development on the Outer Continental Shelf, May 27, 2010

² 30-Day Safety Report, Page 4

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The decision to alter the report after the peer-review process severely undermines trust in the Department of the Interior and the federal government. In one of his early speeches, Secretary Salazar said, "I pledge to you that we will ensure the Interior Department's decisions are based on sound science and the public interest, and not on the special interests."³ Clearly, the decision to establish a six-month moratorium was not based on sound science. The outside experts who cosigned the report have raised serious concerns that the imposition of the moratorium would exacerbate any safety issues associated with deepwater drilling.

Finally, during the previous Administration, the Inspector General's office had a record of aggressively investigating exactly these types of actions. In fact, you personally testified on July 31, 2007 before the Natural Resources Committee at a hearing on "The Political Influence of the Bush Administration on Agency Science and Decision-Making." During that testimony you discussed a report that when issued stated "In the end, the cloud of MacDonald's overreaching, and the actions of those who enabled and assisted her, have caused the unnecessary expenditure of hundreds of thousands of dollars to re-issue decisions and litigation costs to defend decisions that, in at least two instances, the courts found to be arbitrary and capricious."⁴

We expect you to hold the Obama Administration to this same standard. We strongly believe the altering of this 30-Day Safety Report is an egregious example of disregarding science and merits equal examination. This overreaching by political appointees in either the Department or the White House have caused the unnecessary expenditure of significant Department funds to re-issue decisions, has adversely impacted tens of thousands of citizens through lost wages and jobs, cost business hundreds of thousands of dollars, and incurred litigation costs to defend the moratorium that the court has found to be arbitrary and capricious.

We strongly encourage you to open an investigation into the allegations and the decisions made associated with this 30-Day Safety Report. Since the Secretary has publicly pledged his full cooperation, there is little doubt that the Inspector General's office could quickly investigate the influences and actions that resulted in the changes to the engineering safety report that was presented to the President.

We look forward to hearing from you promptly regarding your decision on this matter.

Sincerely,

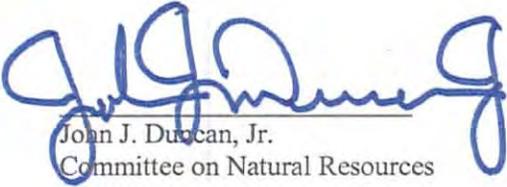

Doc Hastings
Ranking Member
Committee on Natural Resources


Doug Lamborn
Ranking Member
Subcommittee on Energy and Minerals

³ Secretary of the Interior Salazar Pledges Accountability & Change In Employee Listening Session, January 22, 2009

⁴ Report of Investigation: The Endangered Species Act and the Conflict between Science and Policy, December 15, 2008

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John J. Duncan, Jr.
Committee on Natural Resources



Bill Cassidy
Committee on Natural Resources



Paul Broun
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Jason Chaffetz
Committee on Natural Resources



John Fleming
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