

February 7, 2012

The Honorable Ken Salazar  
Secretary  
U.S. Department of the Interior  
1951 Constitution Avenue, N.W.  
Washington, D.C. 20240

Dear Mr. Secretary:

Last month the Energy Information Administration (EIA) of the Department of Energy admitted that key information in its Annual Energy Review (AER) for 2010 was incorrect.<sup>1</sup> In particular, the EIA had reported the wrong figures for oil and natural gas produced on federally administered lands. To prepare the AER, the EIA relied on energy lease data compiled and published online by the Department of the Interior (“Interior”).<sup>2</sup>

The EIA’s admission illuminates embarrassing shortcomings in data transparency at your department, which minimizes the department’s accountability to the American people. If even seasoned experts at a fellow federal agency are unable to correctly interpret Interior’s data, then most Americans can have no hope of doing so. Moreover, this is only the most recent episode in a long history of frustration and confusion caused by Interior’s failure to provide accurate, complete, useful data on energy leases.<sup>3</sup> Subdivisions of your department, including the Office of Natural Resource Revenues (ONRR), represent the only official source for crucial information concerning the volume of oil and gas that energy companies extract from federal lands and the payments they make to compensate U.S. taxpayers for these resources. But the data compilations published by ONRR and other offices fail—in many ways—to fulfill your responsibility to provide this information in a fully transparent fashion.

First, these data compilations are haphazardly organized. Nowhere does Interior publish official totals for fundamental statistics, such as oil and gas production on federally administered lands. ONRR publishes tables that show revenues from mining and drilling leases, but it disclaims

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<sup>1</sup> See Energy Information Administration, Annual Energy Review 2010, first released October 19, 2011, *available at* <http://205.254.135.24/totalenergy/data/annual/>, at Figure 1.14, Fossil Fuel Production on Federally Administered Lands. In January 2012, the EIA replaced this table with the following legend: “The data used in the graphs in this figure, as published in October 2011, were incorrectly extracted from another agency’s data. EIA is working to correct the data series.”

<sup>2</sup> See Letter from Edward J. Markey to Howard K. Gruenspecht, January 26, 2012 (“According to conversations between [House Committee on Natural Resources] Democratic staff and EIA, this table is based on data from the Department of the Interior’s Office of Natural Resources Revenue (ONRR) for the sales volume of oil and natural gas produced from public lands rather than the production volume”).

<sup>3</sup> For example, Congress has expressed frustration with Interior’s failure to differentiate between new and revised drilling permits. See, e.g., Testimony of Michael Bromwich, Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Senate Committee on Energy and Natural Resources, May 17, 2011, *video excerpt at* <http://www.youtube.com/watch?v=-XFdlykfVlw>.

responsibility for publishing “official lease information,” and redirects Americans seeking authoritative energy lease data to three other bureaus of Interior.<sup>4</sup> These three bureaus display their energy lease data either in wildly different ways or else not at all, which makes it impossible to derive overall totals. Americans seeking to understand the volume and value of their energy resources must attempt to combine ONRR’s revenue figures with separately-reported energy lease information from other Interior sources. Thus, the EIA’s error stems primarily from Interior’s failure to present its data compilations the way Americans need them.

Second, these data compilations are presented in formats that make them hard to search and nearly impossible to analyze. ONRR’s revenue tables are static text and cannot be downloaded into spreadsheets or databases. Similarly, the other bureaus publish lengthy PDF documents and flat text files.<sup>5</sup> All of these data compilations were presumably derived from working databases in which Interior tracks revenues, production, and other information related to its energy leases. Yet Interior has chosen to publish these compilations in a manner that strips them of all electronic metadata and structure, rendering them nearly useless to Americans.

Third, where Interior does make working databases available for query, it fails to make their contents available for bulk download.<sup>6</sup> If the American public could download the full contents of these databases, programmers and software developers could invent new and efficient ways to analyze and display the data. By opening its databases to innovation, Interior could enhance oversight of its leases and help the public better understand the nation’s natural resources. Bulk downloads would also allow the American public to check the accuracy of Interior’s summary figures by re-running its calculations. But Interior insists on protecting its databases behind query systems, thus denying essential information about energy development on federal lands to the American people who own them. The information contained in these databases is theoretically public, but it is not accessible. The American public not only has a right to know the value and

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<sup>4</sup> See, e.g., Total Producing and Non-Producing Leases, Oct. 24, 2011, available at <http://www.onrr.gov/ONRRWebStats/Home.aspx> (under “Lease Data,” then “Total Leases”). ONRR’s lease tables include the following disclaimer: “Producing and non-producing lease information on this website is compiled for the sole purpose of royalty collection, verification, and disbursement. For official lease information, please refer to the appropriate leasing management agency: Bureau of Indian Affairs for American Indian leases, Bureau of Ocean Energy Management, Regulation and Enforcement [sic] for Offshore leases, and Bureau of Land Management for Federal Onshore leases ...”

<sup>5</sup> See, e.g., Bureau of Safety and Environmental Enforcement, Leasing Information, available at [http://www.data.bsee.gov/homepg/data\\_center/leasing/leasing.asp](http://www.data.bsee.gov/homepg/data_center/leasing/leasing.asp) (last accessed February 6, 2012). The Bureau of Safety and Environmental Enforcement (BSEE) is one of two successor agencies to the Bureau of Ocean Energy Management, Regulation and Enforcement. BSEE’s energy lease data for the Gulf of Mexico region is available in 2,521-page PDF file. Its energy lease data for the Pacific region is available in an ASCII file.

<sup>6</sup> For instance, the BSEE’s website allows users to search its lease database by several selected data items, including company name and lease number. See Leasing Information, *supra* note 5. But the website does not allow users to download the full contents of the BSEE’s lease database. Meanwhile, the Bureau of Land Management offers the Legacy Rehost System (LR2000), a “searchable database for public reports on BLM land and mineral use authorizations, conveyances, mining claims, withdrawals and classifications,” including data on oil and gas leases. Bureau of Land Management, “About LR2000,” available at <http://www.blm.gov/lr2000/about.htm> (last accessed February 6, 2012). Like the BSEE, the BLM does not permit bulk downloads of the LR2000. Moreover, the LR2000 completely omits data on Alaskan energy leases, which are separately tracked by the State of Alaska. *Id.*

volume of their mineral assets both onshore and offshore, they have a basic right to have that data provided to them in understandable ways.

Fourth, the lack of transparency in the department's reporting of well data for the federal offshore waters has been a recurring problem, but particularly so in the aftermath of the Deepwater Horizon catastrophe of April 2010. Because so much local and regional economic activity in the Gulf region is dependent on federal leasing and permitting of activities, it is critical that the department's data on this activity be provided accurately, efficiently, and in a timely manner. Consistently, however, local governments, business groups and leaders have called for greater transparency in the department's reporting of well permits due to the confusion both inside and outside the Interior Department about the level of activity in the Gulf. The lack of transparency and the unreliability of data from Interior have meant that even department officials have been confused when testifying before Congress about matters under their primary administrative responsibility.<sup>7</sup> Moreover, the department's failures have meant that civic groups in the Gulf region have been compelled to conduct their own research about the level of well permitting and economic activity. Not surprisingly, these numbers are also different from those presented by Interior and reflect a much slower issuance of critical permits than the department's official reports.<sup>8</sup>

Unless your department corrects these problems, it will continue to fall short of this Administration's professed commitment to transparency. On his first full day in office, President Obama directed the Office of Management and Budget (OMB) to issue an Open Government Directive ordering all federal agencies to implement the principles of transparency, collaboration, and participation.<sup>9</sup> That Open Government Directive, which OMB issued on December 8, 2009, provides that "agencies should publish information online in an open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications."<sup>10</sup> The Directive also required each agency to create an "Open Government Webpage" to serve as a primary gateway for its open government activities.<sup>11</sup>

As described above, Interior has clearly failed to publish its data on energy leases in a manner that is consistent with the Open Government Directive. Moreover, Interior's Open Government Webpage<sup>12</sup> gives no indication that it intends to fix these problems in the future. As of February

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<sup>7</sup> For example, BOEM Director Michael Bromwich, when questioned by Senator Mary Landrieu (D-La.), was visibly confused about the number of new permits. See footnote 3, above.

<sup>8</sup> See, e.g. Greater New Orleans, Inc, Jan. 2012 report, *The Impact of Decreased Drilling Permit Approvals on Gulf of Mexico Businesses*, available at <http://gnoinc.org/news/publications/reports/the-impact-of-decreased-and-delayed-drilling-permit-approvals-on-gulf-of-mexico-businesses/>

<sup>9</sup> President Barack Obama, Memorandum on Transparency and Open Government, January 21, 2009, available at [http://www.whitehouse.gov/the\\_press\\_office/TransparencyandOpenGovernment](http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment).

<sup>10</sup> Office of Management and Budget, Open Government Directive, December 8, 2009, available at <http://www.whitehouse.gov/open/documents/open-government-directive>, at paragraph 1.b.

<sup>11</sup> *Id.* at paragraph 1.e.

<sup>12</sup> U.S. Department of the Interior, DOI Open Government Initiative, at <http://www.doi.gov/open/index.cfm> (last accessed February 6, 2012).

2012, the main feature of Interior's Open Government Webpage is a link to a 59-page "Open Government Plan" (a PDF document),<sup>13</sup> which Interior states will be "regularly updated,"<sup>14</sup> but which was last updated nineteen months ago.

Yet in enthusiastic detail, Interior's Open Government Plan lays out the department's "strategic methodology," "comprehensive lifecycle management approach," "interdisciplinary, Department-wide leadership and planning team," "comprehensive communications plan," and "integrated risk management framework."<sup>15</sup> Under the heading "Data Transparency," the Open Government Plan reports that Interior has created a "Data Releasability Working Group (DRWG)" and a "data releasability decision tree," and it describes Interior's efforts to publicly release data on volunteer opportunities, wildfire acreage burned between 1960 and 2008, population counts of horses and burros, and "climate change data."<sup>16</sup> Nowhere does the Open Government Plan mention Interior's data on energy leases.

The Obama Administration's efforts to force agencies to pursue data transparency did not end with the Open Government Directive. On January 18, 2011, the President issued a memorandum providing:

[A]gencies with broad regulatory compliance and administrative enforcement responsibilities, within 120 days of this memorandum, to the extent feasible and permitted by law, shall develop plans to make public information concerning their regulatory compliance and enforcement activities accessible, downloadable, and searchable online. In so doing, agencies should prioritize making accessible information that is most useful to the general public and should consider the use of new technologies to allow the public to have access to real-time data ...<sup>17</sup>

There is no indication that Interior ever complied with the President's directive. Interior has never released a plan to make its energy lease payment and compliance data "accessible, downloadable, and searchable."

Your department's deficiencies in data transparency also imperil the Obama Administration's international commitments. On September 20, 2011, at the launch of the international Open Government Partnership, President Obama announced that the United States would join the

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<sup>13</sup> U.S. Department of the Interior, Open Government Plan, version 1.1, June 25, 2010, *available at* <http://www.doi.gov/open/index.cfm>.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *Id.* at 8, 9, 10, 14.

<sup>16</sup> *Id.* at 51, 52, 53, 56.

<sup>17</sup> Memorandum for the Heads of Executive Departments and Agencies on Regulatory Compliance, January 18, 2011, *available at* <http://www.whitehouse.gov/the-press-office/2011/01/18/presidential-memoranda-regulatory-compliance>.

Extractive Industries Transparency Initiative (EITI).<sup>18</sup> The EITI is an international standard for the disclosure of payments made to governments in exchange for extractive energy rights.<sup>19</sup> It is managed by a coalition of governments, energy companies, and civic groups. The EITI requires governments and companies to disclose accurate data on resource extraction and payments.<sup>20</sup> On October 25, 2011, the President appointed you to lead the implementation of the EITI in the United States.<sup>21</sup>

In order to be certified as “compliant” with the EITI, countries must disclose all extractive energy royalty payments in a manner that can be matched against similar disclosures by companies.<sup>22</sup> Interior’s current disclosures fall short of this standard. As described above, Interior’s energy lease data compilations are disorganized, unsearchable, and hidden behind cumbersome database queries. ONRR publishes annual overall totals for energy lease payments, but not company-by-company figures. The three separate bureaus responsible for official lease information make royalty payment data difficult or impossible to find. Interior’s current data publication practices will not support the matching activity that the EITI requires. If Interior fails to disclose its energy lease data in a fully transparent manner, the Obama administration will fall short of a standard that has already been met by eleven EITI-compliant countries, including Azerbaijan, the Central African Republic, Ghana, Mongolia, and Timor-Leste.<sup>23</sup>

The American people have a right to know the volume and value of the resources that they own. Interior, under your leadership, fails to deliver the necessary data transparency to fulfill the federal government’s basic responsibility to the American people. That failure, of course, minimizes the department’s accountability and compromises the trust that the public has in the competence of Interior officials to discharge their basic duties.

To fulfill Interior’s responsibility to the American people, to follow the directives of your President and Administration, and to discharge your personal duty to ensure EITI compliance, you must totally revamp Interior’s data publication practices. Interior must begin to publish complete, accurate, useful data compilations, encoded in searchable formats that the American

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<sup>18</sup> The Institute for Energy Research neither endorses nor opposes the EITI.

<sup>19</sup> See <http://eiti.org> (last accessed February 6, 2012).

<sup>20</sup> See Extractive Industries Transparency Initiative, *The EITI Criteria*, available at <http://eiti.org/eiti/principles> (last accessed February 6, 2012), at criterion 1 (“Regular publication of all material oil, gas and mining payments to governments (‘payments’) and all material revenues received by governments from oil, gas and mining companies (‘revenues’) to a wide audience in a *publicly accessible, comprehensive and comprehensible manner*”) (emphasis added).

<sup>21</sup> White House Announces Secretary Ken Salazar as Administration’s Senior Official Responsible for Oversight of Implementation of Extractive Industries Transparency Initiative, October 25, 2011, available at <http://www.whitehouse.gov/the-press-office/2011/10/25/white-house-announces-secretary-ken-salazar-administrations-senior-offic>.

<sup>22</sup> Extractive Industries Transparency Initiative, *EITI Rules, 2011 Edition*, April 2011, available at <http://eiti.org/document/rules>, at 27 (EITI Requirements 14-16).

<sup>23</sup> Extractive Industries Transparency Initiative, *Compliant Countries list*, available at <http://eiti.org/countries> (last accessed February 6, 2012).

people can understand. Until that happens, the ability of policymakers to arrive at informed conclusions that shape America's energy future is compromised.

Sincerely,



Thomas Pyle  
President

Cc: The Honorable Doc Hastings  
Chairman  
House Committee on Natural Resources

The Honorable Ed Markey  
Ranking Member  
House Committee on Natural Resources

The Honorable Barbara Boxer  
Chairman  
Senate Committee on the Environment and Public Works

The Honorable Jim Inhofe  
Ranking Member  
Senate Committee on the Environment and Public Works

The Honorable Darrell Issa  
Chairman  
House Committee on Oversight and Government Reform

The Honorable Elijah Cummings  
Ranking Member  
House Committee on Oversight and Reform

The Honorable Joe Liebermann  
Chairman  
Senate Committee on Homeland Security and Government Affairs

The Honorable Susan Collins  
Ranking Member  
Senate Committee on Homeland Security and Government Affairs

Dr. Howard K. Gruenspecht  
Acting Administrator  
U.S. Energy Information Administration