



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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COMMITTEE ON RESOURCES

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

Dear Mr. Chairman,

The Department of the Interior ("Department") has been working diligently and in good faith to respond to the Committee on Natural Resource's requests for information related to the Department's Office of Inspector General Report of Investigation - Federal Moratorium on Deepwater Drilling Case No. PI-PI-10-0562-I. This Report reviewed the source and timing of drafting errors in the Department's May 2010 document "Improved Safety Measures for Energy Development on the Outer Continental Shelf" ("ISM Report").

Since the Committee's initial letter on April 25, 2011, the Department has worked with Committee staff to understand the scope of the Committee's interest so that we can meet its oversight interests without unnecessarily compromising important Executive Branch interests. Through these efforts, we have responded to the Committee's requests by producing nearly one thousand pages of documents as well as making multiple offers of accommodation that have included *in camera* reviews of documents and briefings in which we have provided information directly responsive to the Committee's articulated concerns. Although we remain committed to working with the Committee to resolve this matter, the Department is disappointed that after nearly a year of working with your staff to understand and accommodate the Committee's asserted interests in the ISM Report, we have reached a point where the Committee has taken the unnecessary and precipitous step of issuing a subpoena, notwithstanding the Department's continued good-faith efforts to work with the Committee.

As an initial matter, we must draw your attention to the varied and unsettled scope of the Committee's articulated interest, which continues to hinder the Department's ability to respond to the Committee's multiple requests, including the subpoena. In addition to seeking information regarding the editing of the peer review language in the Executive Summary of the ISM Report, the Committee also appears to have sought broad and ill-defined information regarding the ISM Report and the moratorium without articulating a specific oversight interest in such matters. The technical discussion and recommendations related to the proposed safety measures outlined in the ISM Report have been evaluated and reviewed by independent entities that have expressed their views of these technical matters. Additionally, the moratorium was the subject of litigation, the merits of which have since been resolved.

With regard to the editing of the peer review language in the Executive Summary of the ISM Report, that issue has also been resolved. The Inspector General investigated the matter and concluded that:

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All DOI 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. After reviewing different drafts of the Executive Summary that were exchanged between DOI and the White House prior to the final issuance, the 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.

“Investigative Report: Federal Moratorium on Deepwater Drilling,” November 9, 2010, at 1.

Although the Inspector General has reviewed and resolved this matter, the Department has accommodated the Committee’s interest in the peer review language in the Executive Summary in multiple respects over the last year. For example, the Department provided an *in camera* review of the underlying Investigative Activity Report prepared by the Inspector General’s Office, which summarizes in detail the peer review drafting issue (including based on the underlying documents) and provides a straightforward explanation for the drafting error, demonstrating that there was no intent to mislead the public about what recommendations were endorsed by the peer reviewers. The Department also has provided the Committee with communications with the peer reviewers post-dating the release of the ISM Report, as well as other relevant documents, and has briefed the Committee on the chronology and content of the remaining thirteen OIG documents. Immediately after the publication of the ISM Report, in recognition of the confusion created by the placement of the peer review language in the Executive Summary, the Department publically clarified that the peer reviewers were not asked to review the Secretary’s policy recommendation on the moratorium and apologized for any confusion created by the drafting of the Executive Summary. The Committee has yet to explain specifically why these accommodations have been insufficient to address its oversight interests or why further intrusion into the Executive Branch’s deliberative process is necessary.

Moreover, the Department has an obligation to protect the integrity and confidentiality of the Executive Branch’s implementation of the law and its deliberative processes. It has long been recognized that advisors who expect that their preliminary and unformed remarks will be made the subject of public scrutiny can be expected to be less candid in their advice, ultimately to the detriment of the Executive Branch decisionmaking process. These Executive Branch interests are particularly acute in the context of a national environmental disaster where immediate action to restore safety is paramount and where Executive Branch personnel should not be stymied and hindered in their ability to pose uncensored ideas to address a crisis. Given these important Executive Branch interests, it is critical that the Committee articulate a clear, specific oversight interest to allow the Department to work with the Committee to target the disclosure of any additional relevant information in a manner that provides needed information without unnecessary intrusion into Executive Branch deliberations.

In any event, the Department is committed to working with the Committee, and accordingly, is prepared to make additional accommodations. Today we make an initial production for the Committee of 164 pages of additional communications with the peer reviewers, with an additional production to occur later this week. These documents contain limited redactions for personal information and substantive technical deliberations and will demonstrate that, as the Department

has said all along, the peer reviewers applied their expertise to the technical recommendations in the ISM Report and were not asked to review the Secretary's policy recommendations regarding the moratorium. The Department is also offering for *in camera* review the May 25, 2010 draft of the Executive Summary of the ISM Report. This version of the Executive Summary was included in the ISM Report draft that was sent to the peer reviewers for their final review. Finally, the Department offers to the Committee the opportunity to review *in camera* a draft of the Executive Summary that was exchanged between Departmental and White House personnel on the evening of May 26, 2010. This draft was included as attachment 14 in the OIG Report.

With regard to the decision to recommend a moratorium on drilling in the Executive Summary of the ISM Report, the Committee has not articulated to the Department any questions that remain unanswered by the public record. Although the public record is clear, our offer for the Committee to review the May 25 and 26, 2010 drafts provides additional documentation regarding the moratorium recommendation as described in the OIG Report.

In closing, the Department has worked with the Committee in good faith throughout an extensive accommodation process to address the Committee's concerns. The additional disclosure of information as described in this letter reflects further good faith efforts on the part of the Department and we look forward to continued cooperation to resolve this matter with the Committee.

Sincerely,



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