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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