February 6, 2008

Chairman Norman D. Dicks and Ranking Member Todd Tiahrt
House Subcommittee on Interior, Environment,
and Related Agencies Appropriations
Room B-308 Rayburn House Office Building
Washington, DC 20515

Via Facsimile

Dear Chairman Dicks and Ranking Member Tiahrt:

We are writing to urge your Committee to address the Department of Interior's (DOI) continued failure to address accountability for royalty collections. Although we applaud the DOI's announced increase of deepwater offshore royalty rates to 18.75 percent—particularly since the U.S. is among the lowest recipients of oil drilling fees worldwide[1]—this announced rate increase is an empty promise without effective auditing and enforcement functions to ensure that oil companies pay these royalties.

According to the President's FY 2009 Department of Interior Budget released this week, the Minerals Management Service (MMS) seeks a paltry increase of four additional audit staff:

> The 2009 MMS budget also includes a $2.0 million increase to implement Office of Inspector General recommendations for improving royalty payment audits and compliance reviews, ***including increasing the audit staff by four FTE.*** An increase of $1.7 million Departmental Overview will improve automated interest billing, allowing MMS to streamline and expedite interest invoicing, enhance internal controls, reduce manual intervention, allow the closure of audit cases sooner, and redirect staffing to other high-priority projects.[2] (Emphasis added)

[1] "U.S. Government Among Lowest Recipients of Oil Drilling Fees," Project On Government Oversight, June 1, 2007. http://pogo.org/p/environment/ea-070601-oil.html
[2] "The Department of the Interior Fiscal Year 2009 Interior Budget in Brief," Department of Interior, pp. DO-15 and DO-16.

This request follows the FY 2008 DOI Budget, which also requested just four additional audit staff.[3] Yet, oil companies have demonstrated a pattern of shortchanging the government on royalties. Since 1998, the Department of Justice has collected almost $600 million in settlements as a result of fraud lawsuits filed against the companies over allegations that they shortchanged on oil and gas royalty payments.[4]

Clearly, the royalty collection system was failing. During the same period, the DOI reduced the number of auditors and others who hold oil companies accountable. In December 2006, the DOI Inspector General issued a report confirming that, since 2000, MMS had made deep cuts in the number of auditors protecting the taxpayer:

> MMS reduced the number of its auditors located in the Compliance and Asset Management (CAM) Program by 35 or 20.7 percent (from 169 to 134). During the same period, the approximate number of state and tribal auditors funded by MMS decreased by 10 or 8.5 percent (from 118 to 108). The total number of auditors decreased by 45 or 15.7 percent (from 287 to 242).[5]

A variety of increasingly troubled reports have pointed to the need for more accountability. For instance, auditors have come forward to blow the whistle, complaining that their efforts to collect from oil companies have been ignored by DOI higher ups.[6] In addition, criminal investigations are underway into conflicts of interest with the oil companies.[7] Finally, according to a January 2008 Department of Energy Inspector General report, thousands of barrels of oil appear to have gone missing from the DOI's royalty-in-kind program, which fills the government's Strategic Petroleum Reserve.[8]

MMS auditors function in the same way that IRS employees do: they ensure that oil companies pay what they owe. With fewer watchdogs minding the store, oil and gas companies have fewer incentives to pay up.

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[3] "Budget Justifications and Performance Information Fiscal Year 2008: Minerals Management Service," Department of Interior. http://www.doi.gov/budget/2008/data/greenbook/FY2008_MMS_Greenbook.pdf
[4] "Shell Oil to Pay United States $56 Million for Underpayment of Gas Royalties," Department of Justice Press Release, Thursday, September 28, 2000. http://www.usdoj.gov/opa/pr/2000/September/571civ.htm and
"Unocal to Pay U.S. More than $21 Million for Underpayment of Oil Royalties," Department of Justice Press Release, December 31, 2001. [Note: According to the release, "the Justice Department has reached settlements of nearly $440 million to resolve claims of underpayment of oil royalties."]
http://www.usdoj.gov/opa/pr/2001/December/01_civ_624.htm and
"Conoco Phillips' Subsidiary to Pay United States $97.5 Million for Fraudulent Underpayment of Natural Gas Royalties," Department of Justice Press Release, August 15, 2007.
http://www.usdoj.gov/opa/pr/2007/August/07_civ_616.html
[5] "Minerals Management Service's Compliance Review Process," Department of Interior Office of Inspector General, December, 2006, http://www.doioig.gov/upload/2007-G-00011.pdf
[6] Edmund Andrews. "Blowing the Whistle on Big Oil," *The New York Times*, December 3, 2006.
http://www.nytimes.com/2006/12/03/business/yourmoney/03whistle.html?ex=1322802000&en=e782d957e752a4b1&ei=5088&partner=rssnyt&emc=rss
[7] Edmund L. Andrews, "Criminal Inquiries Look at U.S. Oil-Gas Unit," *The New York Times*, December 16, 2006.
http://www.nytimes.com/2006/12/15/washington/15royalty.html?ex=1323838800&en=117ffe4912156d70&ei=5088&partner=rssnyt&emc=rss
[8] "Department of Energy's Receipt of Royalty Oil," Department of Energy Inspector General, January 2008.
http://www.ig.energy.gov/documents/IG-0786.pdf

The FY 2009 request by the DOI demonstrates a continued pattern of doing the least amount possible to address what are now widely confirmed shortcomings in the government's efforts to hold oil companies accountable for royalty payments. With an ambitious plan to dramatically expand drilling in the coming years, unless changes are made, the DOI will be even less able to protect the taxpayer from hundreds of millions of dollars in potential rip offs.

We urge your committee, at the very least, to restore the number of audit and compliance staff to their FY 2000 level, and to consider further increases commensurate with the DOI's expanded leasing and drilling activities. Doing so will undoubtedly increase revenue recoveries by tens or even hundreds of millions of dollars annually at a time of fiscal constraint.

Sincerely,

Danielle Brian
Executive Director
Project On Government Oversight

Ryan Alexander
President
Taxpayers for Common Sense

Brent Blackwelder
President
Friends of the Earth

cc: Senate Subcommittee on Interior Environment and Related Agencies