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United States Senate

May 13, 2014

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The Honorable Sally Jewell
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Jewell:

I write regarding a new investigative report prepared by the Government Accountability Office (GAO) that identified substantial gaps in oversight of oil and gas drilling on federal and Indian resources even for wells that are considered high risk for water and other environmental contamination.¹ According to the report, the Bureau of Land Management (BLM) is limited in its effectiveness to ensure the safety of oil and gas drilling activities because of incomplete data and the fact that the agency is relying on policies that have not been updated since 1999 and therefore do not reflect current science and technologies. This new report echoes many of the findings of a report issued by the House Natural Resources Committee Democratic staff in February 2012,² which examined safety and environmental violations that occurred relating to oil and gas drilling on federal lands over a decade beginning in the late 1990s. This earlier report prepared at the request of me and Representative Rush D. Holt, also indicated that significant and potentially dangerous activities were occurring on federal lands without consistent or adequate federal oversight and enforcement. I write to determine what steps the Interior Department has taken to rectify the identified problems and increase oversight and enforcement of drilling activities.

Among other findings, today's GAO report indicated that the BLM had failed to conduct inspections on more than 2,100 of the 3,702 wells that it had specified as "high priority" and drilled from 2009 through 2012. These "high priority" wells are so designated because of their potential for drinking water contamination and other environmental safety issues. For another 1,784 wells the agency had yet to determine whether or not they would be designated as "high priority." The GAO report also

¹ GAO-14-238, *Oil and Gas: Updated Guidance, Increased Coordination, and Comprehensive Data Could Improve BLM's Management and Oversight*. May 12, 2014

² *Drilling Dysfunction: How the Failure to Oversee Drilling on Public Lands Endangers Health and the Environment*, February 8, 2012.

See: http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/2012-02-08_RPT_DrillingDysfunction_0.pdf

indicated that BLM is lacking key data for many wells that are drilled, which hinders the Department's ability to ensure that federal resources are properly managed and protected.

In 2012, the House Natural Resources Committee Democratic staff report that I released reviewed drilling violations from inspected wells on federal lands, which indicated that monetary penalties for safety violations were almost never issued, and when they were issued, were issued inconsistently and for small amounts. Over the thirteen year period evaluated in the report the Department collected less than \$300,000 in fines which averaged a mere \$135 per violation, much less than what many oil and gas companies earn in a minute.³ Furthermore, the manner in which violations were recorded and fines were assessed against violating companies was inconsistent even when examining companies that were repeat violators. This erratic enforcement activity highlighted a need for the Interior Department to reform its oversight of drilling on federal lands.

After the release of this report in 2012, your predecessor, former Interior Secretary Salazar, committed to taking a number of actions to advance the goal of strengthening the inspection program for onshore oil and gas activities. These actions included focusing inspection activities on higher risk activities, levying civil penalties against oil and gas operators for violations, evaluating ways to increase the dollar amounts of fines and expanding categories of violations that result in automatic monetary assessments.⁴ Furthermore, during a Natural Resources Energy and Mineral Resources Subcommittee hearing in March 2012, former Director of the Bureau of Land Management (BLM), Bob Abbey, testified that the current fine assessment system should be higher to deter egregious oil and gas drilling violations on federal lands.⁵ At this same hearing a representative of the American Petroleum Institute also agreed that the current fine system, which is decades old, should be reformed to ensure that the tools are in place to deter bad actors.⁶

As the Department of the Interior proceeds to open up more federal lands for oil and gas drilling and works to finalize regulations that will put in place safeguards for the extraction of natural gas using hydraulic fracturing techniques, it is imperative that the Department also has in place oversight and enforcement strategies that ensures that these

³ A Sample of 53 US based oil and gas producers and refiners showed that in 2013 the total net income was approximately \$92 billion, with the highest earner (Exxon) netting \$33 billion per year. See: <http://www.ogj.com/articles/print/volume-112/issue-3d/general-interest/us-canadian-oil-gas-firms-fourth-quarter-2013-earnings-slip.html>

⁴ Secretary of the Interior March 21, 2012 response to Rep. Markey's February 8, 2012 letter and accompanying report.

⁵ Subcommittee on Energy and Mineral Resources, Committee on Natural Resources; Oversight hearing on: Effect of the President's Fiscal Year 2013 Budget and Legislative Proposals for the Bureau of Land Management on Private Sector Job Creation, Domestic Energy and Minerals Production, and Deficit Reduction. March 20, 2012

⁶ Ibid. Mr. Erick Milito, Group Director, Upstream and Industry Operations, American Petroleum Institute.

new regulations are being followed and that activities are not occurring in a manner that endangers human health or the environment. Accordingly, I respectfully ask that you respond to the following questions and provide supporting documents and other relevant information by close of business on June 9, 2014.

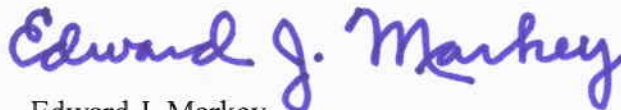
1. Since March 2012, what policies have the Department put in place to strengthen the inspection, oversight and enforcement program for onshore oil and gas activities? Has the Department provided staff trainings to improve upon the consistency of inspections and enforcement actions by BLM field officers? What other actions has the Department undertaken to improve coordination of inspections with states to ensure that resources are leveraged and inspections are not unnecessarily duplicated, while other wells continue to go uninspected? Please provide me with copies of all documentation necessary to support your response.
2. Does the Department have in place inspection goals for oil and gas wells that should be met? If so, what are these goals and have they been met? If not, why not?
3. How frequently does the Department evaluate wells to determine whether they should be designated as "high priority?" What factors does the Department evaluate and consider when making such a designation? Is there a particular stage of a well's permitting and development process that such a designation is made? Does such a "high priority" designation trigger other oversight and enforcement actions or goals, such as specified inspection frequency or other activities? When does the Department plan on reviewing and designating the 1,784 wells identified in the GAO report as missing such designation and data and why have these wells not yet been reviewed?
4. Which oil and gas production companies currently have leases to drill on public lands? Of the oil and gas companies that hold leases to drill on public lands, which, if any, have been cited for safety or drilling violations on federal lands since March 2012? Please provide an updated list that contains the leaseholders in each State, and whether each leaseholder has been cited by the Department for any such violations (and if so, the nature of the violation and the remedy therefore) since March 2012.
5. Has the Department evaluated ways to increase the monetary size of fines as former Secretary Salazar committed? If so, what has the Department concluded? Please provide me with a copy of any documents or memos that were prepared as a result of this evaluation. Have any changes been enacted to increase the amount of fines levied for violations? If not why not? What, if any, additional statutory

authority is needed to increase the level of monetary fines so that they may serve as an effective deterrent for violations?

6. The Department currently has the authority to expand the categories of violations that result in automatic monetary assessments. Has the Department done this? If not, why not? If so, please describe what changes have been made, including the amount of fines for types of violations and how these changes have been communicated to inspection officers and to industry.
7. Please provide copies of all documents since March 2012 (including reports, emails, correspondence, memos, phone or meeting minutes or other materials, and including materials in the possession of all Departmental Bureaus and Offices) relating to any allegations submitted to or other information in the possession of the Department that the products used in hydraulic fracturing fluids on public lands have caused harm to human health or the environment.
8. The GAO report has recommended that the Secretary direct BLM to take four actions to rectify some of the issues identified in the report and help ensure the safety of wells under development. Please indicate the timeline for implementing these four GAO recommendations and any interim steps that the Department is taking to ensure that these recommendations are implemented both fully and in a timely manner.

Thank you for your assistance and cooperation in responding to this request. Should you have any questions, please have your staff contact Dr. Avenel Joseph, of Senator Markey's staff at 202-224-2742.

Sincerely,



Edward J. Markey
United States Senator