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September 18, 2012

The Honorable Ken Salazar
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar,

In July, a Chinese state-owned oil company, the China National Offshore Oil Corporation (CNOOC), announced plans to acquire Nexen, a Canadian oil company with significant operations in the United States. According to Interior Department records, among Nexen's U.S. holdings are full or partial ownership stakes in five active offshore drilling leases issued under the Deep Water Royalty Relief Act of 1995 (DWRRA). Nexen does not have to pay any royalties to the federal government on oil and natural gas production from these leases as the result of an oil company legal challenge to this poorly drafted law. Nexen is able to produce oil and natural gas under these leases for free regardless of whether prices are high.

If CNOOC takes ownership of Nexen, these royalty-free leases could be transferred to a Chinese state-owned oil company, which would amount to a subsidy from American taxpayers to the Chinese government. I therefore urge you to use the authority provided to you under the Outer Continental Shelf Lands Act (OCSLA) to prevent the transfer of Nexen's leases that allow for free drilling to CNOOC as part of any acquisition.

The fact that oil companies are drilling for free on nearly 150 leases in the Gulf of Mexico is already an affront to taxpayers that will cost them tens of billions of dollars. To allow royalty-free leases to be handed over to the Chinese government would add insult to injury.

Nexen has a partial ownership stake in four royalty-free leases issued under the DWRRA – lease numbers G17406, G17407, G17408 and G20871 – as well as a full ownership stake in one lease – lease number G20051. According to the Interior Department, Nexen has produced a

cumulative total of more than 39 million barrels of oil and nearly 84 billion cubic feet of natural gas under all leases issued under the DWRRA on which it didn't pay any royalties. Allowing CNOOC or any wholly or partially-owned subsidiary to acquire these leases would mean that this windfall at the expense of American taxpayers would be transferred to the Chinese government.

The Outer Continental Shelf Lands Act requires the Secretary of the Interior to review and approve transfers of offshore leases on the Outer Continental Shelf. Section 8(e) of OCSLA states that "no lease issued under this subchapter may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary" (43 U.S.C.A. § 1337). Interior Department regulations have delegated this authority to the Bureau of Ocean Energy Management's (BOEM) regional directors. BOEM regulations at 30 C.F.R. § 556.62 state "BOEM may approve the assignment to you of the ownership of the record title to a lease or any undivided interest in a lease, or an officially designated subdivision of a lease, only if: (1) You qualify to hold a lease under § 556.35(b); (2) You provide the bond coverage required under subpart I of this part; and (3) The Regional Director approves the assignment." I therefore urge you to exercise the Interior Department's authority and not approve the transfer of any royalty-free leases held by Nexen to any wholly or partially-owned subsidiary of CNOOC.

Other state-owned oil companies are already reaping incredible benefits from royalty-free leases issued under the DWRRA. U.S. subsidiaries of state-owned oil companies hold full or partial ownership stakes in nearly 40 percent of the currently active DWRRA leases for which companies do not have to pay any royalties for extracting oil and gas from public lands in the Gulf of Mexico. Italy's state-owned company, ENI, holds full or partial ownership in 28 active DWRRA leases; Brazil's state-owned company, Petrobras holds a stake in 22 active leases; Norway's Statoil holds 26 of these leases and Columbia's Ecopetrol holds 3. By allowing royalty-free production by these state-owned companies to continue under these leases, American taxpayers are, in effect, being forced to subsidize these foreign governments.

Indeed, the volumes of free oil and gas produced by these state-owned companies on America's public lands is tremendous. ENI has produced more than 30 million barrels of oil for free. Statoil has produced nearly 33 million royalty-free barrels. All together, these four state-owned companies have extracted more than 65 million barrels of oil and more than 125 billion cubic feet of natural gas under DWRRA leases for free. If Nexen's DWRRA leases are allowed to be transferred to CNOOC, it would dramatically expand the amount of royalty-free production by state-owned oil companies.

Moreover, as a result of the oil company legal challenge to the DWRRA, American taxpayers were even forced to return royalties paid for past production to these state-owned companies, plus interest. Taxpayers were forced to refund more than $345 million to ENI and more than $61 million to Statoil. In all, the federal government was forced to hand these national oil companies more than $410 million in refunds plus interest for past production.

It is unacceptable for these national oil companies, and therefore these foreign governments, to continue to enjoy this ongoing subsidy from the American people. However, we should certainly not allow for the expansion of free drilling on public lands by state-owned oil

companies such as CNOOC. I urge you to exercise the authority provided to you under the Outer Continental Shelf Lands Act to not approve any transfer to CNOOC of Nexen's ownership stake in leases that do not require the payment of royalties to the American people. I believe that you should use all means available to you to seek to recover future royalty payments that are rightfully due to American taxpayers from all DWRRA leases that currently allow oil companies to drill for free beginning with those leases held by foreign state-owned oil companies, so that the American people can receive a fair value for the oil and natural gas that is produced on their public lands.

I thank you for your attention to this matter.

Sincerely,

Edward J. Markey

Edward J. Markey
Ranking Democratic Member
Committee on Natural Resources