

EXHIBIT B



May 9, 2018

VIA Electronic Delivery

Ryan Witt, FOIA Officer
Bureau of Land Management
Attn: FOIA Office (WO-640)
1849 C St. N.W.
Washington, DC 20240
E-mail: rwitt@blm.gov
Phone: 202-912-7562
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Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*, and the Department of Interior FOIA regulations at 43 C.F.R. pt. 2, Democracy Forward Foundation makes the following request for records.

Background

On April 3, 2017, the Department of the Interior published a Federal Register notice announcing the creation of the "Royalty Policy Committee" (hereafter "Committee") and called for nominations for membership, with the nomination period ending May 3, 2017.¹ The notice described the objective of the Committee as "to ensure that the public receives the full value of the natural resources produced from Federal lands" and called for the Committee to be made up of up to 28 Federal and non-Federal members. One of the non-Federal categories includes "up to six members representing various mineral and/or energy stakeholders in Federal and Indian royalty policy."

¹ Royalty Policy Committee Establishment; Request for Nominations, 82 FR 16222 (April 3, 2017) <https://www.federalregister.gov/documents/2017/04/03/2017-06542/royalty-policy-committee-establishment-request-for-nominations>

In February 2018, the Washington Post reported² that many, if not most, individuals on the Committee are associated with the energy industry. These industry-related individuals may advocate for policy changes that could benefit oil and gas companies while depriving the Treasury and states of needed revenue. For example, the Post further reported that the Committee recommended “cutting the federal royalty rate for deepwater drilling from 18.75% to 12.5%, the lowest possible rate the government can charge for such leases.”³

Records Requested

In an effort to better understand, and explain to the public, the decision-making process behind the creation of the Royalty Policy Committee, how its mandate and membership were crafted, and which the non-Federal groups were consulted during this process, Democracy Forward Foundation requests that Interior produce the following within twenty (20) business days:

1. All communications and correspondence, including attachments, sent to or from the following government employees on List A and any employees or representatives of the entities on List B. Please see both lists below:

LIST A

Steve Wackowski
Joseph “Joe” Balash
Katharine “Kate” MacGregor
Kathleen Benedetto
William “Billy” Dove
Landon “Tucker” Davis
James R. Schindler

LIST B

ConocoPhillips Company (“@conocophillips.com”)
Anadarko Petroleum Corporation (“@anadarko.com”)
VWR Corporation (“@vwr.com”)
Cloud Peak Energy (“@cldpk.com”)
Intersect Power (“@intersectpower.com”)

² Eilperin Juliet, Interior Dept. panel weighs lower royalty payments for offshore oil and gas drilling, Washington Post (Feb. 26, 2018), https://www.washingtonpost.com/national/health-science/interior-panel-weighs-lower-royalty-payments-for-offshore-oil-gas-drilling/2018/02/25/85e0ec14-18cd-11e8-92c9-376b4fe57ff7_story.html?noredirect=on&utm_term=.abbf2345801d

³ Eilperin Juliet, Interior Dept. panel weighs lower royalty payments for offshore oil and gas drilling, Washington Post (Feb. 26, 2018), https://www.washingtonpost.com/national/health-science/interior-panel-weighs-lower-royalty-payments-for-offshore-oil-gas-drilling/2018/02/25/85e0ec14-18cd-11e8-92c9-376b4fe57ff7_story.html?noredirect=on&utm_term=.abbf2345801d

Shell Exploration and Production Co. (“@shell.com”)
Chevron North American E&P (“@chevron.com”)
Western Energy Alliance (“@westernenergyalliance.org”)
Concho Resources (“@concho.com”)
National Ocean Industries Association (“@noia.org”)
Incremental Oil & Gas USA
US Oil & Gas Association

Scope of Search

The time period for this search should be from March 1, 2017, to the time the search is conducted.

Please limit the search to the National BLM Office, BLM’s Alaska Office, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement and the Office of Surface Mining Reclamation and Enforcement.

For responsive records, please disregard news clips that do not include commentary added by sender or recipient.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation, or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 43 C.F.R § 2.46, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 43 C.F.R. § 2.45(a)(1), disclosure of the requested records is “likely to contribute significantly to public understanding of government operations or activities.” The requested records, which will illuminate the reasons for creating the Royalty Policy Committee and the selection of its industry-related appointees, clearly “concern” and have a “logical connection” to operations or activities of the Federal Government. *Id.* §§ 2.48(a)(1), (a)(2)(i). The Royalty Policy Committee is recommending policy changes that could deprive taxpayers of billions of dollars in valuable revenue from natural resources. That revenue provides funding to federal, state, and local governments, and are accordingly of clear public interest. Because these records will shed light on the reasons for this decision in a manner that has not already been made public, they also will be “meaningfully informative,” *id.* § 2.48(a)(2)(ii), and will contribute to public understanding in a “significant” way, *id.* § 2.48(a)(3). As described below, Democracy Forward Foundation intends to use its website and social media accounts to ensure that the records disclosed in response to this request will “contribute to the understanding of a reasonably broad audience of persons interested in the subject.” *Id.* §§ 2.48(a)(2)(iii)-(v). In sum, the requested records will shed light on the government’s decision-making process for creating an advisory committee that potentially poses conflicts of interest and that under collects royalties that could benefit Americans.

This request is primarily for non-commercial purposes. *Id.* § 2.45(a)(2). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Travis Annatoyn as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

/s/ Travis Annatoyn
Travis Annatoyn