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August 21, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sanjeev Bhagowalia
Chief Information Officer
Department of the Interior
1849 C Street NW, Mail Stop 7438
Washington, DC 20240

Re: Request for Correction of Information in the *June 11, 2009 Report to Secretary Ken Salazar Regarding the Potential Leasing of 77 Parcels in Utah* ("2009 Lease Report" or "Report")

Dear Mr. Bhagowalia:

On behalf of our client, Questar Exploration and Production Co. ("Questar"), we submit this Request for Correction of Information ("Request") pursuant to the Information Quality Act ("IQA")¹ and IQA Guidelines issued by the United States Department of the Interior ("DOI")²

¹ Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. No. 106-554; H.R. 5658) provides in full the following:

(a) IN GENERAL.—The Director of the Office of Management and Budget shall, by not later than September 20, 2001, and with public and Federal agency involvement issue guidelines under sections 3504(d)(1) and 3516 of title 44, United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code, commonly referred to as the Paperwork Reduction Act.

(b) CONTENT OF GUIDELINES.—The guidelines under subsection (a) shall (1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and (2) require that each Federal agency to which the Guidelines apply (A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency by not later than 1 year after the date of issuance of the guidelines under subsection (a); (B) establish administrative mechanisms allowing affected persons to see and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and (C) report periodically to the Director (i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and (ii) how such complaints were handled.

² 67 Fed. Reg. 36642 (May 24, 2002).

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and the United States Office of Management and Budget (“OMB”).³ The IQA Guidelines issued by the OMB provide the blueprint for ensuring the quality of information disseminated by agencies subject to IQA mandates, and the DOI has adopted administrative measures that are primarily procedural in nature, but incorporate OMB’s substantive IQA Guideline requirements as well. Since the DOI has adopted IQA Guidelines of its own, which include OMB’s substantive requirements as a whole, for the sake of clarity, all references herein are to the “OMB Guidelines.”

INTEREST OF QUESTAR

Questar is an affected organization within the meaning of the OMB Guidelines. As the high bidder for three of the oil and gas leases at issue in the 2009 Lease Report (the “Leases”), Questar’s energy exploration and production activities related thereto would produce 411.25 BCFE of natural gas, provide substantial revenues to state and local governments and reduce the reliance of the United States on foreign energy sources. Questar estimates its potential monetary losses relating to the Leases to exceed the threshold \$500,000,000.00 amount identified by OMB Guidelines and as such, the findings and conclusions of the 2009 Lease Report qualifies as a highly influential determination. In addition, if the monetary losses to be suffered by the State of Utah and local governments and Questar’s expenditures associated with lease sale preparation, lease offer submittals and attempts to exercise its leasehold rights are included in the monetary threshold calculation, Questar believes the monetary losses to be suffered far exceed such threshold.

As a result of the Leases being withdrawn by the United States Bureau of Land Management (“BLM”) and the Secretary of the Interior (“Secretary”), Questar has an immediate interest in the contents of the 2009 Lease Report; this is particularly true since such content has already been used by the Secretary to make changes to the existing federal leasing process, and will likely be used to inform future decisions regarding the federal leasing process. Accordingly, the contents of the 2009 Lease Report meet the standards established by the OMB Guidelines for highly influential information. This letter and the enclosed Requested Corrections to the 2009 Lease Report (“Requested Corrections List”) (collectively, “Request”) constitute Questar’s request that the DOI correct information included in the 2009 Lease Report.⁴

BACKGROUND

The IQA provides that agencies should not disseminate substantive information that does not meet a basic level of quality. The more important the information, the higher the quality

³ Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (republished Feb. 22, 2002).

⁴ The Report may be viewed at <http://www.doi.gov/utahreport/>, and is currently being disseminated by the DOI.

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standards to which it must be held. The 2009 Lease Report is highly influential information because it was written to advise the Secretary with respect to the interpretation of several federal statutes, on-going litigation, and the Secretary's eventual determination as to the final disposition of seventy-seven (77) federal leases retroactively withdrawn by the BLM, under direction from the Secretary, from the December 19, 2008 Utah BLM Oil and Gas Lease Sale ("December 2008 Lease Sale"). Questar was the high bidder on Parcels 106, 166 and 168 at the December 2008 Lease Sale, and as such, the 2009 Lease Report has a direct impact on Questar's interest in those three (3) parcels.

The standards and procedures used by the DOI must ensure that the administrative mechanisms for information resources management and administrative practices satisfy the standards and procedural requirements of the IQA Guidelines. The 2009 Lease Report fails to meet the requirements of the IQA and accordingly requires correction.⁵

REQUEST

This Request discusses the context in which the 2009 Lease Report should be evaluated as highly influential information, reviews the IQA requirements in a general context, and provides specific responses to questions posed by the DOI in its instructions for requesting correction of information.

- 1. The Highly Influential Nature of the Information Included in the 2009 Lease Report is Evident When Considered in the Context of Persons Affected, the Economic Costs to Purchasers of Federal Leases, the Loss of Revenue to Local and State Treasuries and the Federal Government, the Costs to the United States Treasury Related to Subsequent Leases and Legal Actions, and the Clear and Substantial Impact on Important Public Policies and Important Private Sector Decisions.**

The highly influential nature of the information included in the 2009 Lease Report will result in costs exceeding \$500,000,000.00 and will have a clear and substantial impact on important public policies and important private sector decisions. As noted, Questar directly and indirectly, expects to lose over \$500,000,000.00, other companies who purchased leases at the December 2008 Lease Sale will lose over that amount, and the economy of the United States will be impacted in an amount equaling, if not exceeding, the monetary losses of Questar.

However, the economic losses are minor when compared with the 2009 Lease Report's contention that the Secretary was justified in retroactively withdrawing the Leases from the December 2008 Lease Sale and in directing the BLM to refund the highest qualified bidders'

⁵ Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (republished Feb. 22, 2002).

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payments for leases, which were predicated on a public process conducted under duly-adopted laws and regulations. Instead, the 2009 Lease Report: (i) substitutes a murky process governed by “practices” not required or explained elsewhere; (ii) imposes regulatory conditions designed for other federal property on BLM lands with no legal basis; (iii) abrogates existing law or processes, which included all stakeholders equally, required under the Federal Land Policy and Management Act (“FLPMA”) and the Mineral Leasing Act (“MLA”); and (iv) substitutes the preferences of vocal special interest groups for the determinations that must be made in the public process under FLPMA.

The information in the 2009 Lease Report, to the extent that it supports a significant departure from these federal laws, regulations and processes in favor of purely policy-based decisions, is highly influential, as it attempts to justify actions that will have a clear and substantial impact on the well-established federal oil and gas leasing process, which is based on existing law and regulation. Further, the 2009 Lease Report is a *post-hoc* rationalization which attempts to justify BLM’s February 6, 2009 withdrawal of federal leases from the December 2008 Lease Sale. If, based on the 2009 Lease Report, the DOI adopts this approach as its policy, it will create uncertainty as to all future lease sales, draw fewer bidders for federal leases, and result in decreased revenues to the United States government. Further, by abandoning a rational process which is fully articulated in statutes and regulations, and substituting a *post-hoc* process based on the current policy preferences, the DOI is exposing the federal government to endless litigation by a stream of special interests dissatisfied by the BLM’s public balancing of multiple uses. Finally, to the extent that decisions supported by the 2009 Lease Report lead to decreased energy production in the United States, there will be grave economic, social and international repercussions.

2. The OMB Guidelines and Final Bulletin Refine and Add Definitions of Terms Which DOI has Adopted and to Which the DOI Must Adhere.

As refinements of the IQA, which has little detailed information, OMB’s implementing bulletins contain the necessary definitions to determine what is required of the DOI when disseminating information such as that contained in the 2009 Lease Report. If the information included in the 2009 Lease Report is not corrected now, its inaccurate, incomplete, biased and unclear information will influence the DOI’s determinations on federal leases in general, as well as the three withdrawn federal leases that directly affect Questar.

The formal administrative record pertaining to the Leases is voluminous and is derived from reports, public comments on the proposed leases, independent studies, and the combined FLPMA and NEPA processes, including applicable Records of Decision (“RODs”), which have also incorporated any comments on agency actions affecting air quality. The 2009 Lease Report ignores, misstates, or otherwise provides a biased recitation of a large part of the information available on regulatory requirements, informal and formal comment processes, and regulations governing consideration of air quality, among other equally important factors. This approach

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violates the requirements of the IQA as specifically detailed in the February 22, 2002 OMB Guidelines. Pertinent requirements of the OMB Guidelines are highlighted as follows:

SUMMARY: These final guidelines implement section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554; H.R. 5658). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines that, "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." By October 1, 2002, agencies must issue their own implementing guidelines that include "administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency", which does not comply with the OMB guidelines. These guidelines apply to federal agencies subject to the Paperwork Reduction Act (44 U.S.C. §3502(1)). Federal agencies must develop information resources management procedures for reviewing and substantiating the quality (including the objectivity, utility, and integrity) of information before it is disseminated. In addition, agencies must establish administrative mechanisms allowing correction of information disseminated by the agency that does not comply with the OMB or agency guidelines.

The OMB Guidelines stress the importance of agencies implementing the standards in a common sense and workable manner. Agencies are required to apply the OMB Guidelines in a manner appropriate to the nature and timeliness of the information to be disseminated, and incorporate them into existing agency information resources management and administrative practices.

The IQA denotes four substantive terms regarding information disseminated by federal agencies: (i) quality; (ii) utility; (iii) objectivity; and (iv) integrity. The OMB Guidelines provide definitions that are designed to establish a clear meaning for each of these terms, so that both the agency and the public can readily judge whether a particular type of information to be disseminated meets these attributes. In the guidelines, OMB defines "quality" as the encompassing term, of which "utility," "objectivity," and "integrity" are the constituents. "Utility" refers to the usefulness of the information to the intended users. "Objectivity" focuses on whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. "Integrity" refers to security for the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. OMB

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modeled the definitions on the longstanding definitions in OMB Circular A-130 (DATE), but tailored them to fit into the context of the OMB Guidelines.

This Request addresses specific failures of the DOI to meet the quality requirements of the OMB Guidelines with respect to the accuracy, completeness, clarity, and unbiased representation of the information included in the 2009 Lease Report.

The 2009 Lease Report is highly influential information as defined in the OMB Guidelines. Its continued dissemination without correction has adversely affected Questar, will result in costs exceeding \$500,000,000.00 and will have a clear and substantial impact on important public policies and important private sector decisions. The statements presented below and the enclosed Requested Corrections List present Questar's additional specific comments with respect to this matter.

3. Specific Responses to Request for Correction Procedures.

The DOI's version of the IQA Guidelines advises specific information be provided as part of the request for correction. The following is a list of the specific information requirements and Questar's responses.

a. Specific reference to the information being challenged.

This Request challenges the information contained in the 2009 Lease Report.

b. A statement specifying why the complainant believes the information fails to satisfy the standards in the DOI or OMB guidelines.

The 2009 Lease Report contains highly influential information which is inaccurate, incomplete, biased and unclear as follows: (i) the information in the 2009 Lease Report fails to accurately characterize a court decision relied upon therein, the BLM process which led to the leasing decision, and the options available to the Secretary; (ii) the information contained in the 2009 Lease Report fails to make clear that the lands in question had been designated as available for leasing fifteen years prior to the December 2008 Lease Sale, fails to correctly describe the law governing the leasing decisions, and fails to properly set out the narrow special interests who challenged the December 2008 Lease Sale; (iii) the information in the 2009 Lease Report is incomplete, as it omits the long-term availability of the lands in question for leasing, the fact that the United States National Park Service had multiple opportunities to object to the designation of the lands in question has open to leasing and failed to do so, and the fact that there were no legal or procedural deficiencies in the federal leasing process or the Resource Management Plan development process; (iv) the contents of the 2009 Lease Report is biased, as it selectively uses information to create the impression that (a) leasing of the lands was a last-minute act of the former administration, (b) the lands were sold in violation of law and regulation, (c) there is a

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rationalization for the Secretary's and the BLM's failure to defend the federal government's interest, and (d) there exists a need to undermine the rational, considered, and lawful application of FLPMA by the BLM through the public Resource Management Plan process, in favor of arbitrary decisions made in favor of special interests.

A more detailed list of the foregoing general outline is set forth in the enclosed Requested Corrections List.

- c. How a complainant is affected by the challenged information. The complainant may include suggestions for correcting the challenged information, but that is not mandatory.*

Questar will suffer immediate direct and indirect economic harm, and longer term harm, due to the replacement of the transparent public processes for federal leasing decisions with *post-hoc*, unwritten, internal agency directives.

- d. The name and address of response of the person filing the complaint. This information is used at the complainant's request for the purpose of responding to the challenge initiated by the individual.*

All questions related to this Request may be directed to Robert S. Thompson, III. This Request is submitted on behalf of Questar by its attorneys, Beatty & Wozniak, P.C., 216 16th Street, Suite 1100, Denver, CO 80202, 303.407.4499 (phone), 303.407.4494 (fax)

- e. An explanation of how the information does not comply with DOI, IQA or OMB guidelines and, if possible, a recommendation of corrective action.*

The 2009 Lease Report provides information which fails to meet the quality and integrity standards included in the DOI and OMB Guidelines for information quality. A detailed list of the specific failures, as well as requested corrections, is set forth in the enclosed Requested Corrections List.

The IQA requires that federal agencies ensure the quality, objectivity, utility and integrity of information (including statistical information) disseminated by the federal agency. The guidelines promulgated as a result of the IQA by OMB and DOI define "quality" as being a combination of "utility," "objectivity," and "integrity." "Objectivity" includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation.

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Put simply, the information presented in the 2009 Lease Report is biased, inaccurate and incomplete. The conclusions and statements included in the 2009 Lease Report fail to meet the standards for highly influential information under the DOI, OMB and IQA Guidelines.

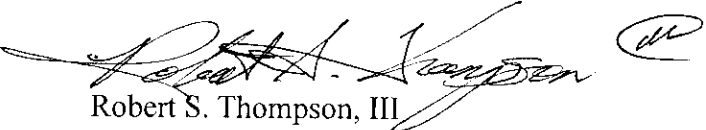
CONCLUSION

For the reasons stated above and in the attached Requested Corrections List, Questar strongly urges the DOI to adhere to the legal requirements of the IQA in evaluating this Request. As required specifically in the DOI Guidelines, please notify the undersigned within ten business days of your receipt of this Request.

Thank you for your attention to this matter.

Respectfully,

BEATTY & WOZNIAK, P.C.


Robert S. Thompson, III

Enclosure: Requested Corrections to 2009 Lease Report

cc: Hon. Nancy Sutley, Chairman, Council on Environmental Quality
Hon. Ken Salazar, Secretary, Department of the Interior
Hon. Gary Locke, Secretary, Department of Commerce
Hon. Eric Holder, U.S. Attorney General
Hon. Cass Sunstein, Administrator (Acting), Office of Information and Regulatory Affairs
Utah BLM Acting Director Robert Abbey
Affected Members of Congress:
Senator Orrin Hatch
Senator Robert Bennett
Congressman Rob Bishop
Congressman Jim Matheson
Congressman Jason Chaffetz