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September 23, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General:

I am writing about the Department of Justice's apparent inaction in the face of growing evidence of mismanagement and fraud in the Interior Department's oil and gas marketing program, and about troubling allegations from a career Department of Justice attorney regarding politicization of Department decisionmaking in a related matter. As detailed below, I request an immediate explanation and supporting documents regarding these disturbing questions.

The startling findings of the Interior Department's Inspector General about misconduct in the Interior Department's oil and gas marketing program have understandably been of great concern in the Congress and around the country. On Friday, it was reported that the Interior Department's Inspector General was so displeased with the Department's refusal to bring any charges in this matter that he has pulled his investigators off the Justice Department's Abramoff task force in protest.¹ I find it highly troubling that the Interior Department Inspector General would feel compelled to take such an extraordinary step, and therefore I join the request of Senators Leahy and Salazar who recently wrote you asking if the Department is actively investigating the apparent crimes described in those reports and, if prosecutions have already been declined, seeking an explanation of the basis for the Department's decision.²

In addition, I am very concerned about a related matter detailed by the McClatchy News Service earlier this month.³ According to this report, senior officials of the Department of Justice

¹Kravitz, *Minerals Case Decision Protested*, Washington Post, September 19, 2008.

²Sept. 16, 2008, Letter from Senator Patrick Leahy and Senator Ken Salazar to Attorney General Mukasey.

³Gordon & Taylor, *US Inaction on Oil Royalties Suit Could Have Cost Millions*, McClatchy News Service, Sept. 13, 2008.

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overruled a local U.S. Attorneys decision to intervene in a whistleblower case brought by a former Interior Department auditor who believed that a major oil company had underpaid its royalties. As you know, the government has the right to intervene in such litigation in support of the whistleblower, which greatly enhances the prospect of taxpayer recovery.

What is particularly striking in this case is that the local U.S. Attorney's recommendation to intervene was made after the whistleblower had already won a multimillion dollar jury verdict for the taxpayer, after the judge had stated that he might set aside the verdict based on legal infirmities unique to that particular plaintiff, and after the judge had delayed the proceeding for several weeks apparently to allow the government to join the case which would have cured those infirmities. Overruling that decision thus created a needless risk that the substantial recovery won for the taxpayers in this trial would be lost, a risk that would have been entirely removed if the government joined.

According to McClatchy, both the Denver US attorney and his civil chief "recommended strongly" that the Justice Department enter the case for this reason, but they were overruled "at the highest levels" of the Justice Department. The McClatchy report also quoted the whistleblower's counsel as stating that the civil chief indicated that the case "had political stuff written all over it."

While I understand that the decision whether or not to intervene in a whistleblower action involves many considerations, the decision to stay out of this case even after a jury verdict had been won and over the strong recommendation of the local U.S. Attorney is troubling, particularly when the local civil chief responsible for the matter has suggested that the case "had political stuff written all over it." I have seen no reports that the U.S. Attorney or the Department of Justice has denied any of the quotations or factual allegations in this article.

Accordingly, I request that you make available for a staff briefing the Justice Department decisionmaker(s) responsible for overruling the U.S. Attorney in this case and make all documents reflecting or related to this decision available to the Committee for review.

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Please direct your response and any questions to the Judiciary Committee Office no later than Friday, October 3, 2008 (tel: 202-225-3951; fax: 202-225-7680) Thank you very much for your attention to this issue.

Sincerely,



John Conyers, Jr.
Chairman

cc: Hon. Lamar S. Smith
Hon. Keith B. Nelson