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American Jewish World Service
Amnesty International
The Borgen Project
Bank Information Center
CARE USA
Catholic Relief Services
Columban Center for Advocacy and
Outreach
CorpWatch
Crude Accountability
EarthRights International
EARTHWORKS
EIRIS Conflict Risk Network
Environmental Defense Fund
EG Justice
Friends of the Earth
Gender Action
Global Financial Integrity
Global Rights
Global Witness
Government Accountability Project
Human Rights Watch
International Budget Project
International Labor Rights Forum
Justice in Nigeria Now
Maryknoll Office for Global Concerns
Micah Challenge USA
Natural Resource Governance Institute
ONE Campaign
Open Society Policy Center
Oxfam America
Pacific Environment
Presbyterian Church USA
Project on Government Oversight
Robert F. Kennedy Center for Human
Rights
Sierra Club
Sustainable Energy & Economy
Network
United Methodist General Board of
Church and Society
United Steelworkers
United to End Genocide

November 12, 2015

By E-Mail:

Chair Mary Jo White
Commissioner Luis Aguilar
Commissioner Michael Piwowar
Commissioner Kara Stein

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

**Re: Rulemaking for Section 1504 of the Dodd-Frank Wall Street Reform
and Consumer Protection Act – An analysis of the resource extraction
issuers subject to the reporting requirements of Section 1504**

Dear Chair White and Commissioners:

Publish What You Pay – United States has conducted a comprehensive analysis of the resource extraction issuers subject to Section 1504. Our analysis demonstrates that to the extent the Commission mirrors international standards, the compliance costs of Section 1504 should be significantly lower than the costs and burdens outlined in the Economic Analysis and Paperwork Reduction Act sections of the Commission's August 2012 release. A downward adjustment in costs is necessitated by the large number of issuers that are also subject to transparency legislation in the European Union (EU), Norway, and Canada, or are already compelled to report their payments by project through the Extractive Industries Transparency Initiative (EITI).¹ These companies have already developed (or will soon be required to develop) mechanisms to track and report their payments by project, and logically will not have to do so again should the SEC issue a rule that mandates disaggregated project-level reporting.

In our analysis of the companies subject to Section 1504, we also find that a number of issuers are so interrelated that they will likely report using one

¹ As you know, EU, Norwegian, and Canadian legislation requires affected companies to publically report their payments for each of their projects. A handful of EITI-member countries require companies to report their payments for each of their projects.

payment tracking system. Therefore, in calculating total costs and burdens, the Commission should not count each of these issuers separately.

Finally, we find that a number of companies have revenues so small that they are unlikely to have substantial operations or substantial payments to track, and will not therefore need to put into place expensive tracking and reporting systems.

As you continue work on an implementing rule for Section 1504, please consider the following findings:

Number of Resource Extraction Issuers Subject to Section 1504 of the Dodd-Frank Act

Publish What You Pay – United States identified a total of 939 issuers that are believed to be subject to Section 1504 of Dodd-Frank.² We arrived at this number by searching for companies that file reports with the Commission under certain Standard Industry Classification (SIC) codes.³ We then confirmed that each issuer 1) was in fact a “Resource Extraction Issuer,” as defined in the Commission’s August 2012 release, and 2) was engaged in the “commercial development of oil, natural gas, or minerals,” also as defined in the 2012 release.⁴ We found that some companies have changed their business plans and no longer engage in the commercial development of oil, natural gas, or minerals, but have yet to acquire a new SIC code. These issuers were removed from our list.⁵

Closely-Related Resource Extraction Issuers

A number of issuers are closely related and will therefore not have to create new tracking systems for each related entity. Thus, we believe that it is appropriate for the Commission to adjust the number of companies downward from 939 when calculating issuer costs and burdens. For example, Cheniere Energy Inc. files with the Commission, but so do Cheniere Energy Partners LP and Cheniere Energy Partners LP Holdings LLC. All three are included in our list of 939 issuers subject to Section 1504, but each of these three issuers are clearly not building and putting into place their own separate payment tracking and reporting systems. Instead, one system will likely be built for and used by all three.⁶

² A complete list of all 939 issuers, along with a host of information including SIC codes, market capitalizations, and whether or where issuers are already required to report by project, can be found at:

www.publishwhatyoupay.org/wp-content/uploads/2015/11/1504_Companies_MASTER.xlsx

Publish What You Pay compiled the list of issuers and checked for cross-listings in the EU, Canada, and Norway in August 2015. EITI data was collected in September 2015, using each EITI-member country’s most recent EITI report. Market capitalization data was compiled in early October 2015, using Yahoo! Finance.

³ A complete list of the SIC codes we assessed can be found in Appendix A.

⁴ See: <http://www.sec.gov/rules/final/2012/34-67717.pdf>, p.18 and p.35. Or 77 Fed. Reg. 56369 and 56373.

⁵ Conversely, it is probable that some issuers have modified their business plans to *include* the commercial development of oil, natural gas, or minerals, but have not received a revised extraction-oriented SIC code.

Unfortunately, we do not have a way to identify and include these issuers in our analysis.

⁶ The Cheniere Energy, Inc. 2014 Form 10-K discloses that it “is a Houston-based energy company primarily engaged in LNG-related businesses. We own and operate the Sabine Pass LNG terminal in Louisiana through our ownership interest in and management agreements with Cheniere Energy Partners, L.P. (“Cheniere Partners”) (NYSE MKT: CQP), which is a publicly traded limited partnership that we created in 2007. We own 100% of the general partner interest in Cheniere Partners and 80.1% of Cheniere Energy Partners LP Holdings, LLC (“Cheniere Holdings”) (NYSE MKT CQH), which is a publicly traded limited liability company formed in 2013 that owns a 55.9% limited partner interest in Cheniere Partners.” Thus all three issuers will track payments through only one system,

Therefore, in order to avoid “over-counting” the number of issuers required to build and put into place reporting systems from scratch, we removed all closely related issuers from our list of 939.

Doing so left us with 837 companies that are not closely related, and will be required to develop payment tracking and reporting mechanisms from scratch.⁷

Resource Extraction Issuers Required to Report Their Payments in Another Jurisdiction

Publish What You Pay assessed each of the 837 companies to determine how many are subject to transparency legislation in the EU, Norway, or Canada; or already report their payments by project through the EITI,⁸ or report their payments by project voluntarily.⁹ The results are as follows:

- 173 of the 837 resource extraction issuers we assessed are subject to the project-level reporting mandates in EU, Norwegian, or Canadian law, or currently report their payments by project voluntarily or by project through EITI.¹⁰ **That amounts to 20.67 percent.**

In the Paperwork Reduction Act section of the August 2012 final rule release, the Commission defines a “small issuer” as one with a market capitalization of less than \$75 million, and a “large issuer” as one with a market capitalization greater than \$75 million.¹¹ Publish What You Pay compiled market capitalization data for each of the 837 companies that will be required to develop payment reporting mechanisms from scratch, and found that 396 are “small issuers,” 372 are “large issuers,” and 69 do not have a public float. Of the 69 companies without a public float, 57 have less than \$50 million in revenue, and are therefore considered by the Commission to be “small issuers.” 12 have revenue in excess of \$50 million, and are considered “large issuers.” **In all, of the 837 issuers assessed by Publish What You Pay, 453 are small and 384 are large.**

- Of the 453 “small issuers,” 75 are subject to EU, Norwegian, or Canadian law, or already report their payments by project voluntarily or by project through EITI (**16.56 percent**).
- Of the 384 “large issuers,” 98 are subject to EU, Norwegian, or Canadian law, or already report their payments by project voluntarily or by project through EITI (**25.52 percent**).

and calculating the costs of a rule for Section 1504 as if they were three different issuers would result in an overstatement of costs.

⁷ A list of the closely-related issuers subtracted from our initial list of 939 issuers can be found in Appendix B.

⁸ For methodology – in other words, how we determined which companies are subject to EU, Norwegian, or Canadian legislation, and which companies report through the EITI – see the “notes” tab in the Microsoft Excel document, found at: www.publishwhatyoupay.org/wp-content/uploads/2015/11/1504_Companies_MASTER.xlsx

⁹ Kosmos Energy made a policy decision to voluntarily report its payments by project, beginning in 2014. See: <http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-95.pdf>

¹⁰ Thus, we believe a more appropriate number of issuers to use to calculate compliance costs is 664 rather than 837. We acknowledge that a nominal amount should be included in cost and burden calculations for the effort issuers already subject to project-level reporting will expend to make the actual filings with the SEC, and for issuers that only report by project through EITI, some cost to expand their already-developed tracking systems outside of those countries.

¹¹ <http://www.sec.gov/rules/final/2012/34-67717.pdf>, p. 210. Or 77 Fed. Reg. 56415.

The Largest Issuers Are Disproportionately Likely to Have to Report Payments in Another Jurisdiction

In its August 2012 final rule release, the Commission wrote: “We believe that initial implementation costs will be lowest for the smallest issuers and incrementally greater for larger issuers.”¹² Publish What You Pay conducted an analysis of the largest issuers subject to Section 1504, and found that the largest issuers (by market capitalization) are disproportionately likely to already report their payments by project voluntarily, by project through EITI, or be subject to the project-level reporting mandates in EU, Norwegian, or Canadian law. Consider the following findings:

- Of the largest 25 percent of issuers subject to Section 1504 (the largest 209 issuers of 837):
 - 59 of 209 (**28.23 percent**) are subject to EU, Norwegian, or Canadian legislation, or already report by project voluntarily or by project through EITI.
- Of the largest 20 percent of issuers subject to Section 1504 (the largest 168 issuers of 837):
 - 51 of 168 (**30.36 percent**) are subject to EU, Norwegian, or Canadian legislation, or already report by project voluntarily or by project through EITI.
- Of the largest 15 percent of issuers subject to Section 1504 (the largest 126 issuers of 837):
 - 45 of 126 (**35.71 percent**) are subject to EU, Norwegian, or Canadian legislation, or already report by project voluntarily or by project through EITI.
- Of the largest 10 percent of issuers subject to Section 1504 (the largest 84 issuers of 837):
 - 33 of 84 (**39.29 percent**) are subject to EU, Norwegian, or Canadian legislation, or already report by project voluntarily or by project through EITI.

Many Resource Extraction Issuers Do Not Have Substantial Operations

Publish What You Pay conducted a review of the issuers subject to Section 1504 in order to estimate how many had substantial operations to track and payments to report. As the Commission noted in the Paperwork Reduction Act section of its August 2012 final rule release, reporting burdens on issuers are likely to vary based on, among other things, complexity of operations.¹³ Publish What You Pay found that many issuers subject to Section 1504 have no substantial operations. Without substantial operations, issuers are either unlikely to have payments to track, or have very limited payments that can be tracked inexpensively without the need to put into place tracking and reporting systems of any sophistication. Publish What You Pay conducted its analysis of operations complexity as follows:

¹² <http://www.sec.gov/rules/final/2012/34-67717.pdf> p. 210. Or 77 Fed. Reg. 56415.

¹³ <http://www.sec.gov/rules/final/2012/34-67717.pdf> p. 208. Or 77 Fed. Reg. 56414.

- 1) We began with the complete list of 939 issuers subject to Section 1504, and removed from consideration those companies that are closely-related. This brought our list to 837.
- 2) We assessed each issuer's most recent 10K filing to find annual revenue data.
- 3) Using annual revenue as a proxy for substantial operations, we very conservatively designated an issuer as having substantial operations if it reported annual revenue of \$100,000 or greater.
- 4) Of the 837 issuers, 453 are small, and 384 are large. We conservatively assumed that all 384 large issuers have annual revenue of more than \$100,000, and therefore substantial operations/payments. We assessed the annual revenue reported by each of the 453 small issuers, and found that just 186 had annual revenue exceeding \$100,000.
- 5) Therefore, of the 837 issuers assessed, 570 (all 384 large issuers + 186 small issuers) had substantial operations, and 267 did not.¹⁴

Conclusion

When calculating implementation costs to issuers, the Commission should keep in mind that a significant number of issuers are already compelled to track and publicly report their payments by project in another jurisdiction. Therefore, these issuers will have already developed payment tracking and reporting systems, and will not have to expend resources to do so again should the Commission issue a rule for Section 1504 that mandates public, project-level reporting in line with the global standard. Moreover, these companies comprise a significant portion of the largest issuers subject to Section 1504. Many other issuers are closely related and should not be "double-counted," and a large number of additional issuers have no substantial operations and thus will likely have no (or minimal) payments to track.

A Microsoft Excel document containing our data on all 939 companies subject to Section 1504 can be found at www.publishwhatyoupay.org/wp-content/uploads/2015/11/1504_Companies_MASTER.xlsx and please do not hesitate to contact me if I can provide additional information.

Regards,



Jana L. Morgan
Director
Publish What You Pay – United States

¹⁴ Subtracting the 102 closely interrelated companies from our initial list of 939 issuers brought down the total to 837 issuers. When the 173 issuers listed on an EU, Norwegian, or Canadian exchange were subtracted, along with those issuers voluntarily reporting by project or already compelled to report by project through EITI, the total number of issuers was reduced to 664. Of these remaining 664 issuers, 211 were found not to have substantial operations. If the Commission were to then subtract the 211 issuers not found to have substantial operations from 664, the total number of issuers would decrease to 453.

Appendix A: SIC Codes Assessed by Publish What You Pay

SIC	Description	Number of Issuers
1000	Metal Mining	141
1040	Gold and Silver Ores	116
1090	Miscellaneous Metal Ores	11
1220	Bituminous Coal & Lignite Mining	11
1221	Bituminous Coal & Lignite Surface Mining	13
1311	Crude Petroleum and Natural Gas	299
1381	Drilling Oil & Gas Wells	43
1382	Oil & Gas Field Exploration Services	49
1389	Oil & Gas Field Services	35
1400	Mining & Quarrying of Nonmetallic Minerals (No Fuels)	37
1623	Water, Sewer, Pipeline, Comm and Power Line Construction	3
2911	Petroleum Refining	34
3310	Steel Works, Blast Furnaces & Rolling & Finishing Mills	2
3312	Steel Works, Blast Furnaces Rolling Mills (Coke Ovens)	7
3317	Steel Pipe & Tubes	1
3330	Primary Smelting and Refining of Nonferrous Metals	2
3334	Primary Production of Aluminum	2
3533	Oil & Gas Field Machinery & Equipment	5
4610	Pipe Lines (No Natural Gas)	21
4922	Natural Gas Transmission	51
4923	Natural Gas Transmission & Distribution	12
4924	Natural Gas Distribution	21
4932	Gas & Other Services Combined	4
5171	Wholesale Petroleum Bulk Stations & Terminals	10
5172	Wholesale-Petroleum & Petroleum Products (No Bulk Stations)	8
6795	Mineral Royalty Traders	1
		939

Appendix B: Closely Related Companies

Included in the analysis	Removed from the analysis
Laclede Group	Alabama Gas Corp
Alliance Holdings GP LP	Alliance Resource Partners LP
Alon USA Partners, LP	Alon Refining Krotz Springs, Inc. Alon USA Energy Inc.
Antero Resources Corp	Antero Midstream Partners LP
Apache Corp	Apache Offshore Investment Partnership
Atlas Resources	Atlas America Public 10 Ltd Atlas America Public 11 2002 LTD Atlas America Public 12 2003 Limited Partnership Atlas America Public 14 2004 L P Atlas America Public 14 2005 A L P Atlas America Public 15 2005 A L P Atlas America Public 15 2006 B L P Atlas America Public 9 Ltd Atlas America Series 25 2004 A L P Atlas America Series 25 2004 B L P Atlas America Series 26 2005 L P Atlas America Series 27 2006 L P
Atlas Resource Partners	Atlas Resources Public 16 2007 A L P Atlas Resources Public 17 2007 A L P Atlas Resources Public 17 2008 B L P Atlas Resources Public 18 2008 A L P Atlas Resources Public 18 2009 B L P Atlas Resources Public 18 2009 C L P Atlas Resources Series 28 2010 L P
Linn Energy	Berry Petroleum Co LinnCo LLC
Cheniere Energy Inc.	Cheniere Energy Partners L P Cheniere Energy Partners L P Holdings LLC
PDC Energy Inc.	Colorado 2002A Limited Partnership
Columbia Pipeline Group, Inc.	Columbia Pipeline Partners LP
Contango Oil Gas Co	Contango ORE Inc.
CVR Energy Inc.	CVR Refining LP
Delek US Holdings Inc.	Delek Logistics Partners LP
Venoco, Inc.	Denver Parent Corp

Dominion Resources Inc.	Dominion Gas Holdings, LLC Dominion Midstream Partners LP
Enbridge Inc.	Enbridge Energy Management L LC Enbridge Energy Partners LP Midcoast Energy Partners LP
Energy Transfer Equity LP	Energy Transfer Partners L P Panhandle Eastern Pipeline Co LP
EnLink Midstream Partners LP	EnLink Midstream LLC
Energy XXI	EPL Oil & Gas Inc.
EQT Corp	EQT GP Holdings, LP EQT Midstream Partners LP
Boardwalk Pipeline Partners LP	Gulf South Pipeline Company LP
HollyFrontier Corp	Holly Energy Partners LP
United Refining Co	Kiantone Pipeline Co
Kinder Morgan Inc.	Kinder Morgan Energy Partners LP Colorado Interstate Gas Company LLC
Vanguard Natural Resources LLC	LRR Energy, L.P.
Memorial Resource Development Corp.	Memorial Production Partners LP
Mewbourne Energy Parnters 08 A LP	Mewbourne Energy Partners 09 A LP Mewbourne Energy Partners 03 A LP Mewbourne Energy Partners 04 A LP Mewbourne Energy Partners 05 A LP Mewbourne Energy Partners 07A LP Mewbourne Energy Partners 10 A L P
Noble Energy	NBL Texas, LLC
NuStar Energy L.P.	NuStar GP Holdings LLC
ONEOK Partners LP	ONEOK INC NEW
PBF Logistics LP	PBF Energy Inc. PBF Holding Co LLC
Phillips 66	Phillips 66 Partners LP
Plains All American Pipeline LP	Plains GP Holdings LP
Questar Corp	Questar Gas Co Questar Pipeline Co
Reef Oil Gas Drilling Income Fund LP	Reef Oil Gas Income Development Fund III LP

Rice Energy Inc.	Rice Midstream Partners LP
Ridgewood Energy A-1 Fund LLC	Ridgewood Energy O Fund LLC Ridgewood Energy P Fund LLC Ridgewood Energy Q Fund LLC Ridgewood Energy S Fund LLC Ridgewood Energy T Fund LLC Ridgewood Energy U Fund LLC Ridgewood Energy V Fund LLC Ridgewood Energy W Fund LLC Ridgewood Energy X Fund LLC Ridgewood Energy Y Fund LLC
Rockies Region 2006 Limited Partnership	Rockies Region 2007 LP
Cheniere Energy Investments	Sabine Pass Liquefaction LLC Sabine Pass LNG L P
Sanchez Oil & Gas Corporation	Sanchez Production Partners LLC
Sandridge Energy Inc.	SandRidge Mississippian Trust II SandRidge Permian Trust
SeaDrill Ltd.	SeaDrill Partners LLC
Royal Dutch Shell	Shell Midstream Partners LP
South Jersey Industries Inc.	South Jersey Gas Co
Sempra Energy	Southern California Gas Co
Spectra Energy Corp	Spectra Energy Partners LP
Tallgrass Energy Partners LP	Tallgrass Energy GP, LP
Targa Resources Corp.	Targa Resources Partners LP
Tesoro Corp	Tesoro Logistics LP
Transcanada Corp	Transcanada Pipelines Ltd TC Pipelines LP
Transocean Ltd	Transocean Partners LLC
Western Gas Equity Partners LP	Western Gas Partners LP
Western Refining Inc.	Western Refining Logistics LP
Williams Companies Inc.	Williams Partners LP Transcontinental Gas Pipe Line Company LLC Northwest Pipeline LLC
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