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February 23, 2012

Commissioner Elisse Walter  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-5546  
Via Email

**Re: Disclosure of Payments by Resource Extraction Issuers File No. S7-42-10**

Dear Commissioner Walter,

As requested in our recent meeting, attached please find the following publications, which provide an overview of the structure of petroleum fiscal systems:

*Fiscal System Analysis: Concessionary and Contractual Systems Used in Offshore Petroleum Arrangements*

U.S. Department of Interior, Minerals Management Service, Gulf of Mexico OCS Region (MMS)

Mark J. Kaiser, Allan G. Pulsipher, Coastal Marine Institute, Center for Energy Studies, Louisiana State University  
March 2004

Available at: <http://www.data.bsee.gov/PI/PDFImages/ESPIS/2/2977.pdf>

*International Petroleum Taxation*

Independent Petroleum Association of America (IPAA)

David Johnston, Daniel Johnston & Tony Rogers, Daniel Johnston & Co. Inc.  
July 4, 2008

Available at:

<http://www.ipaa.org/issues/international/docs/InternatlPetroTaxSupp.pdf>

These publications make clear that existing petroleum fiscal systems are based on licenses, concessions and contracts. This demonstrates that, as intended, PWYP's proposed definition of "project" is a common-sense approach that aligns with the structure of existing petroleum fiscal systems.<sup>1</sup>

Please find highlighted below key points from each publication.

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<sup>1</sup> See PWYP comments to the SEC, Dec 20 2011: "We reiterate our recommendation that project should be defined as a lease, license or other concession-level arrangement that assigns rights and fiscal obligations. Royalties, license fees, production entitlements and bonuses – payments which together represent a large share of the financial benefits that accrue to governments from extractive activities – are levied according to the terms of specific leases and licenses. It follows, therefore, that payment disclosures should be made at this level. As noted in our comment dated February 25, 2011, in cases where certain payments are levied at an entity level rather than at the lease/license level (e.g. corporate income tax calculated on the basis of all profits on all projects within a jurisdiction), a limited reporting allowance may be appropriate for those specific payments only." Available at <http://sec.gov/comments/s7-42-10/s74210-117.pdf>; See also PWYP comments to SEC, Feb. 25, 2011 available at <http://sec.gov/comments/s7-42-10/s74210-29.pdf> at 33.

### **“Fiscal System Analysis” Key Points:**

“In the United States, an oil company acquires mineral rights from the government or private landowner, while outside the U.S. a host government typically grants a license (lease, or block area) or enters into a contractual arrangement with an operator to develop a field without owning the mineral resources. The contractor or operator refers to an oil company, contractor group, or consortium. The host government is represented by a national oil company, an oil ministry, or both.”

(See Page 3, Section 1.2, “The Stages of an Oil and Gas Venture”)

### **“International Petroleum Taxation” Key Points:**

“Petroleum fiscal/contraction systems or regimes around the world have for many years been classified into two main categories. The basis of this classification is legal regarding the transfer of title to hydrocarbons to the oil company.” (See Page 1-2)

#### 1. Royalty/tax (concessionary) system

##### **Agreement type** -- Concessions or licenses

“A Concession (or License) is an agreement granting an IOC or consortium the exclusive right to explore for and produce hydrocarbons within a specific area (License Area or Block) for a given time period.”

**Coverage:** “Nearly half of the countries worldwide use a concessionary (or royalty/tax system).”

#### 2. Contract-based systems

##### **Agreement type 1** -- Production sharing contracts (PSCs or PSAs)

“Production sharing contracts or agreements (PSCs or PSAs) give an IOC or consortium (known as the Contractor) the right to explore for and produce hydrocarbons within the Contract Area or Block for a specific time period-much the same as a [Royalty/tax system] license.”

**Coverage:** “Slightly over half of the governments with hydrocarbon production worldwide use PSCs.”

##### **Agreement type 2** -- Risk Service Contracts (RSAs)

“A Risk Service Contract is a type of agreement whereby an IOC performs exploration and/or production services for the Host Government within a specified area for a fee.”

**Coverage:** “Pure service agreements are rare between an IOC and a foreign government but some do exist like the Iranian buy-backs...”

### **Comparison among systems:**

“From a mechanical point of view there are practically no differences between the various systems. The hierarchy of arithmetic such as (1) generation of production and revenue followed by (2) royalty or royalty equivalent elements, followed by (3) cost recovery, tax deductions or reimbursement, etc. and (4) profits-based mechanisms such as profit-oil sharing and/or taxes are for all practical purposes found in almost all systems.” (See Page 2)

We hope that this information proves useful to your deliberations on Section 1504 of the Dodd-Frank Act. Please do not hesitate to let me know if you require additional information.

With best regards,

A handwritten signature in cursive script, appearing to read "Isabel Munilla".

Isabel Munilla  
Director, Publish What You Pay U.S.

CC:

Commissioner Daniel Gallagher

Commissioner Luis Aguilar

Paula Dubberly, Deputy Director, Division of Corporate Finance

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