



Mr. Mark Langer
Clerk of the Court
United States Court of Appeals for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse and William B. Bryan Annex
333 Constitution Ave., NW
Washington, DC 20001

March 13, 2013

Re: Rule 28(j) *American Petroleum Institute, et al., v. Securities and Exchange Commission*, No.12-1398.

Dear Mr. Langer:

Intervenor Oxfam America (“Oxfam”) respectfully submits the following supplemental authorities, which support Oxfam’s argument that this Court lacks jurisdiction. Intervenor Br. at 11-14. In *Kloeckner v. Solis*, 135 S. Ct. 592 (2012), the Supreme Court strictly construed a statute authorizing direct appellate review for only some agency actions, but reserving initial district court jurisdiction for others. Although the statute was intended in part to remove unnecessary layers of judicial review and direct cases to the appellate courts when necessary, subsequent judicial developments could not be read to undermine Congressional intent, unambiguously discernable in the statutory text, to assign review of only *some* actions to the appellate courts. *Id.* at 607 n.4.

Concurring in the denial of *en banc* rehearing in *Coalition for Responsible Regulation v. EPA*, 2012 U.S. App. LEXIS 25997, No. 09-1322 (D.C. Cir. Dec. 20, 2012), three judges of this

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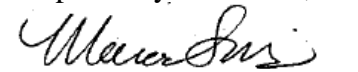
Court noted that *Kloeckner* rejected an unreasonable interpretation of the statute, and accepted “the only plausible one.” *Id.* at *27 (Sentelle, C.J., Tatel & Rogers, JJ., concurring).

In *Norfolk Southern Railway v. Solis*, 2013 U.S. Dist. LEXIS 535 (D.D.C. Jan. 3, 2013), the court concluded that “‘where Congress has set out a complex scheme authorizing certain types of review but not others,’ and Congress has ‘explicitly given the district courts review authority’ in particular areas . . . [.]” the court must strictly observe that scheme. *Id.* at *23 (citing *Griffith v. Fed. Labor Relations Auth.*, 842 F.2d 487, 494 (D.C. Cir. 1988)).

The following additional updates support Oxfam’s argument that exemptions were properly denied. Intervenor Br. at 18. The Dutch Government announced that the forthcoming European directive mandating payment disclosures similar to Cardin-Lugar should not grant exemptions for alleged foreign legal prohibitions, in part because such a clause would allow countries to escape European transparency requirements. *See Publish What You Pay*, Dutch government rejects exemptions in new European oil and mining transparency rules, Feb. 8, 2013, at <http://www.publishwhatyoupay.org/resources/dutch-government-rejects-exemptions-new-european-oil-and-mining-transparency-rules>.

Norwegian oil company Statoil, member of Petitioner API, withdrew its support for API’s suit. *See* Letter from Statoil SA to Global Witness, Feb. 5, 2012, at <http://www.globalwitness.org/sites/default/files/library/Statoil%20Letter%20to%20Global%20Witness.pdf>.

Respectfully submitted,



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