

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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EARTHRIGHTS INTERNATIONAL,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 22-1500 (CKK)
)	
UNITED STATES DEPARTMENT OF THE)	
TREASURY,)	
)	
Defendant.)	
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EARTH RIGHTS INTERNATIONAL,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 22-1503 (CKK)
)	
UNITED STATES DEPARTMENT OF THE)	
INTERIOR,)	
)	
Defendant.)	
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JOINT STATUS REPORT

Plaintiff, EarthRights International, and Defendants, the United States Department of the Treasury (“Treasury”) and the United States Department of the Interior (“Interior”), hereby submit this initial joint status report in the above consolidated actions.

In Civil Action No. 22-1500, the complaint was filed on May 27, 2022, and Defendant Treasury Answered on August 10, 2022. Plaintiff seeks from Treasury records pertaining to the United States participation in and/or implementation of the Extractive Industries Transparency Initiative (“EITI” or “USEITI”), to the 2017 determination that laws prevent the U.S. from meeting

EITI standards, to communications relating to Rex Tillerson's involvement in any decision making with respect to the EITI, and to Saudi Aramco's potential initial public offering that mention EITI.

In Civil Action No. 22-1503, the complaint was filed on May 27, 2022, and Defendant Interior answered on August 10, 2022. Plaintiff seeks from Interior all communications and other records between January 2, 2017 and December 31, 2017, discussing or otherwise concerning the United States' participation in and/or implementation of the Extractive Industries Transparency Initiative ("EITI" or "USEITI"), including specifically the U.S. decision to withdraw as an EITI implementing country.

In response to the Court's order dated August 23, 2022, the parties report as follows.

Department of the Treasury

Treasury states that it diligently searched through its International Affairs office, the Office of Capital Markets, and the Internal Revenue Service, and did not find any potentially responsive materials in those searches. However, Treasury very recently discovered that one custodian in the Office of Tax Policy may have potentially responsive materials. Treasury is expediting that search, and it is uncertain how many pages of records will be retrieved. Treasury will have a better sense of the number of pages once Treasury's information technology office completes its processing of these materials, hopefully within the next thirty days. Treasury does not believe an Open America Stay will be necessary and believes it is premature to consider whether a *Vaughn* index will be necessary at this time.

Department of the Interior

Plaintiff's counsel and Interior have been discussing how to proceed with a response to the FOIA request. Plaintiff submitted a list of questions to which Interior has responded; Plaintiff had additional follow up questions that Interior is currently reviewing. Interior has two collections of

documents that were returned from searches done in response to two FOIA requests similar to the request submitted by plaintiff in this case.

Interior has reviewed the first collection of documents and is prepared to produce approximately 2200 pages responsive to one of the similar requests. Interior believes that these documents are responsive to Plaintiff's request as well. Plaintiff has requested a copy of this similar FOIA request to confirm the similarity between this first FOIA request and Plaintiff's request. It has yet to be provided.

Interior is also reviewing a second collection of 941 documents responsive to a second request that Interior believes is similar to Plaintiff's request. Interior is gathering email attachments that were not returned along with parent emails, so they expect the final total number of pages to be larger than 941 for this request. Interior believes that these documents are responsive to Plaintiff's request.

Interior therefore has two tranches of documents that it believes would satisfy Plaintiff's request. The first tranche of 2200 pages could be produced within 30 days. The second tranche could be produced by the end of the calendar year.

The parties are discussing whether the Plaintiff would be amenable to accepting the documents originally collected in response to these other two requests and receiving productions of these documents in two tranches by the end of the calendar year, with the first production being made within 30 days. Otherwise, Interior would have to run another search and it is expected that production would run into 2023.

Plaintiff believes these two tranches of records should be produced as soon as practicable without a commitment from the Plaintiff that these two tranches are sufficient to satisfy its FOIA request. Only by reviewing both of the prior FOIA requests (one of which has not been provided

to Plaintiff) and the records themselves can the Plaintiff assess whether additional searches are warranted. The two tranches of documents Interior is preparing to disclose are documents responsive to *other* requestors' requests. To Plaintiff's knowledge, no search has been performed on its request.

Given the foregoing, Interior does not believe an Open America Stay will be necessary and it is premature to consider whether a *Vaughn* index will be necessary at this time. With respect to the 2200 pages of Interior records that have already been reviewed, Plaintiff's view is that it is not premature to consider whether a *Vaughn* index is necessary. Interior knows with certainty the extent to which these pages are redacted and thus is now in a position to state whether the index will be needed as to that tranche.

The parties propose that another joint status report be filed in 30 days, on or before October 20, 2022.

Dated: September 20, 2022

Respectfully submitted,

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