ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515–6115

JOE BARTON, TEXAS
CHAIRMAN

June 2, 2004

The Honorable Spencer Abraham
Secretary
Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Abraham:

Gasoline prices are now averaging more than $2.00 per gallon nationwide, and are even higher in certain regions. Given recent events in the Middle East, crude oil prices remain high and there is little prospect of relief in sight. American consumers, industry, and the economy are suffering the ill effects of these prices and continuing uncertainty regarding the Administration's apparent indifference thereto.

You will recall that at the Committee on Energy and Commerce's April 1, 2004, hearing on the Department of Energy's (DOE) FY 2005 budget, I asked whether or not the Administration had vigorously attempted to persuade the Organization of Petroleum Exporting Countries (OPEC) to increase production. At that time you did not provide much assurance, and press reports indicate that your recent efforts in this regard have produced only limited success. I again encourage you in the strongest possible terms, as Secretary of Energy and a member of the President's cabinet, to do everything in your power to persuade President Bush to jawbone all OPEC members to moderate world crude oil prices.

In light of the Administration's failure to persuade OPEC to moderate crude prices, a number of Members of Congress have called upon you to draw down the Strategic Petroleum Reserve (SPR). As you know, I have consistently opposed efforts to draw down the SPR for the purpose of mitigating short term fluctuations in the price of crude oil. That was not the purpose behind creation of the Reserve, as the statute clearly states. Instead, it is intended to be tapped only in an emergency when there is a significant and prolonged reduction of supplies, or a severe increase in the price of petroleum products which is likely to cause a major adverse impact on the economy. Indeed, the ongoing upheaval in the Middle East underscores the need to retain the volumes of oil in the SPR for such dire circumstances.

On the other hand, there appears to be ample precedent for adjusting the timing of additions to the SPR. A deferral of deliveries could have the salutary effects of maximizing contributions to the Reserve, ensuring value to the taxpayer, and calming oil markets to facilitate a drop in crude oil and ultimately in gasoline prices.

I am puzzled as to why the Administration is so opposed to deferring SPR additions at this point when it appears that substantial savings to the taxpayer could be achieved. According to a report by the Congressional Research Service (CRS), the DOE did so at least once during your tenure. If this was an acceptable practice in 2001, it is unclear to me why it would not be so at this point. With savings to taxpayers and consumers, it is difficult for me to understand what negative impact this action could have.

In order to clarify the Administration's position on this matter, I ask for your response to the attached questions no later than June 16, 2004. I appreciate your assistance in providing a prompt reply.

Sincerely,

JOHN D. DINGELL
RANKING MEMBER

Attachment

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman
Committee on Energy and Air Quality

The Honorable Rick Boucher, Ranking Member
Subcommittee on Energy and Air Quality

Attachment

QUESTIONS FOR DOE SECRETARY ABRAHAM

1. A report by the Congressional Research Service (CRS, "Strategic Petroleum Reserve," March 18, 2004) states "[I]n light of tightness in world oil markets and increasing prices, the Administration agreed to delay deliveries scheduled for late 2002 and the first months of 2003. The Administration had intended to boost deliveries to the SPR to 130,000 barrels per day (b/d) during April 2003, a total of 3.9 million barrels. But, on March 4, 2003, DOE delayed delivery of all but 15,000 b/d of RIK [royalty in kind] oil. With the end of the military phase of the war in Iraq and little effect on oil markets, deliveries of RIK oil were resumed . . .".

   (a) Are the facts presented in this portion of CRS's report correct?

   (b) If so, what were the circumstances leading to the Administration's decision to delay SPR deliveries? Specifically, which party initiated the delay? Aside from timing of deliveries, what other aspects of the relevant contracts were amended?

   (c) In retrospect, does the Administration feel this decision was beneficial to consumers and the taxpayer, and if so why? If not, please explain why.

2. The CRS report also states that, with respect to repayment of an earlier "swap" of SPR oil, "On March 29, 2001, the repayment schedule was renegotiated to allow five companies to return nearly 24 million barrels of the swapped oil between December 2001-January 2003." The report indicates DOE received additional oil when repayment was made, and that "It is believed that the schedule was renegotiated to keep pressure off crude markets, and to keep this volume of oil in the private sector where it could be tallied in industry stocks going into the winter of 2001-2002." The report indicates that "Obligations were fully satisfied by January 2004."

   (a) Do you agree or disagree with the facts outlined in this portion of CRS's report? Did DOE receive additional oil in return for the deferral of deliveries? If so, how much?

   (b) Do you agree or disagree with CRS's description of the reasons for this delay in the repayment schedule? If not, please explain any other reasons for the delay.

   (c) In retrospect, does the Administration feel this delay was beneficial to consumers and the taxpayer, and if so why? If not, please explain why.

3. Aside from the circumstances referred to in questions 1 and 2, please describe any other delays or deferrals in delivery, swaps, or exchanges of SPR oil that occurred (a) during this Administration and (b) prior to this Administration.

Please explain the reasons for any and all such actions, and the consequences, including benefits or detriments to consumers and the taxpayer.

4. (a) Has the Administration considered deferring deliveries of oil to SPR in response to market conditions in the past year? Why or why not?

(b) Has the Administration proposed this? Why or why not?

(c) Has the Administration categorically ruled out this option? Why or why not?

(d) Has any party to any agreement regarding the SPR suggested or formally proposed such a deferral or modification? If so, please describe the circumstances, as well as the Administration's response and reasons therefore.

5. According to a *Wall Street Journal* article of May 19, 2004, "Street Sleuth: Oil-Price Forecasts Seem to Miss Upward Trend," oil prices are predicted to decline in the next year. After noting that Thomson First Call predicts that benchmark oil will fall from $40.52 a barrel to average $28.91 in the fourth quarter of this year, the article continues:

> "Oil futures tell a similar story. On the New York Mercantile Exchange light, sweet crude for delivery next month finished trading yesterday at $40.54 a barrel. If one is willing to forgo delivery until June of next year, however, that barrel of oil can be had for $34.81."

Recognizing that the DOE received oil in the form of royalty in kind and not on the spot market, it still appears that the Department, and ultimately taxpayers, could achieve significant savings through restructured contacts that provided for deferred deliveries.

(a) Has the DOE explored various financial instruments to achieve cost reductions or additional deliveries in return for deferring deliveries?

(b) Is the DOE legally permitted to use instruments such as oil futures to achieve price savings?

(c) What options does the DOE have to ensure a particular level of oil deliveries at a price substantially lower than current market prices?

(d) What, if any, additional legislation does the DOE require to take advantage of oil markets that can guarantee lower crude oil costs in return for deferred deliveries?