ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

Committee on Energy and Commerce

Washington, DC 20515–6115

JOHN D. DINGELL, MICHIGAN
CHAIRMAN

May 8, 2008

The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to urge you to direct the Secretary of the Department of Energy (DOE) not to enter into any new contracts to fill the Strategic Petroleum Reserve (SPR) during calendar year 2008. Given the record cost of oil and resulting hardship for average Americans, businesses, farmers, and the general economy, it would be imprudent for the Department at this point to obligate itself to new contractual commitments for this period. The concern applies equally to direct purchases of oil from currently tight world markets or to oil obtained through the Federal royalty-in-kind program. Under either approach, the Department's action would effectively remove oil from markets that otherwise could provide additional supply to ease current conditions.

My request is consistent with the authority and responsibilities provided the Secretary under the Energy Policy Act of 2005, which directed the Department to fill the Strategic Petroleum Reserve to the 1 billion barrel capacity authorized by the Energy Policy and Conservation Act as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of petroleum products to consumers.

In addition, the Energy Policy Act of 2005 directed that, in making decisions about acquiring petroleum for the Reserve, the Department must take into account and balance several other factors, including the need to avoid adversely affecting current and future prices of oil, and to minimize costs to the Government (including foregone revenues to the Treasury when product is obtained through the royalty-in-kind program).

Mr. President, as you know, oil market prices have attained new record price levels in recent days. Crude oil priced for June delivery has hovered above $120 per barrel despite rising inventory numbers. Many analysts believe that such prices have much to do with commodity price speculation, rather than near-term market fundamentals. If so, even modest market events, such as the determination of the U.S. Government to sell, rather than inject into storage, its royalty oil, could potentially prick the speculative bubble. For the U.S. Government to take a "business as usual" attitude in the face of such unprecedented and egregious market conditions could, to the contrary, reinforce the commodity speculators' hypothesis that current pricing reflects instead new market fundamentals that will sustain such prices and reward their speculation.

An Energy Information Administration analysis prepared in connection with Senate testimony by Administrator Guy Caruso in February 2008 indicated that a market impact of "just under $2 per barrel" would be expected from filling the SPR at a rate of 100,000 barrels per day in 2008, assuming that OPEC nations did not increase production by a matching amount. The actual fill rate since that analysis has been somewhat lower, but the analysis was prepared assuming per barrel oil prices would remain in the mid-$80 range. It is conceivable that the market effects of such a change in supply might now be greater than $2 per barrel, but it is unquestionable that the directional effect of adding oil for sale in today's tight market would be to reduce prices from whatever levels they would otherwise attain.

I understand that the Department has announced that it plans to continue adding to the Reserve through the royalty-in-kind program after the current contracts end in July. On April 4, 2008, DOE issued a solicitation seeking new contracts to exchange up to 13 million barrels of royalty oil from Federal leases to add to the Reserve from August through December 2008. Bids are due May 13, 2008, and presumably new contracts could be signed soon thereafter.

Mr. President, I urge you in the strongest possible terms to direct the Secretary not to enter into any new contracts to acquire additional petroleum for the SPR at this time, whether through direct purchases or the royalty-in-kind program. The Reserve currently holds about 701 million barrels, and at the completion of deliveries under its existing contracts in July will have reached 709 million barrels. The Reserve's maximum physical capacity at present is 727 million barrels, and the Department has indicated that additional storage capacity will not be available for several years. Furthermore, DOE indicates the Reserve contains 58 days of protection in the event of a crude oil import supply interruption, and that in combination with private stocks, places the U.S. in compliance with International Energy Agency requirements.

To my mind, the potential gain in national security of contracting to fill the remaining increment of available capacity in the Reserve is simply not worth the risk that keeping these royalty barrels off the market might contribute to the continuation or exacerbation of high gasoline prices. I recognize that if the Department were to immediately halt SPR deliveries under existing contracts, as some have urged, it could face lawsuits for breach of contract that might result in liability to the taxpayer. However, it is within the Department's discretion not to enter into new contracts at this time, which would avoid this risk. Such a decision would be wholly consistent with your decision in 2006 to suspend filling the SPR during the summer driving season, when oil prices were at about half of their current levels. Finally, given the level of Congressional concern about further acquisitions of petroleum for SPR at this time, and legislative proposals to bar additional fill during 2008, it seems unnecessarily confrontational at this time to enter into new contracts that might be thrown into jeopardy by subsequent Congressional action.

Mr. President, I have been and remain a strong supporter of filling the Reserve, and believe the Department should look for appropriate means and times to meet the 1 billion barrel target as directed in the 2005 Energy Policy Act. However, this should be done in a manner that is consistent with the balancing factors set forth in the Act, in order to avoid raising consumer prices. In light of the extraordinarily high current gasoline prices, widespread uncertainty about whether and when markets may stabilize, the obvious adverse effect this is having on average Americans, and the potential beneficial effect on markets of adding Federal royalty oil to available supplies, it makes no sense to enter into new agreements to fill the Reserve at this time.

I, therefore, urge you to direct the Secretary of Energy not to bind the Department, consumers, and the taxpayers to the consequences of entering new contracts for filling the Strategic Petroleum Reserve during 2008, and to defer any new fill commitments until oil markets stabilize and intelligent decisions can be made about appropriate time periods and terms for resuming additions to the Reserve.

Sincerely,

JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Nancy Pelosi, Speaker
U.S. House of Representatives

The Honorable Steny H. Hoyer, Majority Leader
U.S. House of Representatives

The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce