



OFFICE OF THE VICE PRESIDENT

WASHINGTON

May 16, 2001

The Honorable Anthony Gamboa
General Counsel
General Accounting Office
441 G Street NW
Washington, D.C. 20548

Dear Mr. Gamboa:

This letter is in response to a Fax Transmittal Sheet dated May 8, 2001 (Attachment 1) from Ms. Margaret J. Reese, Assistant Director for Natural Resources and Environment, of the U.S. General Accounting Office (GAO). The Transmittal Sheet asked to interview officials of the National Energy Policy Development Group (i.e., the Vice President, heads of Executive departments and agencies, and assistants to the President) and the Group's support staff, and attached a list of requests for information and copies of documents and phone records. The Transmittal sheet did not indicate the purpose and scope of the inquiry, nor did it contain a statement of the legal authority under which GAO inquired.

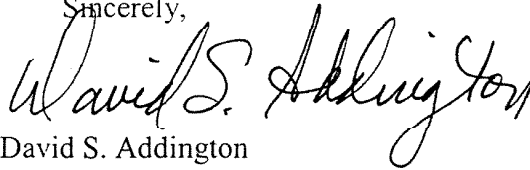
As a matter of comity between the legislative and executive branches, with due regard for the constitutional separation of powers and the rights of Americans to petition their government, and reserving all legal authorities and privileges that may apply, I am pleased to forward to GAO the enclosed copy of a letter of May 4, 2001 (Attachment 2) that answers an extensive series of questions posed by Members of Congress (Attachment 3) on the subject of the NEPDG.

The Fax Transmittal Sheet states that the GAO intent is "to review the composition and workings of the President's Energy Policy Development Group." That expression of intent indicates of necessity that GAO, a part of the legislative branch, seeks to inquire into the exercise of the authorities committed to the Executive by the Constitution, including the authority to "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices," to "take Care that the Laws be faithfully executed," and, with respect to Congress, to "recommend to their Consideration such Measures as he shall judge necessary and expedient." It appears that the GAO may intend to intrude into the heart of Executive deliberations, including deliberations among the President, the Vice President, members of the President's Cabinet, and the President's immediate assistants, which the law protects to ensure the candor in Executive deliberations necessary to effective government.

Please ask the Comptroller General to examine whether proceeding with the proposed inquiry is appropriate, in compliance with the law, and, especially in light of the information already provided as a matter of comity, a productive use of resources. We urge that, after considering those factors, he not proceed with the proposed inquiry. If the Comptroller General should decide that he wishes to initiate an inquiry, please send a statement of the legal authority for the GAO inquiry, including with regard to the Vice President and his staffs, and a description of its purpose and scope, to aid in determining at that point how best to proceed.

Thank you for your assistance with this sensitive matter.

Sincerely,

A handwritten signature in black ink that reads "David S. Addington". The signature is written in a cursive style with a large, prominent "D" and "A".

David S. Addington
Counsel to the Vice President

cc: Chairman and Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Chairman and Ranking Minority Member
Committee on Government Reform
House of Representatives