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May 13, 2002

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BERNARD SANDERS, VERMONT,
INDEPENDENT

The Vice President
The Eisenhower Executive Office Building
Washington, D.C. 20501

Dear Mr. Vice President:

I am writing to express my concern about an e-mail released by the Environmental Protection Agency which states that the National Energy Policy report released by your task force in May 2001 tried "desperately" to avoid mentioning California, the state with the most pressing energy crisis facing the country at the time. While the Administration's unwillingness to protect California's consumers from inflated energy prices is no secret, I believe that this document, coupled with recent revelations about Enron's possible manipulation of California's energy markets, underscores the need for the Administration to provide a complete accounting of its understanding of and approach to the energy crisis that plagued California and the West from 2000 to 2001.

On March 28, I asked EPA to provide copies of all documents relating to the energy task force that it had produced in response to FOIA or other requests. The e-mail in question was one of a number of documents on two CD-ROMs that EPA sent me on April 9 in response to my request. The documents include a series of e-mails between EPA and task force officials bearing Bate stamps EPA - 001575 through - 001597 (attached). As is true of many of the documents provided by EPA, almost all of the text of these e-mails has been redacted.

One exception, however, is that a portion of an e-mail sent at 5:28 p.m. on May 4, 2001, from Karen Knutson, the task force's deputy director, to Jacob Moss at EPA is not redacted (EPA - 001577). The unredacted portion of the e-mail states, in its entirety:

Jacob - another one -

On the insert you wanted for p. 16 - Andrew has concerns about this paragraph - it is emphasizing environmentally difficult issues about expediting permitting to deal with a crisis.

Also - **we are desperately trying to avoid california [sic] in this report as much as possible.** Can you make your same point without [sic] going into California so

Because of the redactions, it is impossible to know the precise context of Ms. Knutson's comments. However, on its face, her e-mail appears to indicate that the Administration was "desperately" seeking to avoid mentioning the most pressing energy crisis facing the country in a report ostensibly addressing the country's energy needs.

In fact, as the e-mail urged, the final National Energy Policy contained only a minimal discussion of California's energy crisis. The report attributed California's problems primarily to inadequate electricity supplies, compounded by a flawed deregulation plan, transmission bottlenecks, and plant outages. The report made no mention, however, of the role of energy traders like Enron or market manipulation in the crisis. At the time of its release, the report was widely criticized for failing to address California's problems. As the *Los Angeles Times* wrote:

California lawmakers, analysts and others waist-deep in the state's power crisis reached a single conclusion Thursday about the White House energy plan: By the time many of President Bush's proposals kick in, it will be too late to do the Golden State much good.¹

You disputed that the report ignored California. At the time the report was released, you stated that the report did not seek to avoid California issues, saying:

We talk about California; there are a lot of examples there in terms of what needs to be done and, to some extent, what to avoid. . . . [But] the things we focus on with respect to policy are long-term in nature and aren't going to provide any relief this summer.²

Obviously, the e-mail from Ms. Knutson appears to conflict with your assertions.

The e-mail also raises another troubling issue: the extent to which the Administration may have inappropriately redacted significant information from the documents released to Congress and public interest groups. Three seemingly identical copies of the same e-mail from Ms. Knutson to Mr. Moss have been entirely redacted.³ Furthermore, EPA's "Vaughn" index of redactions accompanying these documents (attached, in relevant part) suggests that EPA intended

¹*Critics Say Bush Proposal Leaves California in the Dark*, Los Angeles Times (May 18, 2001).

²*Cheney Rejects Price Caps, Aid for Calif. Power Crisis*, Los Angeles Times (May 5, 2001).

³The first two e-mails are Bate stamped EPA - 001582 and EPA - 001586. The third e-mail is not Bate stamped but it appears from the sequence of the documents that it should bear the Bate stamp EPA - 001596.

to redact the same information in the version of the e-mail cited above. It thus appears possible that Ms. Knutson's comments to Mr. Moss only came to light through an inadvertent failure on the part of EPA to redact information it had intended to redact and that it did in fact redact from three other versions of the same document.

EPA's Vaughn index justified these redactions by stating that the redacted material involved "predecisional and deliberative communication" and that disclosure "would chill frank and open discussion" and "cause public confusion about reason for decision." EPA appears to be taking the remarkable position that disclosure of the Administration's apparent efforts to avoid mentioning California in its report would "cause public confusion." In fact, this and other disclosures about the operations of the task force would remove public confusion by showing why and how the task force produced its report. There is now a serious question whether the redactions were made in good faith or were undertaken for political expediency and to avoid embarrassment.

These revelations are particularly troubling in light of memoranda produced by Enron in recent days which provide evidence of the extent to which it and other power marketers may have manipulated energy markets in California. For much of the first half of 2001, public officials in California and Congress -- myself included -- urged the Administration to take some action to investigate serious allegations of market manipulation by power sellers out West. These urgent requests were consistently rebuffed. Energy Secretary Spencer Abraham reportedly dismissed claims that energy producers were conspiring to drive up prices in California and elsewhere as a "myth."⁴ Moreover, the National Energy Policy extolled the benefits and endorsed the further development of energy derivatives markets, a position advocated by Enron.

It is important to know what, if anything, the Administration knew about Enron's efforts to manipulate the California energy market. Congress and the public -- and Californians in particular -- are entitled to a complete explanation of the Administration's failure to take prompt and effective action to protect Western consumers from price gouging and market manipulation. Without full disclosure, questions will remain about why the Administration refused to intervene earlier and whether, given its long record of inaction, it will vigorously pursue evidence of wrongdoing now.

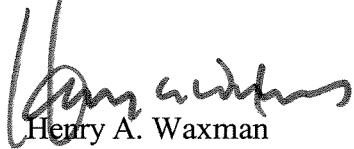
For these reasons, I request unredacted copies of all documents relating to the energy task force that discuss or relate to California or the energy crisis in the West. Disclosure of this information should, of course, include a complete and unredacted copy of the e-mail cited above. I request that this information be provided by May 20, 2002.

⁴*California Chided on Power-Plant Stand*, San Diego Union-Tribune (March 20, 2001).

The Vice President
May 13, 2002
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It is long past time for the Administration to disclose fully the operations of its energy task force.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is fluid and cursive, with a large initial "H" and "W".

Henry A. Waxman
Ranking Minority Member

Attachments