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January 15, 2004

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The Honorable Condoleezza Rice
Assistant to the President for National Security Affairs
The White House
Washington, DC 20500

Dear Ms. Rice:

I am writing to bring to your attention a series of unusual facts surrounding the decision to use an obscure Kuwaiti company, the Altanmia Commercial Marketing Company, to import hundreds of millions of dollars worth of gasoline from Kuwait to Iraq at grossly inflated prices.

As you know, Rep. Dingell and I have written a series of letters about the high prices charged by Halliburton to import gasoline from Kuwait into Iraq. On December 11, the Defense Contract Audit Agency (DCAA) validated these concerns, finding in a preliminary audit that Halliburton and its subcontractor Altanmia had overcharged the government by at least \$61 million through September 2003.

And just yesterday, DCAA took the extraordinary step of requesting that the Pentagon's Inspector General open a formal investigation into the fuel contract because of the potential wrongdoing involved.

Since the December audit by DCAA, I have been investigating Altanmia and the circumstances under which it was selected. What I have learned raises many questions about why Altanmia was chosen for this lucrative contract and whether the Administration is seeking to shield Halliburton and Altanmia from investigation. The facts I have learned may also explain why DCAA has taken the extraordinary step of urging the Inspector General to open an investigation.

As described in this letter, I have learned that there were:

- Contract Award Irregularities. A senior DCAA official informed my staff that the fuel importation contract was given to Altanmia under unusual circumstances, with the contract being awarded to Altanmia days before the bid solicitation process was officially closed.

The Honorable Condoleezza Rice

January 15, 2004

Page 2

- Experienced Competitors Who Were Overlooked. Altanmia received the multi-million dollar contract to import gasoline into Iraq even though it had no prior experience transporting fuel. Other more experienced companies that were not invited to submit bids.
- Political Pressures Placed on Corps and Halliburton Officials. Officials at the Army Corps of Engineers and at Halliburton have said the Bush Administration exerted political pressure to continue and even increase imports through Kuwait and Altanmia, even though Altanmia's prices were more than twice as high as gasoline prices from Turkey.
- Actions That Undermined DCAA's Audit. After DCAA announced its preliminary findings that Halliburton and Altanmia had overcharged the government by \$61 million, Corps officials intervened to release Halliburton from its obligation to provide "cost and pricing" data that would justify Altanmia's prices, thereby making a meaningful audit of Altanmia's charges impossible.
- Holes in the Corps' "Business Case." I have obtained and examined the "business case" prepared by the Army Corps, which was provided to DCAA on Friday to justify the prices charged by Halliburton and Altanmia. It is a poorly substantiated document that relies on conjecture, not facts, to justify the gasoline prices charged by Halliburton and Altanmia. It also fails to address the major questions that Rep. Dingell and I have been raising for months.

In addition, questions are now being raised about whether Altanmia has undisclosed ties to prominent Kuwaiti officials. My staff has received allegations from several individuals that Altanmia has a financial relationship with the brother of the Kuwaiti Oil Minister and possibly other members of the Kuwaiti royal family. I believe that these allegations should be thoroughly investigated by the Administration.

In your letter to me of December 30, you promised that "auditors are investigating these charges" and that President Bush "expects the Pentagon to review this matter thoroughly, in accordance with internal oversight procedures, and expects Halliburton to reimburse taxpayers for any overcharges that are proven."¹ Unfortunately, the Administration's actions directly contradict these assertions. Halliburton and Altanmia have received special treatment that has foreclosed an effective investigation by DCAA and prevented Congress and the public from learning the true facts about Halliburton's gasoline imports.

¹ Letter from National Security Advisor Condoleezza Rice to Rep. Henry A. Waxman (Dec. 30, 2003).

Contract Award Irregularities

On December 15, a senior official at the Defense Contract Audit Agency, accompanied by officials from the Office of the Secretary of Defense and the Coalition Provisional Authority, briefed my staff and the majority staff of the Government Reform Committee on the status of the DCAA audit into the fuel contract. According to DCAA, the subcontract from Halliburton to Altanmia was awarded under unusual circumstances. DCAA indicated that the period for submitting bids for the fuel importation contract was supposed to remain open until May 12. In fact, however, DCAA said that the Army Corps directed Altanmia to begin importing fuel on May 5, one week before the close of the bid period. The DCAA official could not explain why the contract was awarded prior to the close of the bid period.

The “business case” submitted by the Army Corps of Engineers to DCAA on January 6 raises additional questions about the procedures that were followed. For several months, Halliburton and Corps officials have said that the contract to Altanmia was issued after an open and competitive process. For example, Halliburton issued a press release on October 17 in response to one of our letters that stated: “Through an open and competitive bid process, KBR awarded the fuel acquisition contracts to suppliers who could meet the very demanding requirements defined by the client, the Corps of Engineers.”² The Corps’ business case, however, reveals that there was no opportunity for genuine competition.

According to the business case, Halliburton’s subsidiary, KBR, awarded the contract to Altanmia in a single day after obtaining quotes from just two other unidentified bidders. This abbreviated one-day process did not provide a reasonable opportunity for potential suppliers to compete for a contract worth hundreds of millions of dollars. In fact, the business case concedes as much. It discloses that the Corps did not verify that KBR followed the appropriate competitive procedures, stating that the Corps “was neither required nor expected at this point to verify that the KBR procurement process provided the lowest price vendor ... [or] to check the prices or the validity of the competitive process used by KBR.”³

Competitors with More Experience Overlooked

Although Altanmia was awarded the contract to import fuel into Iraq, the company had no prior experience in marketing or distributing fuels. Samad Al-Boulki, formerly a Managing Director at the Kuwait Petroleum Company (KPC), told my staff that Altanmia had never before

² *Press Release: Halliburton Refutes Statements Made about Fuel Procurement and Delivery in Iraq* (Oct. 17, 2003).

³ *Information Paper: Business Case by USACE for the Use of Altanmia as a Supplier of Fuel under the RIO Contract*, U.S. Army Corps of Engineers (Jan. 6, 2004).

been a purchaser, seller, or transporter of gasoline.⁴ He also reported that when Altanmia initially approached KPC about importing fuel into Iraq, KPC rejected the company because KPC officials had never heard of Altanmia.⁵ Other sources in the region confirm Altanmia's lack of experience in the oil industry. In addition, a company credit report includes no mention of fuel purchases or transportation activities,⁶ and records from the Kuwaiti Chamber of Commerce describe Altanmia only as "general traders."⁷

In contrast, more experienced companies were not offered an opportunity to bid on the fuel importation contract, even though Halliburton knew about these companies and in some cases was already in contact with them. For example, Iraq's state oil company, SOMO, currently has a contract with the Independent Petroleum Group (IPG), a Kuwaiti firm, to import fuel into Iraq. Although IPG had substantial experience in this area, Halliburton did not ask IPG to bid on the job. IPG's subsequent contract with SOMO contains much more favorable terms than Altanmia's contract with Halliburton.

Pressure on Corps and Halliburton Officials

Officials from both Halliburton and the Army Corps of Engineers, the agency overseeing the fuel importation work, have alleged that Bush Administration officials pressured them to import large quantities of fuel through Altanmia and to require future fuel importation negotiations exclusively through Altanmia. According to these officials, the Administration exerted this political pressure despite the fact that Altanmia charged more than twice as much as Halliburton's Turkish subcontractors.

According to the *Wall Street Journal*, a civil service contracting officer charged with overseeing the Halliburton fuel contract for the Army Corps wrote two memos detailing concerns about pressure she received from the Kuwaiti government and the Bush Administration, particularly from U.S. embassy officials in Kuwait. Mary C. Robertson wrote memos on November 1, 2003, and December 6, 2003, refusing to "succumb" to political

⁴ Telephone conversation between Samad Al-Boulki and Minority Staff, Committee on Government Reform (Dec. 30, 2003).

⁵ *Id.*; Telephone conversation between Samad Al-Boulki and Minority Staff, Committee on Government Reform (Jan. 6, 2004).

⁶ *Company Status Report: Altanmia Commercial Marketing Co.*, International Company Profile (Dec. 2003) (online at www.icpcredit.com).

⁷ *Al Tanmia Commercial Marketing Company*, Kuwait Chamber of Commerce (online at www.kcci.org.kw/html/english/dir_compnay_detail.asp).

pressure from embassy officials to require Halliburton to negotiate only with Altanmia.⁸ She refused to “go against my integrity and pay a higher price for fuel than necessary.”⁹

A week later, Thomas A. Crum, chief operating officer for KBR’s Middle East government operations, told the *Wall Street Journal* that “[t]here’s been considerable pressure here on our people from the embassy encouraging us to buy as much fuel as we can from Kuwait, telling us it’s a political issue.”¹⁰ Mr. Crum stated that embassy officials indicated that they wanted to “show appreciation to Kuwait for its help in the American-led invasion of Iraq.”¹¹

A major part of the public defense of the actions of Halliburton and Altanmia has been that career procurement officials, acting without any political interference, approved Halliburton’s continuing relationship with Altanmia.¹² The statements of Ms. Robinson and Mr. Crum appear to be at odds with this assertion.

DCAA’s Audit Undermined

At the very moment that serious questions were being raised by federal auditors about Halliburton and Altanmia, the Administration intervened to release Halliburton from its obligation to justify Altanmia’s costs or pricing.

According to the Army Corps, Halliburton is charging the U.S. government \$2.64 per gallon to import gasoline from Kuwait into Iraq.¹³ According to the data from the Corps, Altanmia is paid \$1.17 per gallon for fuel and \$1.21 per gallon for transportation.¹⁴ Halliburton receives a \$0.24 per gallon “markup” as well as a \$0.02 per gallon “other” fee.¹⁵ In previous

⁸ *U.S. Officials May Have Steered Halliburton to Kuwaiti Supplier*, Wall Street Journal (Dec. 15, 2003).

⁹ *Id.*

¹⁰ *Halliburton Unit Cites Pressure To Set Fuel Deals*, Wall Street Journal (Dec. 22, 2003).

¹¹ *Id.*

¹² *See, e.g., The Facts about KBR’s Work in the Middle East*, The Halliburton Corporation (undated) (“U.S. government contracts are awarded by government civil servants following a well-regulated process with strict guidelines”).

¹³ Briefing Slides, Meeting between U.S. Army Corps of Engineers and Minority Staff, House Government Reform Committee (Nov. 17, 2003).

¹⁴ *Id.*

¹⁵ *Id.*

correspondence, Rep. Dingell and I raised serious questions about this price, noting that others are performing similar services for less than half this price.¹⁶

On December 11, DCAA issued a preliminary audit criticizing the manner in which Halliburton chose Altanmia as its subcontractor in Kuwait and the exorbitant prices it charges the U.S. government. DCAA concluded that Halliburton “has not demonstrated to us that they did an adequate subcontract pricing evaluation prior to award of that particular order and as a result of that, potential overpricing could be as high as \$61 million through September 30.”¹⁷ DCAA expressed “serious concern” about this overcharging and called for “immediate” and “aggressive action.”¹⁸ In particular, DCAA recommended that the contracting officer “disallow this excess cost.”¹⁹

The next day, President Bush held a press conference in which he addressed DCAA’s findings, stating: “if there’s an overcharge, like we think there is, we expect that money to be repaid.”²⁰ He emphasized the role of Pentagon auditors in this process, saying:

I appreciate the Pentagon looking out after the taxpayers’ money. They felt like there was an overcharge issue. They put the issue right out there on the table for everybody to see and they’re doing good work. We’re going to watch, we’re going to make sure that as we spend the money in Iraq, that it’s spent well and spent wisely. And their investigation will lay the facts out for everybody to see.²¹

¹⁶ Letter from Reps. Henry A. Waxman and John D. Dingell to U.S. Army Corps of Engineers Commanding General Robert B. Flowers (Jan. 6, 2004); Letter from Reps. Henry A. Waxman and John D. Dingell to National Security Advisor Condoleezza Rice (Dec. 10, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to National Security Advisor Condoleezza Rice (Oct. 29, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to U.S. Army Corps of Engineers Commanding General Robert B. Flowers (Oct. 21, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Office of Management and Budget Director Joshua Bolten (Oct. 15, 2003) (all letters available online at www.house.gov/reform/min/inves_admin/admin_contracts.htm).

¹⁷ *DOD News Briefing*, Defense Contract Audit Agency (Dec. 11, 2003).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *White House Briefing*, Federal News Service (Dec. 12, 2003).

²¹ *Id.* See also White House, *Press Briefing by Scott McClellan* (Dec. 12, 2003) (“[T]he Pentagon discovered some things that they felt needed to be looked into further, and we expect them to get to the bottom of it. That’s the White House view. But this was a matter that was decided by the Department of Defense, relating to contracting. And there are appropriate

A week later, however, the Army Corps issued a waiver that effectively ended the DCAA audit and rejected DCAA's recommendation to disallow the overcharges. On December 19, the Corps unilaterally declared Altanmia's prices "fair and reasonable" and simultaneously waived Halliburton's requirement to provide "any cost and pricing data" from Altanmia.²² The Administration granted this waiver while conceding that Halliburton "has been unable to secure any real competition for these services" and that "other trucking and oil distributors have made proposals to [Halliburton] on more favorable terms" than Altanmia.²³

This waiver effectively forecloses any meaningful audit by DCAA. Halliburton is operating under a cost-plus contract. The cost and pricing data at issue is crucial information that the contracting officer uses to assess whether the costs being billed to the U.S. taxpayer are "fair and reasonable." It is also essential data that DCAA uses to audit whether Halliburton or Altanmia has overcharged for the fuel imports. Without this information, the contracting officer has little way of determining whether the taxpayer is being overbilled, and DCAA has its hands tied as it tries to complete its audit.

In effect, the December 19 waiver from the Corps was a whitewash, undermining DCAA's ability to conduct a genuine audit and forcing DCAA to take the extraordinary step of referring the matter to the Defense Department Inspector General for a formal investigation.

Holes in the "Business Case" and Other Administration Assertions

Administration officials have used a variety of reasons to justify the prices Halliburton and Altanmia are charging to import gasoline into Iraq from Kuwait. Doubts about the validity of these justifications are increasing rapidly.

In recent days, Administration officials have asserted that the "business case" prepared by the Corps of Engineers on January 6 and submitted to DCAA on January 9, 2004, would

oversight measures and procedures that are in place. We expect those to be followed, and we expect the Pentagon to get to the bottom of this").

²² *Army Corps Clears Halliburton in Flap over Fuel Pricing in Iraq*, Wall Street Journal (Jan. 6, 2004).

²³ U.S. Army Corps of Engineers, *Request for Waiver for Submission of Cost and Pricing Data* (Dec. 19, 2003). On its face, the waiver applies not just prospectively, but retroactively. It also appears to eliminate the requirement for cost and pricing data from both Kuwaiti and Turkish subcontractors, even though Halliburton officials informed minority staff that they currently receive this type of information from the Turkish subcontractors. Meeting between Charles E. Dominy, Vice President for Government Affairs, Halliburton, and Minority Staff, House Government Reform Committee (Jan. 8, 2004).

provide a full justification demonstrating that Halliburton and Atanmia's prices are "fair and reasonable." In fact, though, the business case does not address — let alone answer — the major questions about the gasoline prices. For example:

- Altanmia's High Fuel Prices. Gasoline is a commodity that can be purchased in the Mideast at published spot prices. According to the Congressional Research Service, the average published spot price for gasoline in the Mideast during the period from April 11, 2003, to September 19, 2003, was 71 cents per gallon.²⁴ According to the Army Corps, however, Altanmia charged \$1.17 on average for every gallon it procured. The business case does not justify — or even address — why it was reasonable for Altanmia to charge over 60% more than the published spot price to procure gasoline.
- Altanmia's High Transportation Costs. In addition to charging \$1.17 per gallon to procure gasoline, Altanmia charged \$1.21 per gallon to transport the gasoline into Iraq, according to the Corps. This transport charge is vastly higher than costs charged by other fuel importers. During the relevant time period, the Defense Energy Support Center and the Iraqi oil company SOMO were able to import gasoline into Iraq at less than half the price of Altanmia. The business case does not justify why it was reasonable for Altanmia to charge \$1.21 per gallon to transport gasoline into Iraq when others were able to provide this same service for a fraction of this cost.
- Halliburton's Excessive "Markup". Halliburton adds a "markup" of 26 cents per gallon to the inflated prices charged by Altanmia. According to experts in the oil industry, however, a reasonable charge for the services Halliburton provided should not have exceeded a few cents per gallon. The business case does not justify — or even address — this extraordinary Halliburton markup.

Other assertions from Administration officials and Halliburton are also being called into question. For example, Halliburton and Administration officials have repeatedly asserted that the Kuwait Petroleum Company mandated the exclusive use of Altanmia. Recently, however, senior officials from KPC have denied this assertion. Last week, a senior KPC official said that KPC "had nothing to do whatsoever" with the selection of Altanmia, and that this decision "was entirely up to Halliburton."²⁵ The KPC official went on to say: "We are happy to supply the fuel to whatever company the U.S. or anyone wishes to work with as long as they have all the proper safety clearances."²⁶

²⁴ *Average of Recent Gasoline Prices in the Persian Gulf*, Congressional Research Service (Oct. 14, 2003).

²⁵ *Army Lets Halliburton Skip Rules on Oil Deal*, Oil Daily (Jan. 7, 2004).

²⁶ *Id.*

Moreover, Samad Al-Boulki, the former Managing Director at the Kuwait Petroleum Company, has contradicted Halliburton's assertion that Altanmia was precluded by Kuwaiti law from providing cost and pricing data to Halliburton. According to Mr. Al-Boulki, there is no law in Kuwait that would prohibit Altanmia from submitting cost and pricing data regarding the gasoline it is purchasing and transporting to Iraq.²⁷

Allegations of Altanmia's Hidden Connections

Officially, the owners of Altanmia are members of the Al-Houmaidhi and Shabin Al-Ghanin families of Kuwait.²⁸ Several individuals whom my staff has spoken with, however, have alleged that Altanmia has hidden consultants or partners with ties to prominent Kuwaiti officials. For example, my staff has received multiple allegations that Talal Fahad Al-Sabah, the brother of Kuwait's Oil Minister, has financial ties to Altanmia. Although this "off-the-books" arrangement appears to be undocumented, these sources claim that Mr. Al-Sabah is acting as a consultant for the company or as a hidden partner by proxy. Some sources have alleged that other members of the Kuwaiti royal family have hidden ties to Altanmia.

A recent article in the Kuwaiti press includes similar allegations. According to *Al-Taleea*, a relative of a high-ranking Kuwaiti official has an ownership interest in Altanmia. In addition to reporting that U.S. embassy and Kuwaiti government officials pressured Halliburton to contract with Altanmia, the article suggests Altanmia may be receiving profits as high as \$759,000 per day on the subcontract.²⁹

While it is premature to reach any conclusions about these allegations, they clearly deserve to be investigated thoroughly, and I urge the Administration to do so without delay.

Conclusion

There are many unanswered questions about why Altanmia — an obscure company with no prior experience in fuel importation or distribution — was awarded an exclusive, multi-million dollar contract from Halliburton to import fuel from Kuwait. Unfortunately, the special treatment that the Administration has given Halliburton and Altanmia is precluding a thorough investigation. The Administration should immediately rescind the December 19 waiver from the Corps that has precluded DCAA from conducting a meaningful audit of this contract. I also urge

²⁷ Telephone conversation between Samad Al-Boulki and Minority Staff, Committee on Government Reform (Jan. 14, 2004).

²⁸ *Al Tanmia Commerical Marketing Company*, *supra* note 7.

²⁹ *\$759,000 Daily Profit for Go-Between Company?*, *Al Taleea* (Jan. 10, 2004) (online at <http://local.taleea.com>).

The Honorable Condoleezza Rice
January 15, 2004
Page 10

you to instruct Secretary Donald Rumsfeld to comply with Rep. Dingell's and my December 19, 2003, request for important documents about Halliburton and Altanmia.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly slanted style.

Henry A. Waxman
Ranking Minority Member