



U.S. Department of Energy  
Washington, D.C. 20585

October 30, 1979

Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

The President deeply appreciates the prompt action taken by the Interstate and Foreign Commerce Committee and Interior Committee on legislation to establish an Energy Mobilization Board (EMB). If we are to avoid a growing and wholly unacceptable dependence on foreign energy sources, we must secure "fast-track" legislation to cut through the permitting maze that confronts domestic energy projects.

When the House takes up this important measure, the Administration's position will be as follows:

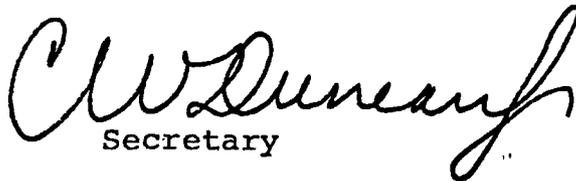
(a) The Udall-Wirth substitute (H.R. 5660), while in many ways close to the Administration's request, contains additional opportunities for judicial review which could cause significant and unnecessary delay. Accordingly, we oppose the Udall-Wirth substitute.

(b) The Commerce Committee bill, with the addition of the Santini-Lujan amendment, would substantially achieve the Administration's objectives. However, the bill would still contain a procedure for waiver of certain Federal laws subject to approval by Joint Resolution of Congress. As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision. We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

As stated above, the Administration does not seek authority for any substantive waiver, and will support efforts to delete this authority on the House Floor. However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

In closing, I wish to stress our appreciation for the leadership of Representative Udall and Representative Dingell who have worked so diligently to bring this important legislation before the House.

Sincerely,

  
Secretary



U.S. Department of Energy  
Washington, D.C. 20585

October 30, 1979

Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

The President deeply appreciates the prompt action taken by the Interstate and Foreign Commerce Committee and Interior Committee on legislation to establish an Energy Mobilization Board (EMB). If we are to avoid a growing and wholly unacceptable dependence on foreign energy sources, we must secure "fast-track" legislation to cut through the permitting maze that confronts domestic energy projects.

When the House takes up this important measure, the Administration's position will be as follows:

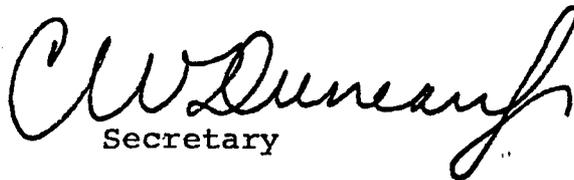
(a) The Udall-Wirth substitute (H.R. 5660), while in many ways close to the Administration's request, contains additional opportunities for judicial review which could cause significant and unnecessary delay. Accordingly, we oppose the Udall-Wirth substitute.

(b) The Commerce Committee bill, with the addition of the Santini-Lujan amendment, would substantially achieve the Administration's objectives. However, the bill would still contain a procedure for waiver of certain Federal laws subject to approval by Joint Resolution of Congress. As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision. We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

As stated above, the Administration does not seek authority for any substantive waiver, and will support efforts to delete this authority on the House Floor. However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

In closing, I wish to stress our appreciation for the leadership of Representative Udall and Representative Dingell who have worked so diligently to bring this important legislation before the House.

Sincerely,

  
Secretary



THE SECRETARY OF ENERGY  
WASHINGTON, D.C.

October 10, 1979

Honorable Thomas P. O'Neill  
Speaker  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

We understand that the House will soon consider proposed amendments to the Department of Energy Authorization Bill which would mandate the reimposition of price controls on middle distillates and reverse the President's decision to phase out crude oil price controls. This legislation would jeopardize our ability to provide consumers with adequate supplies of petroleum products this winter. It would seriously undermine the President's commitment both to reduce U.S. dependence on oil and to provide incentives for increased energy production. Consequently, the Administration urges rejection of these recontrol amendments.

Crude Oil Control

Decontrol of domestic crude oil prices coupled with the enactment of a strong Windfall Profits Tax is a major element of the President's program to reduce oil imports. Crude oil decontrol will end the subsidization of imports, enhance conservation and increase domestic oil production. The windfall profits tax will ensure a fair division of increased revenues resulting from decontrol, and will provide funding for investments in new energy technologies, conservation, mass transit and for low income assistance. Phase-out of crude oil price controls is thus an integral part of the Administration's program to reduce our dependence on foreign petroleum. The proposed legislation, would apply only to the Fiscal Year ending in September 1980 when the phase-out of controls will have been only partially completed. The cost to consumers of continuing to phase-out controls during this time period particularly when weighed against the benefits of the President's program would be negligible.

Continuation of price controls on domestic crude oil and the reimposition of controls on middle distillates could have far reaching international ramifications as well. The U.S. would lose the conservation and production benefits from decontrol and have increased difficulty in meeting its

international commitments to reduce oil imports. The value of the dollar would suffer under these conditions and the nation's trade deficit would increase with resultant impacts on the nation's economic viability. I am also concerned that these recontrol measures would be perceived abroad as reflecting a lack of resolve on the part of the U.S. to reduce its energy consumption.

### Heating Oil Controls

Reimposing controls on middle distillates, heating oil, and diesel fuel is not a solution to our current problems with rising prices. In fact this would aggravate rather than correct the situation we face. I urge you to consider the serious threat to our ability to see that consumers are adequately supplied this winter. The reimposition of price controls on middle distillates would represent a new Federal intervention into the energy markets at a time when such interference may disrupt the distribution of heating oil to consumers this winter. Moreover, such intervention seems particularly unwarranted at the present time, because in response to the Department of Energy's voluntary program to build stocks, refiners have virtually reached our inventory target of 240 million barrels of middle distillate. As this supply starts moving through the distribution chain, the price pressure should moderate. Adequacy of supply has always been the best vehicle for controlling price, and we believe it can and will do so in the months ahead.

The most troubling aspect of price controls, however, is that to be effective they must be accompanied by allocation controls. Absent allocation controls, sellers may refuse to supply purchasers in high cost areas or to provide their competitors with product. Those most seriously and immediately hurt would be consumers in areas which are hard to reach (because of weather or transportation impediments) and independent jobbers and retailers. Allocation controls cannot be based on current supply and demand patterns but must attempt to predict current needs by reference to historical use; i.e., such regulations put the heating oil where it was last winter, not necessarily where it is cold this winter. Heating oil demand reflects current weather conditions and obviously not historical patterns. As a result, allocation regulations would frustrate the free movement of heating oil to areas of the country experiencing colder than normal weather, while other areas, with warmer than normal weather, would have excess supplies.

Consumers with inadequate heating oil supplies cannot wait in line to acquire additional supplies as gasoline purchasers may, nor can they shift to new suppliers. Allocation regulations would lock in place historical supplier/consumer relationships. Thus, heating oil customers would be limited to the supplies available from their established supplier.

Controls on Refiner Profit Margin

Controls on refiner profit margins on middle distillates are not a viable alternative. In my view, such controls would be counter-productive. Refiner profits vary widely due to seasonal and other factors. Controls would tend to lock refiners into margins existing during the base period, which might be abnormally high or low. Such controls may reduce heating oil and diesel supplies by creating an incentive to maximize production on uncontrolled products and by giving refiners with foreign refining capacity to refine crude oil elsewhere. Such a regulation-induced shortage would result in higher prices to consumers since refiner margin controls would do nothing to limit prices of wholesalers and retailers. Refiner's profit margin controls may also seriously endanger the viability of independent distributors and retailers since refiners will then be forced to integrate downstream to maximize profits.

In conclusion, the best way to deal with the middle distillate price problem is to follow the course we are already pursuing. First, and most importantly, the nation must be assured of adequate home heating oil supplies for this winter. We have achieved our goal of building up distillate stocks and under our present course of action that inventory can be distributed to the areas where it is needed. Second, refiners must continue to produce distillate at a high rate. High production levels of distillate coupled with adequate primary stocks should relieve price pressure. Finally, for low income consumers who have been particularly hard hit by rising fuel oil costs, \$1.6 billion of assistance will be available this winter.

I urge you, therefore, to oppose legislative efforts to recontrol crude oil and middle distillates.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. W. Durney". The signature is written in dark ink and is positioned below the typed name "Sincerely,".