Congress of the United States
House of Representatives
Washington, D.C. 20515

December 22, 2003

The Honorable Spencer Abraham
Secretary
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Abraham:

We are writing regarding reports that the Department of Energy (DOE) has engaged in a coordinated grassroots lobbying effort to pass H.R. 6, the "Energy Policy Act of 2003."

As you know, the final version of H.R. 6 was crafted by the Administration and a handful of Republican legislators and is immensely controversial. The bill costs over $140 billion and hands out much of that in special interest giveaways. H.R. 6 punches holes in the Clean Air Act, Safe Drinking Water Act, and Clean Water Act and shields oil companies from responsibility for contaminating groundwater. And it cuts the states out of meaningful participation in the development of our nation's coasts, undermining the balance that Congress provided in the Coastal Zone Management Act. Accordingly, the Senate failed to invoke cloture on this legislation on November 21, 2003.

On December 13, 2003, the *National Journal* reported that the American Petroleum Institute, the National Mining Association, the Nuclear Energy Institute, and other trade groups are readying a grassroots lobbying blitz in six states aimed at pushing Senators to reverse their position and support the energy bill. The article stated that lobbyists from these groups met with DOE Deputy Secretary Kyle McSlarrow to discuss ways to gain support for the bill. According to the article, DOE officials "stressed that they want to work with lobbyists to 'put pressure' on lawmakers."[1]

This press account suggests that DOE is coordinating with industry on a grassroots lobbying strategy. We are concerned that such activities may constitute an inappropriate use of taxpayer dollars, quite possibly in violation of federal law, including the latest appropriations law under which DOE is currently funded.

There are several laws that could be implicated by DOE's activities. As you are well aware, DOE's current appropriations law specifically bans using Department funds to influence congressional action on legislation. Specifically, the appropriations act states:

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[1] "Lobbyists Ready Blitz for Energy Bill," National Journal (December 13, 2003). See also, "Yuletide Greetings From Bush, Cheney Families," Washington Post (December 15, 2003)(available on line at http://www.washingtonpost.com/wp-dyn/articles/A265-2003Dec14.html).

> None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.[2]

18 U.S.C. 1913 prohibits federal officials from engaging in campaigns about pending legislative matters. The prohibition reads:

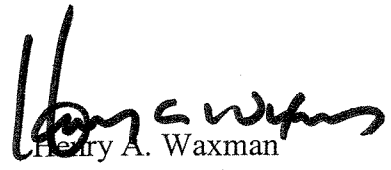
> No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

We request that you immediately provide us with all information necessary for Congress to understand the scope and implications of DOE activities in relation to H.R. 6 and to determine compliance with all applicable anti-lobbying requirements. Specifically, please provide all communications (whether written, electronic, or oral) since November 21, 2003 relating to H.R. 6, between DOE officials and industry lobbyists, representatives of trade associations and interest groups, and businesses. Additionally, please provide us with information on any meeting that took place between DOE officials and any person outside of the executive branch related to H.R. 6 since November 21, 2003, including a list of the participants, the nature and purpose of the meeting, the actions planned at the meeting, and a determination of whether all activities were in compliance with all relevant statutory provisions.

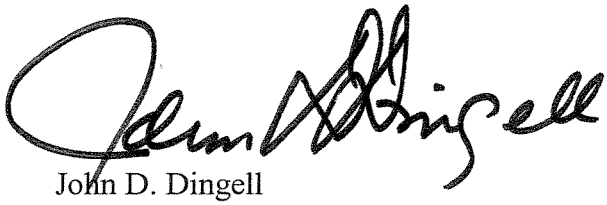
We request that you immediately notify all DOE staff that they should retain all documents related to this issue, including e-mails and electronic files. We request that you provide us with a copy of this notice contemporaneously with its distribution to DOE staff.

Please provide answers to each question and responsive documents no later than January 5, 2003. Thank you for your immediate attention to this issue.

Sincerely,



Henry A. Waxman
Ranking Member
House Government Reform Committee



John D. Dingell
Ranking Member
House Energy and Commerce Committee

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[2] Sec. 501, Energy and Water Development Appropriations Act, 2004, Pub. Law No. 108-137 (December 1, 2003).