

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

May 20, 2004

The President
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We are writing in regard to your recent statement that you unambiguously oppose oil and gas drilling on the coast of Florida. This statement is starkly at odds with the energy bill you have aggressively pushed, and we call upon you to modify your energy proposal to protect the nation's coastal areas.

On April 23, 2004, you stated: "My administration is committed to conserving Florida's natural beauty . . . As you can see, there is no ambiguity in my position on drilling off the coast of Florida."¹ For those of us familiar with the details of your proposed energy policy, this is a baffling statement.

Several provisions of H.R. 6, your energy bill, could have serious detrimental effects to the marine environment off of each coastal state including Florida. These provisions would certainly facilitate oil and gas development.

Although Democrats have attempted to delete these provisions from the energy bill, the congressional Republican majority has insisted upon their inclusion in the energy bill. However, we are sure that if you were to unambiguously oppose these provisions and urge their deletion, the Republican congressional leadership would reconsider their support for these environmentally-damaging provisions.

Specifically, sections 321, 325 and 330 of the H.R. 6 conference report would make dramatic changes in the nation's laws to protect our coasts. If enacted, these three provisions could have serious detrimental effects to the marine environment off of each coastal State by rigging a process that concentrates power in Washington DC at the expense of the coastal states.

Section 321 provides broad new authority for the Department of Interior to permit energy development and support facilities anywhere on the Outer Continental Shelf, including within areas currently protected by congressional oil and gas leasing and development moratoria. States are provided no direct role in the permitting process. Authorized facilities include those which support exploration, development, production, transportation or storage of oil and gas. Section 321 represents the most geographically extensive transfer of jurisdictional authority in U.S. history.

¹ Washington Post, "Bush Challenges Kerry on the Environment" (April 24, 2004)(online at <http://www.washingtonpost.com/wp-dyn/articles/A37972-2004Apr23.html>).

Florida is currently confronted by proposals for a range of subsea pipelines, offshore Liquefied Natural Gas facilities, and other industrial projects in and affecting its coastal waters. The state of Florida, in addition to every other coastal state facing new projects, would lose significant state authority over these projects if section 321 is adopted.

Although section 321 has been promoted as a provision to advance renewable energy sources such wind, its scope is actually much broader. If enacted, the Secretary of Interior would have jurisdiction over seafloor petroleum pipelines, high-risk floating oil storage vessels, strip-mining of subsea minerals, centralized seafloor disposal sites for production wastes from offshore drilling operations, and a host of “support” facilities associated with offshore oil and gas development which the bill fails to identify.

Section 325 restricts the rights of states to review and respond to federal decisions concerning the management of coastal waters, including oil and gas leasing and development. The provision rewrites the Coastal Zone Management Act (CZMA) to impose a 120-day deadline for the Commerce Secretary to rule on any appeal of a coastal state’s “consistency determination.” Moreover, the deadline may not be extended for any reason and the proposed federal activity can proceed automatically if the deadline is missed.

This provision would apply to all appeals of all consistency determinations. This means it applies to Corps projects, waste disposal, and transportation projects – not just determinations made regarding oil and gas development on the Outer Continental Shelf.

Section 330 of this bill will also undermine the Coastal Zone Management Act. Under current law, states like California and Florida have the right to review natural gas and LNG pipeline proposals. If the state finds that the proposal is not in the best overall interests of the state, it can reject it. This decision can then be appealed to the Secretary of Commerce, who reviews the entire record — both the federal approval and the state’s rejection — in deciding the appeal.

However, if section 330 is enacted, the only information that would go to the Secretary would be that compiled by federal regulators, which is essentially the information supporting their approval of the project. Information supporting a state’s rejection will not be part of the appeal record. The Secretary’s decision would be made from a limited record, skewed toward development and away from coastal protection.

This provision is completely unnecessary. Since enactment of the CZMA, thousands of these types of projects have been reviewed. Yet only 15 projects have resulted in appeals to the Secretary. Seven appealed decisions supported the states’ position, seven supported industry, and one was worked out to the satisfaction of all parties.

While there are other provisions in H.R. 6 that also threaten our coasts, these are three of the worst provisions.

On November 17, 2003, during the House-Senate conference on the energy bill, Rep. Waxman offered an amendment to delete these provisions. Unfortunately, it failed on a party line vote of 6-8. As a result, the H.R. 6 conference report continues to contain these environmentally damaging provisions.

Mr. President, we urge you to immediately contact the House and Senate Republican leadership and demand that they strip these provisions. We urge you to state that you will veto any energy bill which will promote oil and gas drilling off of the coasts in the way H.R. 6 does. Although it is increasingly unlikely that Congress will be able to pass an energy bill this year, a clear statement from you will help ensure that these provisions are not seriously considered for inclusion in any future energy bills.

Thank you for your consideration of this important issue.

Sincerely,

Jim Davis Ken A. Weyman Lois Capps

Edward J. Markey Corine Brown Ben Cardin

Alcee L. Hastings Earl Blumenauer Frank Pallone

Peter DeFazio Joe Hoefel Robert Work

Wendell Liebman James Langevin Maxine Waters

J. Allen Boyd Greg Ansole Patrick D. Kennedy

Anna Escobedo Cabral Jim Moran Burlaine

Hilda L. Solis Mike Hausman Nail Abernethy

Bob Alford Ben Ray Chris Van Hollen

Walter Dill Scott Samson Ting Zi

Ellen Fausch J. McAnitt Kenneth B. Yak

Rush Holt Zee Lagan Barry Frank

George Miller Ross (L.) Lee Norm Dick

Howard S. Berne Tom Lantos Pat de Taris

Gerard Shea Mike Simpson Nancy Pelosi