



U.S. House of Representatives
Committee on Transportation and Infrastructure

Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

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October 3, 2003

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The Honorable W.J. "Billy" Tauzin
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Pete V. Domenici
Chairman
Committee on Energy and Natural Resources
U.S. Senate
364 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen Tauzin and Domenici:

I write to convey my serious concern regarding the process governing the Conference on H.R. 6, the Energy Policy Act. As a conferee, I am dismayed about the lack of meaningful input afforded to Democratic Members. The Clean Water Act exemption for the oil and gas industry (section 329) of the Republican draft conference report illustrates how Democrats have been unfairly shut out of the legislative process and how Republicans have blocked Democrats' efforts to have a vote on this issue.

Section 329 directly amends the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, and provides a permanent exemption from stormwater permitting requirements for construction activities associated with oil and gas exploration and production operations. If enacted, this provision would make oil and gas exploration the only construction activity not subject to Clean Water Act requirements. As a result, oil and gas operations would be under no obligation to control stormwater runoff that would impair our Nation's lakes, rivers, and streams. It is a complete, unprecedented end-run around one of our Nation's most successful environmental laws.

Considering the unprecedented nature of this Clean Water Act exemption, it is imperative that all conferees, regardless of party affiliation, be heard on the issue. However, Republicans have preempted repeated attempts by Democrats to be heard on this provision. During the Energy and Commerce Committee's consideration of the House Energy Bill Committee Print in April, Congressman Markey offered an amendment to strike the offending provision. Chairman Tauzin ruled the Markey amendment out of order, stating that it was non-germane because the issue was not within the jurisdiction of the Energy and Commerce Committee and was "within the jurisdiction completely" of the Transportation and Infrastructure Committee. Despite my serious concern with this Clean Water Act exemption, the Transportation and Infrastructure Committee never considered the bill. When the House considered the bill, Congressmen Costello, Markey, and I sought to offer

an amendment to H.R. 6 to strike the provision. Regrettably, the Rules Committee blocked our efforts to offer an amendment to strike the provision. In this way, the House Republican Leadership prevented Democrats from ever having the opportunity to vote on this Clean Water Act exemption for the oil and gas industry.

Now, Republicans have included this exemption in their draft conference report. If section 329 remains in the conference report, it would seriously impair the health of our Nation's lakes, rivers, and streams. This section has no place in the energy bill and should be stricken. Moreover, Democratic Members of the Energy Conference should be assured of an opportunity to offer an amendment to strike this Clean Water Act exemption for the oil and gas industry.

The tainted legislative history for consideration of this provision illustrates the critical need to allow all Members of the Energy Conference, regardless of party affiliation, to fully participate in both the negotiations and the drafting of the Conference Report in open, substantive conference meetings.

Thank you for your consideration.

Sincerely,



James L. Oberstar
Ranking Democratic Member

cc: The Honorable John D. Dingell
Ranking Democratic Member
Committee on Energy and Commerce
2322 Rayburn House Office Building

The Honorable Jeff Bingaman
Ranking Democratic Member
Committee on Energy and Natural Resources
312 Dirksen Senate Office Building

The Honorable Don Young
Chairman, Committee on
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2165 Rayburn House Office Building