RISING FUEL PRICES AND THE APPROPRIATE FEDERAL RESPONSE

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

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COMMITTEE ON GOVERNMENT REFORM

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RISING FUEL PRICES AND THE APPROPRIATE FEDERAL RESPONSE

WEDNESDAY, JUNE 28, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 2:30 a.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Gilman, Morella, McHugh, Horn, McIntosh, Souder, LaTourette, Barr, Terry, Biggert, Ose, Ryan, Chenoweth-Hage, Waxman, Kanjorski, Maloney, Cummings, Kucinich, Tierney, Ford, and Schakowsky.

Staff present: Kevin Binger, staff director; Daniel R. Moll, deputy staff director; David A. Kass, deputy counsel and parliamentarian; Mark Corallo, director of communications; Caroline Katzen and Nicole Petrosino, professional staff members; Kimberly A. Reed, investigative counsel; Lisa Smith Arafune, chief clerk; Robert A. Briggs, clerk; Robin Butler, office manager; Michael Canty, legislative assistant; Leneal Scott, computer systems manager; John Sare, staff assistant; Corinne Zaccagnini, systems administrator; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Kristin Amerling, minority deputy chief counsel; Ellen Rayner, minority chief clerk; and Jean Gosa and Earley Green, minority assistant clerks.

Mr. BURTON. Good afternoon. A quorum being present, the Committee on Government Reform will come to order.

The ranking minority member, Mr. Waxman, is on his way. He intends to make an opening statement, but since we are under severe time constraints because of floor action, we need to get started. We anticipate that within 2 hours we will probably have another vote or a series of votes, and I want to make sure we get as much done as possible.

I ask unanimous consent that all Members' and witnesses' written opening statements be included in the record, and without objection, so ordered.

I ask unanimous consent that all articles, exhibits, and extraneous or tabular material referred to be included in the record, and without objection, so ordered.

I ask unanimous consent that questioning in this matter proceed under clause 2(j)(ii) of House rule 11 and committee rule 14, in which the chairman and ranking minority member allocate time to members of the committee as they deem appropriate for extended questioning not to exceed 60 minutes equally divided between the majority and the minority, and without objection, so ordered.

I am not going to make a long opening statement today because of the time constraints. We all know what the problems are, so I don't think we need to speak at length.

The price of gasoline has gone through the roof this year. The entire country has been hit hard, but nobody has been hit as hard as the Midwest. In Chicago, the price of gasoline has reached $2.30 a gallon. In Milwaukee, the price reached $2.20 a gallon. Other parts of the Midwest have been hit almost as hard. In my hometown of Indianapolis, we have been paying over $1.70 a gallon.

We haven't seen anything like this since the oil crisis of the 1970's. In fact, it wasn't that long ago that people in most areas of the country were barely paying $1 a gallon. This problem has an impact on the entire economy. The cost of fuel is factored into almost everything we buy and sell: bread, food, meat, potatoes, ice. We have a person here from the ice industry. Every product that we sell is affected by the gasoline prices.

But it goes beyond that. When gas prices skyrocket, it can be devastating for families as well as small businesses. We are going to hear from some of those people in our first panel.

We are going to hear from a small businessman from my hometown of Indianapolis. We are going to hear from an electrician from Ohio. We are going to hear from a man who runs a trucking company in Pennsylvania, and we will hear from a woman who runs a dairy farm near Chicago. We will hear from a farmer from Illinois as well.

The questions before us are pretty simple: Why did this happen? Could anything have been done to prevent it? What is being done to get prices back down to a rational level? And what can be done to prevent something like this from happening again in the future?

Lots of explanations have been offered: OPEC cutbacks, rising demand, reformulated gasoline, and transportation bottlenecks. I think it is fair to say that this sudden eruption caught everyone asleep at the switch. I think it is also fair to say that this administration has not had an effective energy policy.

For instance, I have real questions about the way we have handled OPEC, the oil-producing countries, over the last several years. When oil prices were at an all-time low last year, Secretary Richardson went over to the Middle East. According to media reports, he encouraged OPEC nations to start raising prices. There is apparently some dispute over exactly what he said at those meetings, but I will read to you what the Saudi Arabian Oil Minister said; He said that Secretary Richardson had "saved the oil industry" during that visit because his intervention had persuaded the Saudis to change policy by raising prices. So we will ask the Secretary about that today.

Raising prices is exactly what they did. In the last year, they raised prices from $10 a barrel to $34 a barrel. I don't understand why it is in our interest to encourage OPEC nations to raise prices.

I read Secretary Richardson's opening statement from yesterday's hearing. He says that free market forces are the foundation of the Clinton administration's energy policy. Now, I don't see how encouraging OPEC to artificially restrict supply and raise prices is a free market policy. It is certainly not a pro-consumer policy.

When OPEC's cutbacks got completely out of hand and gas prices went soaring this spring, Secretary Richardson was sent back to the Middle East to try to get them to bring prices back down by increasing production. Judging by the prices at the pump, this trip was not nearly as successful as the one that raised prices.

My question is: How much leverage do we have with OPEC? We were there in the Persian Gulf war when the Gulf nations needed us. Now where are they now?

These are all issues that we are going to discuss with Secretary Richardson. I know that he is making the rounds from one committee to the next this week, and I appreciate that he has carved out a little time for us to be with us here today.

We are going to talk a great deal about reformulated gasoline today. Is reformulated gas behind the price spikes and supply disruptions in Chicago and Milwaukee? According to the EPA, the phase 2 requirements for reformulated gasoline add about 5 to 8 cents to the cost of a gallon of gas. However, according to the Congressional Research Service, that figure is more like 25 cents in Chicago and Milwaukee. So where did the extra 17 cents come from?

How much has reformulated gasoline added to the problems in the Midwest? We will be going over that issue at length with Carol Browner from the Environmental Protection Agency during the second panel. I know several of our members from the Midwest are eager to discuss the reformulated gas issue with her, and we appreciate the fact that she will be with us today.

We are also going to hear from the chairman of the Federal Trade Commission, Mr. Robert Pitofsky. The FTC has started an investigation into the gasoline price increases, and we look forward to hearing his testimony as well.

In our third panel, we will hear from Mr. Red Cavaney from the American Petroleum Institute and Mr. Eric Vaughn from the Renewable Fuels Association. We appreciate their being here as well.

Now, there is one point that I want to touch on briefly, and I hope my colleagues on the Democrat and Republican side listen to this because I think it is very important, and that is the issue of natural gas. We have an abundant supply of natural gas in this country, approximately a 500-year supply. It is inexpensive, it is clean-burning. So why is it we can't get people to convert to natural gas automobiles? There are a number of countries around the world where natural gas vehicles are very popular: Argentina, Germany, Italy. In those countries, you can find natural gas at gas stations all over the country.

Since 1990, many gas stations in California have carried natural gas, but in this country, outside of California, you can't find it anywhere. There is a system that lets you refuel a natural gas car right at your own home. There is a special system of nozzles that you can attach to the natural gas supply in your home and refuel your car overnight while you sleep, and the cost is about one-third of the cost per gallon of gas.

Natural gas costs, as I said, are about one-third of the cost of gasoline. It pollutes less and we have an abundant supply. So I don't know why we don't take advantage of that. Of course, it makes a lot of sense, so it probably won't ever happen.

Let me just say a couple of things in closing. These problems that we are experiencing aren't going to go away by themselves. We need to have a comprehensive energy policy, or these problems are only going to get worse. We don't have a comprehensive energy policy right now, and the administration needs to address that.

I have had a chance to review Secretary Richardson's schedule for most of this year. It looks like to me he is traveling all the time. I see a lot of political events on his schedule. I tried to get a meeting with him 2 weeks ago to talk about the situation regarding the espionage or alleged espionage at Los Alamos, and I couldn't get a meeting because he was traveling. He couldn't testify before the Senate Intelligence Committee because of his travel schedule.

I think we need to ask some tough questions about who is minding the shop. I think we need to completely re-evaluate our approach to dealing with the OPEC countries. I think we need to completely re-evaluate our approach to reformulated gasoline. I think the complexity of all these different formulas of gasoline is just overwhelming to our distribution system. I also think that we need to get serious about using natural gas as an alternative gasoline in our cars, like they do in many other countries.

I think we are obviously going to have some disagreement on some of these issues. I am sure we won't resolve many of them today. But if we don't accomplish anything else today, I would like to get an answer to this simple question. Fall is right around the corner. What is being done by this administration to make sure we don't have a repeat of this calamity during the home heating fuel season? And what is being done to make sure that we don't have a repeat of this crisis situation next summer?

And, with that, Mr. Waxman, I will be happy to yield to you for an opening statement.

[The prepared statement of Hon. Dan Burton follows:]

Opening Statement
Chairman Dan Burton
Committee on Government Reform
"'Rising Fuel Prices -- The Appropriate Federal Response"
June 28, 2000

I'm not going to make a long opening statement today. We all know what the problems are, so I don't think I need to speak at length.

The price of gasoline has gone through the roof this year. The entire country has been hit hard, but nobody has been hit as hard as the Midwest. In Chicago, the price of gas reached $2.30 a gallon. In Milwaukee, the price reached $2.20 a gallon. Other parts of the Midwest have been hit almost as hard. In my hometown of Indianapolis, we've been paying over $1.70 a gallon.

We haven't seen anything like this since the oil crises of the 1970s. In fact, it wasn't that long ago that people in most areas of the country were barely paying $1 a gallon.

This problem has an impact on the entire economy. The cost of fuel is factored into almost everything we buy and sell. But it goes beyond that. When gas prices skyrocket, it can be devastating for families and small businesses. We're going to hear from some of those people on our first panel.

- We're going to hear from a small-businessman from Indianapolis.
- We're going to hear from an electrician from Ohio.
- We're going to hear from a man who runs a trucking company in Pennsylvania.
- We'll hear from a woman who runs a dairy farm near Chicago.
- We'll hear from a farmer from Illinois.

The questions before us are pretty simple:

- Why did this happen?
- Could anything have been done to prevent it?
- What's being done to get prices back down to a rational level?
- What can be done to prevent something like this from happening in the future?

Lots of explanations have been offered: OPEC cutbacks, rising demand, reformulated gasoline, transportation bottlenecks.

I think it's fair to say that this sudden eruption caught everyone asleep at the switch. I think it's also fair to say that this Administration has not had an effective energy policy. For instance, I have real questions about the way we've handled OPEC over the last several years.

When oil prices were at an all-time low last year, Secretary Richardson went over to the Middle East. According to media reports, he encouraged OPEC nations to start raising prices. There's apparently some dispute over exactly what he said at those meetings, but I'll read you what the Saudi Oil Minister said: He said that Secretary Richardson had "saved the oil industry" during that visit, because his "intervention" had "persuaded" the Saudis to change policy by raising prices. So we'll ask the Secretary about that today.

Raising prices is exactly what they did. In the last year, they raised prices from $10 a barrel to $34 a barrel.

I don't understand why it's in our interest to encourage OPEC to raise prices. I read Secretary Richardson's opening statement from yesterday's hearing. He says that free-market forces are the foundation of the Clinton Administration's energy policy. I don't see how encouraging OPEC to artificially restrict supply and raise prices is a free-market policy. It's certainly not a pro-consumer policy.

When OPEC's cutbacks got completely out of hand and gas prices went soaring this spring, Secretary Richardson was sent back to the Middle East to try to get them to bring prices back down by increasing production. Judging by the prices at the pump, this trip wasn't nearly as successful.

My question is, how much leverage do we have with OPEC? We were there in the Persian Gulf when the Gulf nations needed us. Where are they now?

These are all issues that we're going to discuss with Secretary Richardson. I know that he's making the rounds from one committee to the next this week, and I appreciate that he carved out the time to be with us today.

We're going to talk a great deal about reformulated gasoline today. Is reformulated gas behind the price spikes and supply disruptions in Chicago and Milwaukee? According to the EPA, the Phase II requirements for reformulated gasoline add about 5-8 cents to the cost of a gallon of gasoline. However, according to the Congressional Research Service, that figure is more like 25 cents in Chicago and Milwaukee.

How much has reformulated gasoline added to the problems in the Midwest? We'll be going over that issue at length with Carol Browner from the EPA during the second panel. I know several of our Members from the Midwest are eager to discuss the reformulated gas issue with her, and we appreciate the fact that she'll be with us today.

We're also going to hear from the Chairman of the FTC, Mr. Robert Pitofsky. The FTC has started an investigation into the gasoline price increases, and we look forward to hearing his testimony as well.

On our third panel, we'll hear from Mr. Red Cavaney from the American Petroleum Institute and Mr. Eric Vaughn from the Renewal Fuels Association. We appreciate their being here as well.

There is one point that I want to touch on briefly before I yield back, and that is the issue of natural gas. We have an abundant supply of natural gas in this country -- an estimated 500-year supply. It's inexpensive. It's clean burning. Why is it that we can't get people to convert to natural gas automobiles? There are a number of countries around the world where natural gas vehicles are very popular -- Argentina, Germany, Italy. In those countries, you can find natural gas at gas stations all over the country. Since 1990, many gas stations in California have carried natural gas. But in this country, outside of California, you can't find it anywhere.

There is a system that let's you refuel a natural gas car right at your home. There's a special system of nozzles and you can attach it to the natural gas supply in your home and refuel your car overnight while you sleep.

Natural gas costs about one-third of the cost of gasoline, it pollutes less, and we have an abundant supply. I don't know why we don't take advantage of that. Of course, it makes a lot of sense, so it probably won't ever happen.

Let me just say a couple of things in closing.

These problems we're experiencing aren't going to go away by themselves. We need to have a comprehensive energy policy or these problems are only going to get worse. We don't have a comprehensive energy policy right now.

I've had a chance to review Secretary Richardson's schedule for most of this year. It looks to me like he's traveling all the time. I see a lot of political events on his schedule. I tried to get a meeting with him two weeks ago to talk about the situation in Los Alamos, and I couldn't get a meeting because he was traveling. He couldn't testify before the Senate Intelligence Committee because of his travel schedule. I think we need to ask some tough questions about who's minding the shop.

I think we need to completely re-evaluate our approach to dealing with OPEC.

I think we need to completely re-evaluate our approach to reformulated gasoline. I think the complexity of all these different formulas of gasoline is just overwhelming our distribution system.

I think we need to get serious about using natural gas as an alternative to gasoline in our cars, like they do in many other countries.

I think we're obviously going to have some disagreement on some of these issues. I'm sure we won't resolve many of them today. But if we don't accomplish anything else today, I'd like to get an answer to this simple question. Fall is right around the corner. What's being done by this Administration to make sure we don't have a repeat of this calamity during the home heating fuel season? And what's being done to make sure that we don't have a repeat of this crisis situation next summer?

Mr. WAXMAN. Today's hearing addresses an important topic: Why are gasoline prices so high, especially in the Midwest? There are some things we know about this issue and many that we don't. I hope this hearing will shed light on some of the unanswered questions.

But let me begin by reviewing what we know. First, I think it is clear that environmental requirements are not the cause of high gasoline prices. The chairman and other Republican leaders have tried to blame the Clean Air Act and the Environmental Protection Agency for high gas prices. They say that reformulated gasoline is a lot more costly to make than conventional gasoline, forcing fuel prices up. But they are simply wrong.

I know something about the reformulated gasoline provisions of the Clean Air Act because I was one of the principal authors of those provisions. The record shows that the reformulated gasoline provisions of the 1990 act have been an enormous success. Since 1990, emissions of volatile organic compounds, the main source of urban smog, have decreased by 20 percent. Average levels of urban smog have dropped by 9 percent. At the same time, the Clean Air Act is responsible for reducing emissions of hazardous air pollutants by over 800,000 tons annually.

One of the single most important factors in achieving these reductions has been reformulated gasoline. As a result of reformulated gasoline, emissions of smog-forming pollutants have been reduced by 105,000 tons annually, and emissions of toxic air pollutants have been reduced by 24,000 tons annually. The levels of benzene, a known human carcinogen, declined by 38 percent in urban areas that introduced reformulated gasoline in 1995. And these reductions have been achieved at an extremely low cost.

Republican leaders are saying that reformulated gasoline is causing high gas prices, but the fact is that across most of the Nation, the average retail price of a gallon of reformulated gasoline is less than the average retail price of a gallon of conventional gas.

Let me repeat this point because it is something that people ought to take note of. The retail price of reformulated gasoline is often less than the retail price of conventional gasoline. If the Republicans were right, this would be impossible. Reformulated gasoline would be much more expensive than conventional gasoline, but the fact is reformulated gasoline costs most motorists less than conventional gasoline.

There are other essential facts that are often overlooked in this debate. We will hear today that reformulated gasoline is different in Chicago and Milwaukee than in many other parts of the country. In other parts of the country, reformulated gasoline is made with MTBE. In Chicago and Milwaukee, it is made with ethanol. We will hear today that it is the ethanol requirement that is driving up Midwest gasoline prices. Part of this is true. Reformulated gasoline in Chicago and Milwaukee does use ethanol. But it is not true that the Clean Air Act or any other Federal law requires the use of ethanol in reformulated gasoline in Chicago and Milwaukee. In these areas, under Federal law it is perfectly legal for the oil companies to seek to use reformulated gasoline that uses other oxygenates if they wanted to.

Now, why do the oil companies use ethanol in reformulated gasoline in Illinois and other Midwestern States? They do this because these States grow a lot of corn. These States have passed State laws that give tax breaks and other incentives that encourage the use of the ethanol in fuel. So it can't possibly be Federal ethanol requirements that are responsible for high prices in Chicago and Milwaukee since there aren't any. There aren't any Federal laws that require the gas to be changed in those two areas when they do their reformulated gasoline. It is State laws to satisfy the corn growers that require the ethanol to be used.

Moreover, it is doubtful that ethanol is the cause of high prices. Detroit uses conventional gasoline, not reformulated gasoline. But this week the price of conventional gasoline in Detroit was $1.93 per gallon, 7 cents more than a gallon of reformulated gasoline in Milwaukee. Republicans have said that Congressional Research has found that reformulated gasoline is the cause of high prices. Well, the CRS has a new report out today, and I want to share this report with my colleagues and to read about what it says.

As of June 19, RFG—reformulated gasoline—prices in Chicago and Milwaukee, which are determined not only by cost of production but more directly by the supply of and demand for gasoline locally, were 50 to 58 cents above reformulated gasoline prices elsewhere. Not all of this difference can be attributed to the RFG requirements or the use of ethanol. In fact, non-reformulated gasoline sold in areas near Chicago and Milwaukee is priced well above comparable gas sold elsewhere. More recently, the RFG price differential in the area appears to be diminishing significantly.

That is part of what CRS said, and then they also went on to say the RFG program by itself has caused only limited price increases in other markets on the order of 2 to 8 cents per gallon, which is the range currently in effect as the prices in the Midwest decline.

[The information referred to follows:]

Order Code RL30592

CRS Report for Congress

Midwest Gasoline Prices: A Review of Recent Market Developments

June 28, 2000

Lawrence Kumins
Specialist in Energy Policy
Resources, Science, and Industry Division

CRS

Congressional Research Service • The Library of Congress

ABSTRACT

This report provides background information regarding the especially high gasoline prices in the upper Midwest during the late spring and early summer of 2000. While the Federal Trade Commission is investigating the possibility of collusion, several identifiable factors have contributed to this localized situation. Contributors to the higher prices appear to be problems at two pipelines supplying the area with gasoline, the use of ethanol-only reformulated gasoline in Chicago and Milwaukee, and the high price and low supply of crude oil. The crude oil situation has uniform nationwide impact. Wholesale prices in the Chicago spot market began to decline during the week of June 19 and have fallen by 40 cents per gallon at this writing. This report will be updated as events warrant.

Midwest Gasoline Prices: A Review of Recent Market Developments

Summary

This report provides background information regarding the especially high gasoline prices in the upper Midwest during the late spring and early summer of 2000. While the Federal Trade Commission is investigating the possibility of collusion, several basic factors have contributed to this localized situation. Contributors to the higher prices appear to be the high price and low supply of crude oil, problems at two pipelines supplying the area with gasoline, the use of ethanol-only reformulated gasoline (RFG) in Chicago and Milwaukee, and apparent concern among refiners regarding use of a Unocal patent for making RFG. The crude oil situation has uniform nationwide impact. Wholesale prices in the Chicago spot market began to decline during the week of June 19 and have fallen by 40 cents per gallon at this writing.

About 48 cents of the current gasoline price is likely due to higher crude oil costs. That affects gasoline consumers everywhere. It can also be roughly estimated that about 25 cents of the regional price increase is due to transportation difficulties. As much as another 25 to 34 cents, roughly estimated, could be due to the unique RFG situation in Chicago/Milwaukee. The term "unique situation" refers to the combination of limited supply, the choice of ethanol for use in the area's reformulated gasoline, and RFG transportation problems. The RFG program by itself has caused only limited price increases in other markets – on the order of 2-8 cents per gallon – which is the range currently in effect as the prices in the Midwest decline.

While many have attributed the additional cost of RFG in the Midwest to the impact of EPA regulations, it is important to note that the use of ethanol in RFG, which is what distinguishes Chicago and Milwaukee from other markets, is not mandated by federal, state, or local regulations. Rather, refiners serving these areas use ethanol as the result of concerns about MTBE (an additive used elsewhere in the country in place of ethanol) and efforts to stimulate markets for corn, from which ethanol is generally derived.

The price-impact figures discussed in this report are very rough approximations based on spot market valuations, which do not comprise a complete series of price data. They are intended as rough estimates of what each factor's contribution to higher prices might be.

Recent spot price data point toward a sudden decline of about 40 cents per gallon in Chicago RFG wholesale prices, which appear to be converging with conventional fuel prices.

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Midwest Gasoline Prices: A Review of Recent Market Developments

Introduction[1]

Gasoline prices nationwide have risen about 60 cents per gallon since the beginning of 1999. Some localities – notably in Michigan, Illinois, and Wisconsin – have experienced even greater price hikes, often twice as much as the national average. However, Chicago-area wholesale prices began to drop in late June, and retail prices are expected to follow. An investigation of possible collusion or other wrongdoing by some in the industry has been initiated by the Federal Trade Commission (FTC) and is not discussed in this report. Rather, the report discusses five other factors that have contributed to the increase in prices. In summary, they are:

Higher Crude Oil Prices. Refiners' crude acquisition costs have risen by the equivalent of 48 cents per gallon during the past year and a half.

Pipeline Problems. Two oil pipelines serving the upper Midwest have been experiencing operational difficulties. The Wolverine Pipeline between Chicago area refineries and Michigan had a spill and was shut down for nine days. It restarted operation June 16 and is gradually returning to a high level of service, although it is uncertain when it might reach previous levels of throughput. Meanwhile, ExxonMobil has put its branded gasoline distributors on allocation. The Explorer pipeline serving St. Louis and Chicago is operating at 10% reduced throughput, meaning St. Louis deliveries are reduced by about 50,000 barrels per day (b/d) and Chicago by about 34,000 b/d. In a tight regional market, supply reductions of this magnitude can be extremely disruptive, and lead to significant price increases.

Use of Ethanol in Reformulated Gasoline. Reformulated gasoline (RFG) is required in numerous areas designated by the Environmental Protection Agency (EPA) as ozone nonattainment areas. About 30% of the gasoline sold in the United States is RFG. Refiners serving the Chicago and Milwaukee areas use ethanol instead of MTBE (the additive used in most other RFG areas) to meet the oxygen requirements of the RFG program. New requirements for Phase II of this program, which took effect June 1, 2000, have made it more difficult and costly to make RFG with ethanol. How much more costly is a matter of debate. EPA estimates the impact of Phase II requirements at 5-8 cents per gallon. As of June 19, RFG prices in Chicago and Milwaukee – which are determined not only by cost of production but more directly by the supply of and demand for gasoline locally – were 50 to 58 cents

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[1] This report supersedes a previous CRS General Distribution Memo on this subject, Midwest Gasoline Price Increases, June 22, 2000.

above RFG prices elsewhere. Not all of this difference can be attributed to the RFG requirements or the use of ethanol. In fact, non-reformulated gasoline sold in areas near Chicago and Milwaukee is priced well above comparable gas sold elsewhere. More recently, the RFG price differential in the area appears to be diminishing significantly.

Low Inventories. The Energy Information Administration (EIA) reports that crude oil and gasoline inventories are extremely low. There is the equivalent of about 2 days of consumption in working inventory. When stocks get this low, misallocations to the distribution system cannot easily be corrected. And refiners may be hesitant to put extra gasoline on the market when needed because they are unable to replace those barrels with gasoline or extra crude runs at their plants.

Patented RFG. Patents by Unocal on an important range of reformulated gasoline compositions may have some marginal impact on price and availability of RFG. However, with regional gasoline prices as high as they are, any license fee owed to Unocal, once such a fee is ultimately determined, would be too small to create a barrier to making RFG or the blending material for ethanol-based RFG.

In summary, some of the increased prices in Chicago/Milwaukee and Detroit can be attributed to these factors. About 48 cents of the price increase since the beginning of 1999 is likely due to higher crude costs. This affects gasoline consumers everywhere. It can also be roughly estimated that as much as 25 cents of the regional price increase may have been due to transportation difficulties and another 25 to 34 cents, roughly estimated, could have been due to the unique RFG situation in Chicago/Milwaukee. This "unique RFG situation" refers to the combination of limited supply, the choice of ethanol for use in the area's reformulated gasoline, and RFG transportation problems. The RFG program by itself has caused only limited price increases in other markets – on the order of 2-8 cents per gallon – which is the range currently prevailing as the prices in the Midwest decline.

These regional price-impact figures are very rough approximations based on spot market valuations, which do not comprise a complete series of price data. They are intended as rough estimates of each factor's contribution to higher prices. Additionally, the Federal Trade Commission is currently investigating the possibility of collusion.

Background on Oil Supply and Price

The price of any good is determined by the supply of and demand for that item. It is determined in the marketplace, and, certainly in the short run, bears little relationship to the cost of manufacturing that good. In the case of gasoline, it is the supply and demand for gasoline at the point of sale that determines its price; cost is not a factor in the market. Price is a matter of what consumers will pay at any point in time for the available supply.

Retail prices of petroleum products and motor fuels have risen sharply this year. Volatile oil prices have been driven up largely by production cutbacks by the

Organization of Petroleum Exporting Countries (OPEC). The reduced OPEC production quotas have combined with strong world demand to boost crude oil prices from $10 per barrel at the end of 1998 to about $30 per barrel by late 1999.[2]

OPEC output quotas also resulted in reduced petroleum stocks around the world. In the United States, crude oil and gasoline inventories are well below normal levels. Spot shortages of home heating oil and diesel fuel occurred in the eastern part of the nation during winter 2000. Now that gasoline is in seasonally high demand, short supplies and instances of volatile prices are cropping up around the country. The most notable price increases are in the upper Midwest, where pump prices have exceeded $2.00 per gallon.

Table 1 shows a one-week snapshot comparison between RFG prices in Chicago with conventional gasoline price postings for that trading area. It also compares prices with seven major trading areas[3] in PADDs[4] 1 and 3. These data were collected to form a comparable price series for the eastern part of the country. These prices do not include taxes or other charges such as transportation and dealer items. RFG, which is oxygenated to reduce carbon monoxide emissions and must meet requirements for emissions of toxic pollutants year-round, is required to reduce emissions of volatile organic compounds during the summer "high ozone" season, generally June 1 through September 15.

Table 1. Wholesale Gasoline Prices -- Chicago RFG and Conventional Fuel Compared to PADD1 and 3 Benchmark (cents/per gal)

Date	**RFG Benchmark**	**Chicago RFG**	**Chicago Conventional**
6/12	106 to 111	156 to 171	127 to 130
6/13	108 to 113	162 to 171	130 to 135
6/14	110 to 115	164 to 173	135 to 138
6/15	111 to 116	161 to 175	142 to 145
6/16	111 to 116	153 to 170	139 to 140
Average	109 to 114	160 to 172	135 to 138

Source: Estimated from *Platt's Oilgram Price Report* data, page 5, various issues.

During this one-week snapshot of prices, Chicago RFG averaged between 51 and 58 cents higher than the benchmark average RFG price for PADDs 1 and 3. The

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[2] Unless otherwise noted, all prices cited in this report are from the U.S. Department of Energy's Energy Information Administration.

[3] Metro NY, Northern NJ, Baltimore, Norfolk, Philadelphia, Dallas and Houston.

[4] Petroleum Allocation for Defense District

Chicago RFG price was also between 25 and 34 cents per gallon above the spot price for conventional gas in Chicago.

With Chicago RFG prices (recorded by *Platt's* during the June 12 through 16 business week) running 51 to 58 cents above the eastern part of the nation – and regular gasoline more than 25 to 34 cents above – a generalized supply shortfall in the Chicago area was strongly suggested. And the fact that Chicago RFG prices were well above conventional gasoline suggests that some the difference was due to the supply of ethanol-based RFG, and the fact that Chicago conventional fuel has been priced above the rest of the nation suggests a shortage in the region, possibly resulting from pipeline transport problems.

When Chicago-Milwaukee RFG prices were this far above comparable prices elsewhere in the country, elementary economics would suggest that added supply would sooner or later be attracted by the area's elevated prices. By the end of the third week in June, RFG prices began to decline, quite steeply. On June 26, *Platt's* quotes wholesale Chicago RFG at $1.19 to $1.35 per gallon, down by almost 40 cents per gallon from the highest levels less than 2 weeks earlier.

It must be reiterated that this effort based on publicly available data to attribute price differentials to the availability of RFG and to pipeline supply difficulties is necessarily a simplistic exercise. It has been undertaken to separate the price effects of generalized regional shortage due to transport breakdowns from the effects of the tight supply of RFG blending material. The price effects of a tight supply situation, under discussion here, are quite distinct from whatever higher costs might be involved in making ethanol-based RFG. In the current Chicago market situation, prices appear to be mainly driven by supply and demand. The price increases – driven by supply-demand pull – are so large and out of proportion to any likely higher manufacturing costs associated with the RFG sold there that it is unlikely that manufacturing-related "cost push" would be a factor.

Contributory Factors

Aside from the allegations of collusion which are currently under investigation, a number of factors at work in the marketplace have contributed to Midwest gas prices being markedly higher than similar prices on the East and Gulf coasts. Prices appear especially high for RFG in Chicago and Milwaukee. Michigan has also experienced prices above other areas of the country, as has St. Louis. Five factors appear to be influencing market developments.

Higher Crude Costs

Gasoline and crude oil reached their lowest prices in recent history in December 1998 and January 1999. In December 1998, crude cost U.S. refiners $9.84 per barrel; in January 1999 crude was $10.47. Similarly, gasoline of all types sold at the pump (including all taxes, etc.) for an average of $1.05 and $1.03 per gallon during those months.

Since that time, petroleum prices have risen consistently; in mid-June of 2000, crude is in the $30 per barrel area, an increase of roughly $20 per barrel or 48 cents per gallon of gasoline. It is likely that all 48 cents has been included in pump prices.

OPEC has set production quotas that resulted in much higher crude prices than were anticipated. Crude oil on the N.Y. Mercantile Exchange (NYMEX) was trading at about $33 per barrel (bbl) as of mid-June. All petroleum products are affected more or less proportionally by high-priced crude oil, and consumers of all fuels look toward the effects of the June 21, 2000 OPEC meeting, at which a 3% production increase was agreed upon. This increase is to become effective July 1. Many analysts question the extent to which the increased output will alleviate what amounts to a global tight inventory situation. The world oil market's next-day reaction seems to support the tight inventory view, as NYMEX crude prices remain above $32.

Troubled Pipelines

Two pipelines that play important roles in supplying gasoline to the upper Midwest are currently suffering operational difficulties. Petroleum is most efficiently transported in large quantities by pipeline. When the pipeline system has capacity problems, it can be supplemented by truck, and/or waterway transport in some cases. But pipelines' ability to move large amounts of fuel is difficult to replicate by supplementary transport, as are the low costs inherent in pipelining.

The Explorer pipeline transports fuel from the Gulf Coast to Chicago, traveling south to north and passing through St. Louis. The Explorer had a fire near St. Louis in March 2000. The damage was repaired quickly, and transport resumed. But as a result of the investigation into that incident, the pipeline company and the Department of Transportation entered into a verbal agreement to reduce operating pressure by 20%. This translates into a volumetric reduction (measured in barrels per day, b/d) of 10%. The Department of Energy (DOE) estimates that this has reduced the pipeline's throughput to St. Louis from 550,000 b/d to 500,000 b/d, creating an extremely tight local gasoline market. After St. Louis, the pipeline's diameter becomes narrower to match reduced northbound requirements, although it is probable that the flow reduction in this segment of the pipeline is also 10%.

The other pipeline that is having problems is the Wolverine pipeline, which has a capacity of 186,000 barrels per day and runs eastward from Niles, Illinois, to Jackson, Michigan. A leak in early June caused a nine-day interruption of service, during which gasoline was trucked around the break. It restarted operation June 16 and is gradually returning to a high level of service, although it is uncertain when it might reach previous levels of throughput. While the repairs were being made, Michigan supplies were disrupted and prices spiked.

Chicago-Milwaukee RFG

RFG is a smaller percentage of regional gasoline supply in the mid-continent than on the East or West Coasts. Essentially, it is used only in Chicago, Milwaukee, and St. Louis; the rest of the region uses conventional fuel. Under the Clean Air Act, RFG is required to contain 2% oxygen, as a means of promoting cleaner combustion.

Most RFG markets use an additive called MTBE to provide the required oxygen. As a result of concerns about other effects of MTBE and a desire to stimulate markets for ethanol (generally made from corn), refiners serving the Chicago and Milwaukee markets have used ethanol rather than MTBE in reformulated gasoline. Blending with ethanol requires a separate gasoline base stock (called RBOB[5]) that has become a factor in the region's high prices.

The difficulty stems from the fact that RFG volatility (speed of evaporation) is limited by regulation. Ethanol is much more volatile than the major alternative oxygenate, MTBE. In order for the ethanol-blend RFG to fall under the overall volatility limit, the volatility of the RBOB to be used in ethanol blending must be low. This is a matter of blending volatile ethanol – a physical fact that cannot be changed – with special reduced-volatility RBOB. The difficulty arises because low-volatility RBOB is very hard to manufacture, and there is very little demand for this material outside the Chicago-Milwaukee gasoline market. Most of the required material is made in the six refineries in Illinois (whose capacity totals nearly 1 million barrels per day). When demand exceeds local refiners' ability to manufacture low-volatility RBOB, supplies are brought in from Gulf Coast refiners by pipeline.

Low volatility RBOB is a specialty product; not all refiners can or will manufacture gasoline to such specifications. And shipping presents difficulties stemming from the unique nature of the product, the need to segregate within the pipeline and the fact that it is usually shipped in relatively small quantities. Additionally, transportation bottlenecks can adversely affect the price and availability of this material in this consuming region.

U.S. Crude Oil Inventories

OPEC attempts to set prices by administering the level of supply sent to the world market. When OPEC members met last March, they set quotas that were not high enough for refiners around the world to rebuild crude stocks depleted by winter heating demand. Thus, low inventories are a problem around the world. In the United States, crude oil stocks are presently 20 million barrels under the normal range for this time of year, according to the Energy Information Administration (EIA). They stand at 31 million barrels above the lowest operational inventories ever observed in recent times – the equivalent of two days of refinery operations.

Gasoline stocks are in similarly tight condition. While U.S. inventories are just below the lower range of normal seasonal stocks, they are only 16 million barrels above the minimum operational level of 185 million barrels.[6] This means that the amount of readily marketable gasoline in the U.S. production and distribution system is the equivalent of slightly less than two days of current consumption.

When oil inventories get this close to minimum operating level, refiners' flexibility is diminished, and they are less able to deal with such factors as

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[5] Reformulated Gasoline Blendstock for Oxygenate Blending.

[6] Minimum operational levels are the lowest inventory levels that have been observed in the United States in recent times. Such levels have been associated with distributional problems.

unanticipated demand changes, distribution difficulties, or special requirements. The latter includes such factors as the demand for RBOB suitable for ethanol blending.

The Unocal Patent Issue

Unocal, a large oil company that divested its refining, marketing, and gasoline retailing operations in 1997, had substantial gasoline production in its California refineries. California has special air quality problems, and special gasoline is needed to meet California Air Resources Board (CARB) specifications, which are currently tighter than national Phase II RFG requirements. In 1990, Unocal researchers discovered a unique way of manufacturing gasoline with minimum volatility, as well as some other parameters helpful in meeting clean gasoline requirements. A patent was applied for and in 1994, the U.S. Patent and Trademark Office awarded Unocal its first patent for the process. Four other patents were subsequently awarded to the company.

In 1995, Unocal announced its intention to license the patent to other refiners. Shortly thereafter, six major refiners sued Unocal, challenging the validity of its patents. A U.S. District court found in favor of Unocal, upholding the patents' validity and awarding Unocal damages of 5.75 cents per gallon on the gallons manufactured that infringed on Unocal's patent. In March 2000 the initial verdict was upheld in the U.S. Court of Appeals for the Federal Circuit.

How much gasoline is involved in the Unocal patents? Most gasoline is made by processes other than those patented by Unocal. In California, where CARB gasoline is often made using the Unocal process, the company estimates that only 29% of the gallons produced would involve its patents; 71% fell outside the patents. Around the rest of the nation, an even smaller amount would fall under the patents. Unocal has asserted that the proportion of regular RFG subject to its patents is small, but increases as octane increases. Most gasoline sold nationwide is regular grade.

Refiners have substantial latitude in which to formulate gasoline, and can choose to blend around the patents by changing the mix of ingredients. Refiners contend that, while they can often avoid the patent issue, "blending around" can cost them as much as 5 cents per gallon in higher manufacturing costs. And some have contended that the patents stand in the way of increased RBOB production. But Unocal asserts that the patents – which apply only to finished gasoline – should not be a factor in the manufacture of RBOB suitable for ethanol blending.

At this point, negotiations about licenses and appropriate fees are beginning. There seems to be agreement on both sides that the 5.75 cent-per-gallon judgment handed down in court is too high for future license fees. It is likely that fees may be smaller when the negotiations are complete.

Meanwhile, refiners using the Unocal process without a license operate in an area of uncertainty, because the cost of licensing the Unocal process has not yet been determined. Some contend that this uncertainty created by the court decision has adversely impacted RFG production. However, given the high market prices for gasoline generally, and for RFG and RBOB specifically, prices may already be high enough to cover whatever costs might be incurred when the license fee issue is resolved.

Developing Situation

How the current gasoline price situation in the Midwest plays out over the next several months will likely depend on several ongoing developments. Demand for gasoline is likely to remain strong during the summer driving season, keeping pressure on prices; resolution of the pipeline constraints will help with supply to Midwest markets; temporary suspension of state gasoline taxes may be considered by some states. Some change in the world price of crude oil could result from the recent OPEC decision to expand production. Overlaying these developments are any actions that might result from the current FTC investigation on possible collusion.

On or about June 21, wholesale prices for RFG in Chicago were beginning to fall significantly. A week later, they had dropped by 40 cents per gallon. Retail prices are expected to follow. Many observers believe the decline reflects increased supply of RBOB for ethanol blending, as refiners increased production in response to extremely high prices. Others believe it is in response to the announced FTC probe of possible anticompetitive activities within the industry.

Mr. WAXMAN. If reformulated gasoline is not the cause of high gas prices, what is? Well, one cause that has been mentioned is the temporary shutdown of explorer pipeline in March. This is a possible cause. But as we will hear from Federal officials today, it does not seem likely that the pipeline is a major cause of high prices. In fact, I understand that the pipeline has unused capacity and could ship more reformulated gasoline to the Midwest if the oil companies asked it to do so.

Another possible cause is price gouging by the oil companies. It is clear that the high prices of fuel in the Midwest mean millions more in oil company profits. But the fact that oil companies are earning record profits does not necessarily mean they are violating the law. If the shortage of gasoline in the Midwest is due to a legitimate cause or causes, oil companies' profiteering may be improper, but it would not be illegal.

I requested that the chairman invite the CEOs of the major oil companies to testify today so that we could get answers to these questions, but they have refused to attend, and the chairman has refused to subpoena them, even though on this committee the chairman could issue a subpoena, and they would have to show up. But he didn't choose to issue subpoenas to the CEOs of the oil companies. He wanted to make sure he got Bill Richardson here to beat up on him. But what about the CEOs of the oil companies?

Some on the Republican side have criticized the administration for seeking a Federal Trade Commission investigation into oil company behavior, but this is exactly what is needed. There is clearly much more that we need to learn about why prices spiked up in the Midwest. The Federal Trade Commission has the expertise and experience needed to provide answers. And so you wonder why they would criticize the administration for asking the FTC to look at this issue.

There is one final point I wanted to address. It is Congress' role and responsibility in this matter. Unfortunately, energy policy is an area where we simply haven't done our job. And I don't say that in a partisan way. Congress hasn't done its job. The Democrats and Republicans have not done the job. The administration has proposed numerous initiatives that would have increased energy efficiency and reduced our reliance on imported oil. These initiatives include tax breaks to promote the purchase of fuel-efficient vehicles, the creation of heating oil reserves, and research partnerships with the auto industry.

But Congress has repeatedly blocked these initiatives. In fact, we have even let the President's authority to deploy the Strategic Petroleum Reserve expire. So the President can't act on his own because Congress took away his authority to have that reserve of oil now made available in this crisis of high oil prices.

The leadership in Congress is good at pointing fingers, but they rarely seem to accept responsibility for their mistakes. In this case, however, Congress would serve the public better if we did less blaming and more legislating.

Mr. Chairman, that completes my statement. I look forward to hearing from the witnesses. I want to explain to the witnesses that what we have going on today in the House is a three-ring circus. On the floor is an important legislative fight on prescription drug benefits for Medicare where, again, we are not even talking about how we can resolve our differences and pass a bill. We are only pointing to the differences and fighting over what the American people want us to stop fighting about and start legislating. And so some of us have to be on the House floor. There are other committee meetings as well. So I apologize to the witnesses if I am not here when they make their oral presentation. But we are going to have the whole transcript and record, and I hope the chairman will even let us ask further questions for the record so we can have this hearing record as complete as possible.

I say a three-ring circus. Ironically enough, we have three rings in the circus on this issue because the Commerce Committee of which I am a member has held a hearing, this committee is holding a hearing, and the Judiciary Committee of the House is holding a hearing.

I guess the American people are concerned about this problem, but so far all three committees are holding hearings trying to blame somebody. Let's take responsibility. Let's understand the facts. Let's act. And let's act in a bipartisan way to do something to help people who are suffering from these high oil prices.

Thank you.

Mr. BURTON. I would like to correct one thing. We do not have people from the major oil companies here today, but like Chairman Gilman, chairman of the International Operations Committee, we will probably have another set of hearings, and we will ask the people from the oil industry to come in.

We do have some of the representatives of the oil industry here, however, but the people from the major oil companies will be asked to testify in the not too distant future.

Mr. GILMAN. Mr. Chairman, I will reserve my opening for Secretary Richardson.

Mr. BURTON. Chairman Gilman reserves his time.

We are going to recognize members for opening statements. What is the order we have here? I thought we were going to go with Mrs. Morella. Is Mrs. Morella here? Since everybody arrived at the same time——

Mrs. MORELLA. Mr. Chairman, I do have an opening statement. I hope to learn from this committee and the panels that we have assembled. But I am going to ask unanimous consent to have the opening statement put into the record since so many Members are interested and it would take too long to hear all the opening statements.

[The prepared statement of Hon. Constance A. Morella follows:]

Constance Morella

Mr. Chairman, I appreciate your holding a hearing today on such a critical issue in the lives of all Americans-- the "Rising Fuel Prices and the Appropriate Federal Response."

Over the past few months, Americans have watched in shock as gas prices have sky rocketed at the pump. From school car pools to work commutes, the rising prices have plagued all aspects of our lives. As we know, the national average retail price for reformulated gasoline ("RFG") increased from $1.29 to $1.67 per gallon from November, 1999 to June 12, 2000. Recent news coverage has brought the plight of Chicago and Milwaukee area consumers, who pay 50 cents more than the national average for gas, into our homes each evening. While I have always been a proponent of mass transit, the situation at hand is one transit incentive our commuters absolutely do not need.

I am pleased to welcome Department of Energy Secretary Bill Richardson, Environmental Protection Agency Administrator Carol Browner, and Federal Trade Commission Chairman Robert Pitofsky, as well as other private sector witnesses, that are all here today to testify before this Committee. I look forward to hearing their perspectives and advice on this issue.

We must attempt to avoid politicizing this issue and find a bipartisan plan of action. This is a complex issue that, unlike the Gordian knot, will not be remedied with one swift blow.

I am ~~particularly worried~~ ~~realize~~ understand that some may attack the Environmental Protection Administration's Phase II regulations on reformulated gas. While the execution of Phase II may not have had the best timing, the oil industry has had seven years to prepare for implementation of the RFG program. EPA estimates that RFG II will cost from 4 to 8 cents more per gallon to produce than conventional gasoline, which includes a one cent additional cost for the use of ethanol. I am eager to learn what has happened in the Chicago/Milwaukee areas to cause such a divergence with the pricing across the nation.

I hope to learn from the testimonies today, so that this Committee will better understand where we need to focus our energies to ensure the most efficient and immediate solution to this energy crisis. Thank you.

Mr. BURTON. I thank the gentle lady.

Mr. Ryan, I understand, has to go to a markup, so we will—oh, excuse me. We will go to you right after we go to the Democrat side. Do you have an opening statement, Mr. Tierney?

Mr. TIERNEY. No, Mr. Chairman. Thank you.

Mr. BURTON. Mr. Ryan.

Mr. RYAN. Thank you, Mr. Chairman. Thank you for considering my markup.

As Mr. Waxman said, we do have a lot going on today. I would like to make an opening statement because I represent southeastern Wisconsin. We are right smack dab in the middle of the Milwaukee-Chicago area, so I would like to talk about this issue a little bit, if you don't mind.

Half of the district I represent is in the EPA designated ozone non-attainment area. The other half is not. Reformulated gasoline is the most important issue to my constituents in southeastern Wisconsin at this time, and it has been that way for over a month. And they want to know why they are paying gasoline prices that on average are 40 cents a gallon more than anybody else is paying in the United States.

Now, along with Jim Sensenbrenner and I, we commissioned a report from the CRS, the nonpartisan research branch of Congress, which has been widely cited today, and I think there is a copy floating around, and this report goes into the issue of why we are paying these his gas prices. Nowhere in this report is collusion and price gouging listed as an underlying cause for high gas prices.

Now, I think it would be shortsighted for anyone on this panel to suggest that it is not happening. That is the whole purpose of an FTC investigation, one that I, along with all members of the Wisconsin delegation, asked for. And I think Mr. Pitofsky is coming here to talk about that. So I think it is shortsighted for anybody here to allege with authority, with knowledge, that price gouging is occurring. But on the same point, you can't say it is not occurring. So let's put that one aside and hear from the FTC when they come up here.

But, also, I have an internal EPA document dated June 5th of this year which was written by a policy director to Deputy Secretary Glauthier, and please forgive me if I have mispronounced his last name. This memorandum summarized the rapidly increasing gas prices in the Milwaukee area as a supply problem: "high consumer demand and low inventories."

The EPA memo then gets more specific. "The Milwaukee and Chicago area supply situation is further affected by, one, an RFG formulation specific to the area that is more difficult to produce; two, higher regional demand; three, higher regional refinery utilization rates; four, limited alternative supply sources, limited transportation links; and, seven, lower gasoline inventories relative to the rest of the country." A supply problem, an RFG problem, an ethanol problem, a convergence of many factors that the EPA in their own memo cites on June 5th.

Now, again, nowhere in this EPA's memo is their explanation for Wisconsin's gas prices is collusion for price gouging. That is what the FTC is investigating.

But many members who have been following this issue, especially those of us from Illinois and Wisconsin, know that Wisconsin and Illinois use ethanol instead of MTBE, which makes the phase 2 RFG blend relatively more expensive than the rest of the country. This is because refiners must make the vapor pressure lower, and as well, according to the EPA document, "remove a greater quantity of the high volatility gasoline blend stocks that was removed for Phase 1 RFG." The effect is that RFG–2 gasoline production processes will yield less gasoline overall than RFG–1 processes.

It goes on and on. I will summarize what the EPA memo says. Basically they saw this coming. They know that we had a unique problem in the upper Midwest. They know we used ethanol. They know we had all of these converging market forces coming to bear, and we moved forward with this RFG mandate.

On May 23rd, the petroleum marketers petitioned for a waiver from this mandate in the upper Midwest. I, along with Senator Herb Kohl, Senator Russ Feingold, and Jim Sensenbrenner, also on that date petitioned the EPA for a waiver from this mandate, foreseeing that these factors would occur. The EPA's own internal documents suggested this would occur. We had a unique situation in Wisconsin and in Illinois that we thought would lead to a very high spike in gas prices. The EPA in turn said no. The only shot that is going to occur with RFG is a 5 to 8-cent-a-gallon gasoline increase. That didn't happen; 40 cents a gallon increase.

So what I would like to know is, A, why, when you had this internal documentation, which was then followed up with this most recent CRS report, did you continue on with the RFG mandate when you suggested that it was going to be a 5 to 8-cents-a-gallon increase, when it was actually about a 40-cents-a-gallon increase? Why, when we had this knowledge within the EPA, within the other branches of our Federal Government, did we move forward with this? And why were our requests for waivers, until we could get a handle on this situation, denied? That is what I would like to know today.

This isn't finger pointing. This isn't blame shifting. This is simply a review of the facts that took place over the last 2 months, and I think that really speaks to the heart of the issue, and that is what the constituents that I represent in southeastern Wisconsin want an answer to. And I hope that we can dig into that in this hearing.

Mr. BURTON. I understand, Mr. Ryan, you have to go to another markup, but if you can get back here, perhaps you can put those questions to the head of the FTC.

Mr. RYAN. I would like to do that.

Mr. BURTON. Thank you.

Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Mr. Chairman, I want to thank you for having this hearing, because I think if nothing else, we will have an opportunity to look at what are the potential causes of some of the problems in the energy field today, but they just have not happened in this last month, and they have been going on in the country for about 6 months. I know that the northeast portion of the country suffered from the same problem with heating oil and diesel fuel in the late winter of this year.

And I have been trying to look around and see where is the problem and where is the fault that can be laid? And I conclude that there isn't any one single individual or group that can be identified, and I am not sure even if the word "fault" is the correct word. It is the system that is working.

And I think my friend from Wisconsin put his hand on it. He talked about his CRS study, and he laid out that there is a shortage of supply, and of course, there is an increased demand in the summer. And if we go back to our basic economics, we know that supply and demand usually fix price, and short of rationing or some other methodology to reduce demand, price is used to contain demand. And as the price—if you have 90 percent supply for 100 percent demand, that 10 percent spread exacerbates the price sometimes by as much as 50 or 100 percent, because the marketplace will raise the price until the demand decreases consistent with the amount of supply available. That would mean that oil companies significantly could raise their profits from, say, 10 percent to as much as 30 or 40 percent, and legitimately argue that it is the marketplace, supply and demand, and they are correct.

Our problem is: does that constitute gouging, and are we as a Congress and the American people going to accept the responsibility for this tremendous deficit in supply and the ever-increasing demand that is out there without some of the concomitant investments that are necessary in refining capacity, new sources of field, encouragement in the field. But nevertheless, if we leave it as a free-market system, you could end up with a $3 or $4 a gallon gasoline, whose price would be driven by a limited supply, and overwhelming demand, particularly in summer months or areas of excessive use.

So we have to, as a Congress, be looking at long-term policy increased in all the new fuel sources, and potentially excess profits, because that price, although it is a free-market-arrived-at price, will exacerbate profits to extraordinary proportions. And I think some of the testimony today is going to reflect that some of the oil companies in the United States have shown 300, 400, 500 percent increase in profits. It is not because they invested any more money. It is not because they did anything other than the fact that they had a limited supply for an overwhelming demand, and price reaches its own level, and as a result, their profits go up inordinately.

Now, I do not think it would be fair for any of us to condemn the petroleum and gas industry of the United States. I think to be rational, to a large extent, we have had cheap gasoline as a matter of national policy for a long time. We should try and keep gasoline and diesel fuel at a reasonable rate, because it does fuel what has been the world's most successful economy.

But on the other hand, I agree with the ranking member of the committee, Mr. Waxman. We in the Congress know that in prosperity there are more cars sold, more homes built, and more use of energy, and for the last 20 years in this country we have totally neglected a structured national policy to either provide a larger supply or make more efficient the use of the supply that we have so we can bring the demand down that it is affordable to the average person or to the small businessman. I think that is what the direction of this hearing should be about. That is why I commend the chairman.

I just want to raise one other question, and that is, if we think we have problems today with gasoline and diesel fuel prices, whether it is in the Middle East or anywhere else, we ain't seen nothing yet until we get to electricity and the overwhelming demand and increase of demand for electricity in this country and the limited supply that is out there. Everyone I have talked to in the field project brown-outs this summer. As we find deregulation of the energy field and electricity occurring across this country, again, price is going to be arrived at by the forces of supply and demand, and that means very high price, and in some people's vernacular, that could constitute gouging for excessive profits. And I think if we can't arrive at an energy policy, at least we ought to arrive at a policy that we don't reward people getting excessive profits because of the flotation of price as a result of limited supply and excess demand. And if we can keep our eyes focused on that effort, I think we can do some good by coming up with some new policy. If we try and find fault and point fingers, as we traditionally have done in these last several Congresses, we will not have done the people's business. Thank you.

Mr. BURTON. Thank you, Mr. Kanjorski. I understand Mrs. Biggert has to go to a mark-up as well, so we will ask Mrs. Biggert to make her statement real quickly.

And I understand you are going to do some of the questioning, Mrs. Biggert, so will you be able to be back? OK, Mrs. Biggert.

Mrs. BIGGERT. Thank you, Mr. Chairman. I represent a suburban Chicago district, and as we all know, the Chicago area now faces the highest gas prices in the Nation, and this is not a distinction of which we are proud or happy. Chicago area residents have heard all about the numerous and complex factors that influence what we pay at the pump for a gallon of gasoline. They have heard about petroleum industry consolidation, pipeline distribution, the Unocal patent, retail competition, State and local taxes, government regulation and OPEC.

What they have not heard is why they in particular are paying the highest pump prices in the 48 contiguous United States. Any and all of these factors may be contributing to the high price of gasoline today, but as members of this committee, it is our primary responsibility to focus on the issues of Federal responsibility. In particular, we want to know what role the Federal Government has played through its actions or through its inaction, precipitating the increase in gas prices in the Midwest and throughout the Nation. I want to be assured that it is not Federal regulation or Federal interference in the market that has forced the price of gasoline sky high in the Midwest. I want to hear that our Federal agencies have done everything possible to insure that no Federal program, no agency, bureau or office, and no bureaucrat has precipitated the spike in the price of gasoline in my home State. I don't believe the administration witnesses here today can give us these assurances, but I challenge them to try.

Immediate action is what is needed. Individuals are struggling with the burden of high gas prices, as are businesses like Oberweis Dairy, an independent dairy processor that delivers its wonderful ice cream products to consumers throughout Illinois. I am very thankful that the CEO of Oberweis Dairy, Elaine Oberweis, is here today to share with this Congress the hardship her business faces under the added burden of high gas price.

I hate to say it, but we saw this coming, and the administration should have seen it coming too. For the past year the Illinois delegation has been warning EPA that the new regulations for the second phase of the RFG Program would seriously impact the price of gasoline in Illinois. We held hearings in Illinois. We had meetings in Washington, DC. We offered solutions to avoid the situation. And still the EPA did nothing. Everything would be fine, we were told. Well, things are not fine, and we are not happy.

And as the non-partisan Congressional Research Service Report indicated last week, we now know that our warnings, unfortunately, were right on the mark. CRS reported that at least 25 cents of the increase in the price of gasoline in the Chicago area is directly attributable to these new RFG programs and regulations, and still there is no action from the EPA. Last week Administrator Browner was quick to assert that the wholesale price of gasoline dropped on the same day the FTC announced a formal investigation into collusion on the part of the Nation's oil refiners. Yet there was no comparable quick-fire assertion made by EPA when the price of gasoline began to rise with the implementation of phase II of the Reformulated Gas Program on June 1st. What is especially disappointing about the EPA's inaction is that it could result in an erosion of support of the RFG Program, which has successfully improved the quality of Chicago's air. The EPA and the Clinton administration can point fingers at the oil companies, but at some point they had better look in the mirror. Too many government regulations affect the price of gasoline, which is why the actions of the DOE and EPA must be scrutinized. There are Governors and State legislatures, like mine in Illinois, that are right now going back for special sessions, all for the purpose of providing relief to gas customers by way of a moratorium on their State gas taxes. They are forced to take this extraordinary action of sacrificing badly needed road improvement funds in order to give consumers at the pumps an extra 10 or 20 cents per gallon relief. These extraordinary actions would not have been necessary. These sacrifices would not have to be made. These road improvement funds would not be foregone if only agencies like the EPA had heeded the warnings and done their job.

I want to thank all the witnesses for being here today. It is about time that we put on record what kind of adverse impact these high gas prices are having on individuals and small business owners across America. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mrs. Biggert. I believe Mr. Kucinich was the next one. Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman, for holding this hearing, and glad we have so many Members of Congress here, and thanks to the panelists.

I think the public knows intuitively what is going on. You don't have to be an economist. You don't have to be a Member of Congress. You don't have to work at a gas station. People know when prices go up 25, 30, 40 cents within a few days, that someone is taking advantage of them. There is no shortage of gasoline, the supply of gasoline. We know the oil companies had made substantial profits from 1999 to year 2000, the first quarter. The public understands this. And the average person, who is just trying to make ends meet, trying to support a family, who relies on a car in this automobile culture, who is stuck with primarily one source of fuel for their cars, understands they are a captive right now of the oil industry, and that this government has a responsibility to challenge the private sector's pricing practices, to examine where the laws of supply and demand have gone awry, to ferret out all areas where the public has been cheated in the last few weeks, and to make sure that there is some remedy brought forward, such as a windfall profits tax.

But that is not going to be enough. We need to encourage the development of new technologies which are energy efficient, so we are not back here year after year at committee rooms, talking about what we are going to do about rising oil prices. We need ultra efficient engine technologies and ultra efficient fuels which will enable people to have alternatives, so we are not captive of the oil companies, and so this country can move toward sustainability and not be captive to foreign oil.

But does anyone in America doubt that the oil companies have taken advantage of the American people? Perhaps only the oil companies doubt that. But the American people know what happened. They know, and particularly in the Midwest, and in Cleveland where I come from, they know they are being cheated, and they want their government to do something about it. And to the FTC, who is on the second panel, I am not satisfied with the conduct of the FTC approving merger after merger after merger, and pretending that is not going to have an effect on the marketplace.

So I am looking forward to the discussion here today, but people in my district already know what this is about, and they expect the government to be a little bit more active in surveillance of the pricing practices of the oil company, and they expect their government to stand up to protect consumers so that we are not at the mercy of oil companies, who will take advantage of anything in the marketplace to sock it to the consumers. Thank you.

Mr. BURTON. Thank you, Mr. Kucinich. Before you leave, could I talk to you just a second, Mr. Kucinich?

Mr. KUCINICH. Yes, sir.

Mr. BURTON. Mr. McHugh.

Mr. MCHUGH. Mr. Chairman, I am going to follow the lead of the gentle lady from the great State of Maryland and withhold my statement for the moment. I always appreciate hearing from my colleagues, but frankly, we are going to be around here where I can hear that any time. I would like to hear from these good folks, so I will yield back.

Mr. BURTON. Do we have any other members on the Democrat side? Who was next, Ms. Schakowsky or—OK, Danny, go ahead.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman, and let me commend you for holding this hearing to examine the causes for the rise in gasoline prices and generalize the impact of the high gasoline prices on the U.S. economy. I also want to thank the witnesses for coming to share their knowledge and expertise.

Mr. Chairman, the current gasoline prices in the Midwest especially are totally unacceptable. The good and hard-working people of Chicago are paying $2.50 per gallon in some areas, and about a year ago, gasoline prices in Chicago averaged about half that much, a little bit more, and I think that this is way beyond the pale.

With the current high prices of gasoline, we need to better our relationship with oil-producing countries, insure research funding for alternative energy development, and to strengthen our antitrust law provisions, and to investigate the practices of the big oil companies.

First of all, relationships with major oil-producing countries are critical factors for maintaining reasonable gasoline prices. The United States need to renegotiate with these nations, and we also need to look at the oil-producing companies, the oil-distribution companies, the companies that get the product to the consumer.

Second, Mr. Chairman, with the current high price in gasoline, I believe that the time to act is now. We need to approve additional research funding for alternative energy programs, and energy sources. We need to allocate more money in renewable energy research, for example, research in renewable ethanol as a fuel alternative. We need to find better ways to make ethanol and other products like it more reasonably accessible to the consumer, and I believe with our track record of technology advancement, of improvement, that we can actually do that.

And, finally, Mr. Chairman, I certainly welcome the FTC as it looks into the practices of the companies. I am not sure that I believe that there is any one answer or that anybody's got a panacea to what is causing the problem to exist, but I do believe that by putting forth a concentrated effort, looking at all of the factors that are in fact involved, that we can come up with a strategy and a program and a direction that will get prices down to the point where consumers can reasonably expect to make use of them.

And so I thank you, Mr. Chairman, and yield back the balance of my time.

Mr. BURTON. Thank you very much. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I did not intend to say anything, but I am going to say one sentence, and then I will turn back a lot of my time to the gentlewoman from Idaho, and then I hope we get to the panel who has been long suffering.

But we in transportation in this Congress on both the Senate and House side, often in annual bills we purchase diesel buses and diesel school buses and all this kind of thing. It seems to me Congress could say, "Hey, let us start in trying to get the cleanest type of fuels," and there is no question we have got to invest in batteries in this country. That is one of the major things we have not been able to do. It needs it both for military purposes, as well as civilian transportation purposes, and natural gas is the type of bus we ought to do. That is clean fuel, and frankly, I get tired of the diesel smoke in my face as I am driving behind buses and trucks and all the rest of it. So I think we ought to think in those terms.

And I now yield the rest of my time to the gentlewoman from Idaho.

Mrs. CHENOWETH-HAGE. I thank the gentleman from California, and I will just summarize my opening statements by asking the question: how much does this administration's environmental policies impact the price of oil and gasoline?

I found it interesting yesterday, Mr. Chairman, in the Washington Times, that it was quoted inside the Beltway that Paul R. Ehrlich and Anne Ehrlich, who wrote a book entitled "The Population Explosion" and published it in 1990, on page 219, is quoted as saying in the book: "The United States could start by gradually imposing a higher gasoline tax, hiking it by 1 or 2 cents per month until gasoline costs $2.50 to $3.00 per gallon, compared to prices in Europe and Japan." And then on the dust cover, on the inside of that book, was a statement written by our now Vice President Al Gore, who is quoted as saying, "The time for action is due and past. Ehrlich has written the prescription."

And, Mr. Chairman, I am wondering how much the environmental policies of this administration is the prescription. We can sit here and point fingers at each other, but there is a major problem with this administration's environmental policies. We are now 56 percent dependent on the unstable OPEC nations for our oil resources, and we are sitting on top of great resources in this country at ANWR and multiple-capped oil companies, that because of the environmental policies, we are not able to develop.

So that will end my oil statement, Mr. Chairman, but I would like to ask permission that my entire statement be entered into the record.

Mr. BURTON. Without objection. Thank you, Mrs. Chenoweth and Mr. Horn.

[The prepared statement of Hon. Helen Chenoweth-Hage follows:]

Statement of Congressman Helen Chenoweth-Hage
Committee on Government Reform and Oversight
2154 Rayburn House Office Building
June 28, 2000

Thank you, Mr. Chairman. I would like to take the opportunity to thank both the Chairman and the Committee for holding today's hearing regarding *"Rising Fuel Prices and the Appropriate Federal Response*." This is a timely and critical issue that directly relates to the economic health of our country. I am very pleased that the Committee on Government Reform decided to address this issue at this particular time. Additionally, as a member of the House Resources Committee, this is also of particular interest to me.

Over the past year, prices for gasoline have skyrocketed. It is literally unbelievable how much they have risen. On average, prices for gas have risen 56 cents, and that's only on average. Many areas have been hit by disproportionate increases in the price of gas with the prices approaching $2.35 per gallon. Unbelievable.

Mr. Chairman, this administration would have us believe that we simply face unfair price gouging by oil companies and OPEC. I am sure there are many factors involved. But one set of factors this administration would like to ignore is the primary role that the Clinton/Gore '*environmental*' policies play in this problem. For instance, under the Clean Air Act, substantial reductions are required in ozone producing organic materials. Specifically, this was mandated through a provision that required reformulated gasoline. At the time, EPA estimated it would cost between 5 and 10 cents per gallon of gas to produce reformulated gasoline. Now, we find that reformulated gasoline probably costs approximately 25 cents per gallon.

Furthermore, there is no doubt that OPEC is, indeed, overcharging us for oil. However, this is due to the sloppy and incompetent mismanagement of relations with our allies in the mideast. There is no way around this fact. The Clinton administration has been consistent in treating the countries that produce oil as if they were children. They take these countries for granted. Mr. Chairman, no one likes to be taken for granted, not me, not Idahoans, and certainly not other countries.

Mr. Chairman, the facts are indisputable. OPEC has allowed their production prices to rise to an all time high of $34.13 per barrel. They allowed this to occur after substantial and severe cutbacks in their production quotas. Furthermore, they would not have been able to do this without the cooperation of other non-OPEC members. Now, we are told, OPEC will solve this problem by increasing their production rates by 708,000 barrels per day. This is such a small amount that I doubt any real progress in more reasonable pricing will be made.

However, Mr. Chairman, there are other substantive problems with the policy of this administration that has directly contributed to the rise in the cost of fuel. The primary, and most obvious problem, is the fact that the administration has done literally everything it can to undermine the ability of the mining of oil on our own continental shelf. It is as if this administration actively wishes to subjugate us to the whims and gastral perorations of OPEC.

Sometimes I get the feeling that nothing but unconditional surrender of our sovereignty would do.

Mr. Chairman, oil is a strategic national asset. By ignoring this fact, we do so at our own peril. But, with this said, will the Clinton/Gore administration allow us to become more self-dependent by drilling? I doubt it.

Mr. Chairman, in my own state of Idaho we have witnessed the devastating effects of this administration's policies. Between their ill-conceived roadless areas plan, and their consistent thumbing of the nose at western states, they have succeeded in genuinely injuring industry and the normal man in my state. This is a perfect example of the inexcusable arrogance of Washington.

Mr. Chairman, in 1990 Paul Ehrlich wrote a book that explicitly called for higher gas prices. He wrote, "The United States could start by gradually imposing a higher gasoline tax -- hiking it by one or two cents per month until gasoline costs $2.50 to $3.00 per gallon, comparable to prices in Europe and Japan." What scared me even more at the time was the uncritical endorsement that then Senator Al Gore gave to this book. At that time, Senator Gore wrote, "The time for action is due, and past due. Ehrlich has written the prescription." That was in 1990. Just imagine what would happen today under a Gore presidency. We've *already reached* $2.50 per gallon in some areas. Vice President Gore has never repudiated his far-left extremist view. He should do so now.

What does Vice President Gore and this administration really want? Does the administrationl support a 50 percent increase in the gas tax? What is the role of the Kyoto Protocol in his decision making process? What is the highest level of taxation the admnistration would impose on gas? These questions almost make me wonder whether the objective is to raise gas prices so high that cars simply become unaffordable.

Mr. Chairman, again, I would like to thank the Committee for taking the time to examine this important and timely topic. It is important to my constituents, the State of Idaho, and the American people at large.

Thank you, Mr. Chairman.

Mr. BURTON. Ms. Schakowsky.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I appreciate the patience of the panel.

We have been suffering in Chicago from some of the highest gasoline prices, and I just wanted to briefly tell you my take on this, because I have really been puzzling over why our prices in Chicago and Milwaukee have been so much higher than everywhere else.

We had a hearing in Chicago that was convened by Congressman Bobby Rush last week, and at that time, what we were hearing from the oil companies—there was a lot of finger pointing going on, but we heard about how high the taxes are relative to other places around the country. And that is true, in Illinois we pay higher taxes. And then they were talking about ethanol, and that the problem really is that we have to use ethanol. We heard about—then we came to Washington and met with some of the oil executives and we heard about supplies, and we heard about problems with pipelines, and of course, we saw a lot of finger pointing at the EPA and the environmental regulations.

Well, let us look at all the facts, peel away the rhetoric, and look at what we have. And what we see is that the cost of reformulated gasoline in all of the places around the country except Chicago and Milwaukee areas was always about the same price as conventional gasoline. We are talking about the fees to RFG. In Chicago, for example, these are old numbers, but June 12th, $1.62 for conventional gasoline, $1.63 for reformulated in places other than Chicago and Milwaukee; $2.04 in Chicago and Milwaukee, a full 60-cent per gallon difference.

Well, when the FTC began its investigation, coincidentally—and I don't think it really was—we began to see this precipitous drop in the wholesale cost of reformulated gasoline with ethanol in the Chicago area, and we have seen that drop now from, it was at about $1.60 a gallon to now, as of 2 days ago, $1.22 a gallon. So what could it be? We have not changed the taxes. The supplies have been the same. The pipeline, which was a problem, was the same fix on the 15th and the 14th as it is today. The EPA regulations haven't changed any. It seems to me that if prices can fall so far and so fast, that it was within the power of the oil companies to drop those prices, and the only explanation then that makes sense to me is that Chicago and Milwaukee, the two areas that use ethanol the most, were being punished for their use of ethanol, a corn-based product that the oil companies don't make any money off of. That is the only thing that distinguishes Chicago and Milwaukee from the other places around the country, is our use of ethanol. And it seems to me that that is where the problem lies, that the oil companies, who have seen up to 500 percent profits this year, this quarter this year over last year, have seen fit to use the environmental regulations as a fig leaf to disguise their attack on ethanol and to punish those of us in the areas that most heavily rely on ethanol.

I hope now that we are going to continue to see a decline in the wholesale price, that we will see it reflected at the price in the pump, which of course for our consumers is the bottom line, and that this hearing will shed further light on the subject. I appreciate the witnesses' indulgence, and I thank you, Mr. Chairman.

Mr. BURTON. Thank you, Ms. Schakowsky. Mr. McIntosh.

Mr. MCINTOSH. Thank you, Mr. Chairman.

I have a prepared statement that I would like to put into the record, and just make a couple minutes' remarks.

Mr. BURTON. Without objection.

Mr. MCINTOSH. And let me focus on the Midwest, because that is where I think the key problem is, at least where I am familiar with it, and let me remind everyone on the committee that the Chicago market also includes parts of Indiana, particularly Lake County.

And I was up there recently, and noticed that on the Lake County side of the border, you are paying $2.18 a gallon. You drive 2 miles south and you are paying $1.78 a gallon, whether or not in that non-attainment zone and don't have to use reformulated gas. So there is a price difference, and unlike the East Coast or the West Coast, it costs a lot more to use this reformulated gas.

I think what we need to keep in mind is that an economic analysis of this explains what is going on pretty simply, that the demand curve for gasoline is very inelastic. Put into English, that means people are willing to pay a lot more for the same amount of gas, because they need to fill up in order to drive to work and buy groceries and use it in their car. Therefore, when the supply goes down and the demand is still high, you get a spike up in the price. That is what has happened here. That is what is referred to by some of the members as gouging.

The solution to that is one of two things. People use less gas so you reduce the demand, or suppliers find alternative supply and increase the supply, and that will then cause a decrease in the price.

When you break down according to the CRS study, which is confirmed by the memo that Mr. Ryan introduced today from EPA, and frankly, confirmed by the subsequent CRS study that Mr. Waxman mentioned, you look at the price of gas in the Midwest, in the Chicago area, as well as the broader Midwest, it was $1 a gallon roughly a year ago. It has been increased by about 50 cents a gallon which can be attributed to the restriction of supply by OPEC and the oil-producing countries. That gets you to about $1.50 range. That is what people on the East Coast and the West Coast are paying for gas, both reformulated and non-reformulated. The restrictions in supply due to the pipelines and the fact that there are no refineries supplying the Midwest, adds about another 25 cents to the gallon, and then the fact that Chicago and Milwaukee and Lake County, Indiana use reformulated gasoline with ethanol adds another 25 cents to the gallon.

And it isn't 25 cents more expensive to produce that gas, the problem is that the blend when you blend with ethanol is different than the base ingredient for other reformulated gas using MTBE or an oil-based product.

So, in California or New York they have a fairly large supply of the base material, they add the oxygenate and get reformulated gas. But in these two cities and Lake County, IN, the EPA regulations require them to produce a special blend and the supply problem comes about because of that requirement that there be a special blend that you mix with ethanol. That is what spiked up the price by another 25 percent according to the CRS study.

Now, when people say that the regulations are causing the increase in the cost, that is one way to look at it. And I can understand why some of my colleagues say that can't really be. The oil companies are only required to spend so much money to produce that. The rest of it is they are charging extra money for the product that they are selling.

But if you look at it the other way that you have got this dislocation between demand and supply and the demand curve essentially is what causes the spike in prices; people are willing to pay more in order to get a gallon of gas when there are fewer of them around. The regulations are causing a dislocation in the market so that the suppliers cannot bring in alternatives to sell at a cheaper price. And, so, the low supply causes the high price, the EPA regulation prevents anybody else coming in and supplying an alternative in Chicago, Milwaukee, and Lake County.

And that is how the government regulations have caused this temporary crisis in the Midwest cities by not allowing the market forces to work to bring in alternatives to that reformulated phase II gasoline. That is what this committee should look at. That is, frankly, what the Governors in Illinois and Wisconsin requested EPA to grant a waiver, to say, let's get through the summer, where we can open up the market place, and you can have a different form of reformulated gas come in, supply the need, and we will see the price come back down.

Thank you, Mr. Chairman.

[The prepared statement of Hon. David M. McIntosh follows:]

Statement of Rep. David McIntosh
Committee on Government Reform
June 28, 2000
Hearing on Rising Fuel Prices and the Appropriate Federal Response

Gasoline prices in the Midwest have risen dramatically in the last few months. Consumers are paying more at the pump than they have in nearly a decade. Skyrocketing gas prices harm consumers, particularly those on fixed or lower incomes. In addition, soaring gas prices increase the costs of all businesses that in any way depend on transportation by automobiles or trucks. Those higher business costs will, in turn, raise the prices of a whole range of goods and services. Therefore, consumers will be hit in the pocketbook a second time.

But, beyond these burdens on consumers and businesses, the surge in gas prices will also have harmful long-term effects on economic performance. In a dynamic and energy-dependent economy such as ours, a sudden, severe, and prolonged increase in energy costs can put the brakes on economic growth faster than a hike in the Federal interest rate (no offense to his eminence, Mr. Greenspan).

The question facing us today is why gasoline prices have risen so precipitously, particularly in the Midwest. It was Santayana who once said, "Those who don't learn from history are doomed to repeat it." And perhaps recent history can teach us something about the origins of this recent price spike as well as some insight into actions that the Federal Government can take to correct the problem.

A little over a year ago, California experienced a significant jump in the price of gasoline. The reaction to the California price spike was similar to the current reaction: calls for hearings, investigations, and a certain inevitable amount of finger pointing. At the time Senator Feinstein asked the General Accounting Office (GAO) to investigate the price spikes. GAO published its analysis last April.

The similarities with California's price spike a year ago and the current price spikes in Midwest are illustrative.

According to GAO, higher price spikes in California were due to unplanned refinery outages. A recent memo by the Congressional Research Service (CRS) suggests that pipeline outages in the Midwest are a significant factor in the current price spike.

According to GAO, California established its own formulation of gasoline, which is different from other states. Under phase two of the EPA's reformulated gasoline standards a similar effect may have taken place in the Midwest.

Refiners serving the Chicago-Milwaukee areas use ethanol instead of MTBE (the additive used in most other urban areas) to meet the oxygen requirements of the reformulated gasoline (RFG) program. New requirements for phase two of this program, which took effect June 1, 2000, have made it more difficult and costly to make reformulated gasoline with ethanol. In addition, fewer refiners are available to make gasoline that meets the specific needs of areas using ethanol.

Although EPA has estimated the impact of its phase two requirements at 5 to 8 cents per gallon, according to CRS, EPA's new reformulated gasoline standards may be responsible for half of the price increase -- approximately 25 cents per gallon in the Chicago-Milwaukee area.

Finally GAO pointed out, "Because California refineries produce at almost full capacity, supply disruptions caused by refineries outages must be made up from other sources, such as out of state providers. However, obtaining gasoline from such providers is slow and costly because only a few out of state refineries can produce gasoline that meets the state's stringent emission reducing standards and the gasoline must be shipped by tanker from far away locations."

Two critical questions comes to mind: Are refiners in the Midwest operating at full capacity? And if so, why haven't they kept pace with the energy demands of the market and increased capacity? If they are not operating at full capacity, is that because of economic factors, or political-regulatory factors?

This is not to suggest there is only one reason or a single cause behind the current high gas prices. To the contrary, higher gas prices are more likely caused by a tangled web of regulatory and economic constraints. I hope today's testimony will help us sort out this tangled web and we won't be doomed to repeat this history with every future spike in the price of gasoline.

Mr. BURTON. Thank you, Mr. McIntosh.

Mr. Ford.

Mr. FORD. Thank you, Mr. Chairman.

I look forward to hearing from the panel so I am not going to speak very long. I would say that we have all become experts here, at least we believe we have become experts on the environment and how these emissions may affect our environment and how you can mix these things. I don't claim to be that bright and I am amazed at the intellect and the wisdom that poured on this side regarding how EPA does its job and how the big oil companies are conducting themselves.

I will note again for the record that I know we have a third panel where we will have a representative from the American Petroleum Institute, and I think the Renewable Fuels Association but I do hope that the chairman will show the same vigor and relentlessness in bringing the CEOs of some of the large oil companies before this committee too as he did Cheryl Mills who have been subpoenaed before this committee.

I would have to think that this issue affects more Americans than whether or not e-mails might have been lost at the White House, but that might be a difference of opinion on sides of the aisle.

With that being said, I look forward to hearing from the panelists. They have taken time out of their very, very busy schedule to be with us today and I do apologize that more of my colleagues could not be here. This is an extremely busy day as we debate prescription drug benefits for seniors in America. And with that I yield back the balance of my time and hope that we can get on with this panel as well as the other panel.

And I would say one additional time, I know Mr. Waxman has said it. I hope to hear from the heads of the oil companies, perhaps they can explain what clearly so many on the other side of the aisle now understand in terms of what EPA, the Clean Air Act, has required these oil companies to do. I would like for them to explain to me how it is they are enjoying a 500 percent profit—nothing against it, I am a capitalist also, I think the people ought to make all the money they possibly can—but we ought to be very careful in casting aspersions on laws that have made our air cleaner and our water safer to drink and at the same time oil companies are enjoying record profits.

I would also add that over the last 8 years, and as we criticize environmental regulations, our economy is growing like it has never grown. We are all making forecasts about surpluses we are going to enjoy in this Nation and we are all now, both sides of the aisle, trying to determine how we are going to spend the taxpayer's money. So, I would caution my friends on the other side, who suggest that somehow or another the EPA has slowed the growth of this economy. We are growing like we have never grown before.

We face a particular crisis here, and instead of the demagoguing that goes on, on both sides, we ought to call all of those before us who could perhaps provide some insight and guidance as to what, we, as policymakers ought to consider and ought to be doing to help to bring some relief to working mothers in my district in Memphis, in the Ninth District in Tennessee, certainly in California, where my friend, Mr. Ose, is from and Indiana, where Mr. McIntosh and where Mr. Burton is from. I would hope that my colleague from Indiana, Chairman Burton will not hold too much against Mr. Ose, since he is from California and I saw you don those glasses on the floor, Mr. Chairman, saying that the Indiana Pacers would defeat the Lakers. That didn't happen. I hope that you would not hold that against Mr. Ose in his efforts to bring relief to the residents of California.

With that, I yield back my time.

Mr. BURTON. I wasn't going to until now.

Let me just say since we cannot run cars on missing e-mails, we will have the people from the oil company before us.

Who is next on our side?

Mr. La Tourette.

Mr. LA TOURETTE. Thank you, Mr. Chairman.

I will try to be mercifully brief. I want to thank you for holding this hearing today and for inviting not only the consumers that I think are going to be the most important panel, but also the Federal agencies and representatives of the oil industry and also alternative fuels. I am also encouraged by the opening statements today that it has not devolved into the rhetoric, the silly rhetoric that punctuated some of the press conferences that occurred on Capitol Hill at the end of last week.

My personal favorite, not only at the press conference but also at a meeting that I was at with the EPA Administrator, was somehow a letter sent by the Administrator of the EPA and the Energy Secretary caused the wholesale prices in Chicago to plummet that very day. Apparently they sent the letter and it scared the beJesus out of the oil companies and oil prices dropped 27 percent on the wholesale market in Chicago.

That is a ludicrous and ridiculous observation, but it got me to thinking because a couple of days earlier Congressman Kucinich had sent a letter to the FTC to the chairman, as a matter of fact, 3 days earlier than the Energy Secretary's letter, and the EPA Administrator's letter. We got a letter back from Chairman Pitofsky that said that he was going to launch an investigation in the Midwest. So, it occurred to me that maybe Congressman Kucinich and I could have a press conference and take credit for tumbling gas prices in the Midwest but that would be, I think, just as silly.

It would appear from the meetings that Speaker Hastert had over the last couple of weeks that there have been a number of unhappy circumstances that have come together about the same time in the Midwest and they have left drivers and consumers really scratching their heads in my State. We have heard from some of our colleagues from Illinois and Wisconsin, they have a pretty good handle on it. At least they had new regulations that went into effect on June 1st for RFG–2. I would say that we have 4 out of every 10 gallons of fuel sold in Ohio is already ethanol made with corn and, so, I don't suspect any vast right-wing corn conspiracy going on at least in the State of Ohio.

But I would tell you that we don't understand what happened to us in Ohio on June 8th. I got a call from a guy who lives in Geneva, OH. His wife filled up at a gas station that morning before she went to work and the gas was a $1.57. He comes home, 5 hours later, and he fills up at the same gas station, same pump, apparently the same gas in the tank that was there at the beginning of the day was $1.99. There is no war, no national disaster. He couldn't think of anything that caused it to go up so much and he is asking, well, OK, we understand what happened to our friends in Chicago, we understand what happened to the folks in Milwaukee, but what is going on in Geneva, OH?

And I want to welcome Charles Bailey from Jefferson, next door, who has experienced some of the same things from Jefferson, OH, to talk a little bit about what he experienced. I think it is easy to cast blame. I think it if you don't like the Environmental Protection Agency you can blame their regulations and say that they have caused the problem. If you don't like the Clinton administration you can say that they don't have a fuel policy and energy policy to follow. If you don't like the big oil companies you can accuse them of price gouging. If you don't like the Republicans you can say, as some have suggested, that the Republicans are in the pocket of the big oil companies and we don't want to look at them.

I would hope that rather than fanning out and hunkering down into foxholes or, in this case, oil wells, that at today's hearing the committee really, everybody who comes before the committee sits back and says, maybe in this crisis I could have done something better.

For instance, we are aware that the EPA granted, they didn't grant a waiver but they granted enforcement discretion to St. Louis, Missouri, which is a fine city but also the Energy Department took a look at fuel supplies, saw they were low, as they did for Chicago and Milwaukee, and decided not to issue enforce discretion. Well, why?

Maybe the EPA could have done better. Maybe the Energy Department could have done better. And the oil industry, I think what happened in Ohio is that the pipelines broke. We had some problems, shortages were low, a 15-year low. But if I am an oil company and I can sell gasoline in Chicago for $2.20, as Mr. Kanjorski was talking about, supply and demand, why the hell would I sell it in Ohio for a $1.60? I am going to take it up to Chicago and sell it.

And my suspicion is that they perhaps were a little greedier in the supply and demand situation than they needed to be. Maybe we need to look at our PAD system that was put into place after World War II to develop oil distribution in this country and come up with a better way to do it.

And in the spirit of cooperativeness, and doing something constructive, the Transportation Committee is already looking at the Explorer Pipeline and we are talking about pipeline safety. Mr. Waxman, I think, talked about the Explorer Pipeline. It is now operating at, my understanding is, 80 percent pressure, 90 percent capacity. And rather than saying well, you know, darn somebody, we are looking to work with the Department of Transportation how to get them up to 100 percent so Chicago could have more gasoline than they know what to do with.

I thank you, Mr. Chairman, and yield back my time.

Mr. BURTON. Thank you, Mr. La Tourette.

Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I really want to sincerely thank you for calling this hearing because I think it is tremendously important to customers and it is a very important issue. Recently I have been very alarmed by the incredible growth in gasoline prices across the Nation and in my own State of New York. And these prices have grown even though the oil supply has remained constant over the past year. As we know, on Wednesday, June 21st, OPEC agreed to raise their oil production by 700,000 barrels a day or 3 percent.

But what really astonishes me is the oil industry's pathetic excuses for the increases that they have seen and the cost of gasoline has become record highs. The oil industry profits have increased from 200 to 500 percent over the last year. And I think that it is no accident that when the Federal Trade Commission announced that it would launch an investigation into whether the oil companies were engaged in price gouging the price and the cost of a gallon of gas actually dropped in the Midwest.

But what I would like to get to is—and I would like to stress that this is standard practice for some of the oil companies. Back in 1996, Chairman Horn and I, in part of our effort to oversee the collection of Government debt, issued a report on what was owed to the Federal Government on uncollected oil royalties for oil that is extracted from land that is owned by the taxpayer, federally owned land. And what I found in my studies is that there was a consistent effort to cheat taxpayers and the Government out of millions of dollars that are owed in royalties and this money that comes in, in royalties goes to education and to many important areas.

We had a series of hearings and there were subsequent investigations by GAO and others that really came to the conclusion that many of the major oil companies were paying royalties based on what they called posted prices but the price was much lower than the market price. And we merely worked, many of us, to encourage a law or a rule that is very simple, that the oil companies should pay the Government and the taxpayers the same amount that they pay each other.

And because of the lawsuits that came out of these investigations that we had in your hearings and other places, the oil industry paid the Federal Government more than $300 million and overall the oil companies were forced to pay over $5 billion to the Federal Government, States and Indian Tribes. And there were many suits against the oil companies and they settled over their underpayment. And recently the Office of Minerals and Management Services re-wrote the rule that merely states that the oil companies should pay to the Federal Government what they paid each other which is market price and that will provide an additional $66 million each year to the Federal Treasury.

So, I think that is important but the reason I bring up this history of hearings and work that many of us on this committee did on the underpayment of oil royalties shows a behavior of trying to really rip off the American consumers and rip off the fair and just payment.

And I can say that I am looking forward to the report that will come from the Federal Trade Commission on how we jumped to

500 percent increases in profits, while the supply was basically the same in this country.

Thank you.

Mr. BURTON. Does the gentlelady yield back her time?

Mrs. MALONEY. If anyone would like to comment on that, I would be glad to hear their comments.

Mr. BURTON. Well, we are not to the questioning phase of the hearing yet, Mrs. Maloney.

Mrs. MALONEY. OK.

Well, I was at another meeting and just got here. So, I yield back. I didn't realize it was opening statements. I thought we were at questions.

Mr. BURTON. OK. Thank you very much.

Mrs. MALONEY. Thanks.

Mr. BURTON. Mr. Barr.

Mr. BARR. I look forward to the testimony and questions, Mr. Chairman.

Mr. BURTON. Mr. Terry.

Mr. TERRY. I will associate myself my remarks with Mr. Barr's.

Mr. BURTON. So noted.

Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Before I associate my remarks with Mr. Barr, I want to remind the chairman that I am from Sacramento and a supporter of the Sacramento Kings, not the Los Angeles Lakers.

Mr. BURTON. Well, I would hope that in the finalists you were rooting for the Indiana Pacers even though they were not successful.

Mr. OSE. Does Indiana have a team?

Mr. BURTON. Never mind, never mind. [Laughter.]

Would the—first of all, before we have you sworn in, I want to thank you all for your patience. Would you all rise so I can swear you in, please?

[Witnesses sworn.]

Mr. BURTON. Be seated.

Our panel consists of Scott Schneider, from Indianapolis; Mark Hrobuchak. Where are you from, Mr. Hrobuchak?

Mr. HROBUCHAK. Northeastern Pennsylvania.

Mr. BURTON. Charles Bailey from Jefferson, OH; Elaine Oberweis?

Ms. OBERWEIS. From Aurora, IL, represented by Mr. Dennis Hastert.

Mr. BURTON. Speaker Hastert. Well, we better treat you right then. And Doug Wilson. Where are you from, Doug?

Mr. WILSON. North central Illinois in Congressman Tom Ewing's District.

Mr. BURTON. Very good.

I think we will just go right down the line. Mr. Schneider is a member of the city county council of Indianapolis and also I guess runs the Mister Ice Co., with his father, who is a good friend of mine.

Mr. Schneider.

STATEMENTS OF SCOTT SCHNEIDER, VICE PRESIDENT OF SALES, MISTER ICE OF INDIANAPOLIS, INC., INDIANAPOLIS, IN; MARK HROBUCHAK, CEO, PRESIDENT OF MPH, TRANSPORTATION AND LOGISTICS, SCRANTON, PA; CHARLES BAILEY, JEFFERSON, OH; ELAINE OBERWEIS, CEO, OBERWEIS DAIRY, INC., CHICAGO, IL; AND DOUG WILSON, GRIDLEY, IL

Mr. SCHNEIDER. Thank you, Mr. Chairman and members of the committee. I would like to thank the committee for giving me this opportunity and in particular my Congressman, Chairman Burton, and Mr. McIntosh is also a delegate of my State. In 1964, my father realized the American dream of owning his own business. Starting in his garage he formed a small business supplying packaged ice to local businesses for resale. Now, over 36 years later, much hard work and sacrifice, 12 employees, and the help of his father and those employees, the business has grown to a very successful and well-respected distributor of commercial ice machines, and restaurant equipment.

Our family has about 7 trucks, traveling at 60 mile radius of Indianapolis, performing service and sales functions for our customers. Needless to say, gas prices, obviously, have a huge impact on our business.

As gas prices go up, quite simply, our profits go down. Gas prices directly affect our bottom line. But it affects much different than if there were an increase in merchandise for resale or things of that nature. Those prices can generally be passed on in the form of a price increase of our own.

But it affects our company differently than normal fixed costs that every business has. The recent volatility of gas prices especially in the Midwest has affected us and there is no way really to recover those in the business that we are in. So, we would have to absorb them.

Our company has two customer segments. We have a retail segment and a wholesale segment. The retail segment, most of our customers have a long-term contract and as a short-term spike in gas prices go up, our long-term prices cannot be changed. So, therefore, that affects directly to the bottom line.

For our wholesale customers most of those customers receive products that we ship out by freight carrier and the freight industry is showing a lot of increase in gas surcharges and our prices have been going up. Those prices usually are included in our discount structure, therefore, when freight prices go up our margin also goes down and it is a thin margin to begin with.

And, consequently we are trying to order more shipments, more items per shipment, fewer shipments, which obviously then puts a strain on our inventory levels and strains our cash-flow. Now, fortunately, and Lord willing, we can get through this. We are a strong company and I believe we will be able to get through a short spike in gas prices. But given the long-term continued prices at these levels, we would possibly be faced with cut backs and lower margins.

The question now to me seems to be how do we correct this? And I would like to emphasize quite, quite, obviously, that I am in no way advocating any sort of Federal price control on gasoline. But what I am advocating actually is that this body take at least some sort of action that it has the power and the control to take. I have identified two areas that I believe have an immediate and direct impact on gas prices. That would be No. 1 to lift EPA regulations; and No. 2, suspend or even cut the Federal gas tax.

And, if I could, Mr. Chairman, I would like to interject, I know that I have got, continue on with my prepared remarks, but as I was listening to the opening remarks of the panel, the committee, it occurred to me that really what we are looking at in my opinion is a much larger picture and a bigger question and that is a general question of government regulation, in particular, here, the EPA; and in general, for businesses everywhere. General Government regulation that hinders us all.

And we, as a business, are forced to deal with all kinds of Government regulation. And it almost seems at times that in order to succeed in business we do that in spite of the Government regulations from any, every different type of department, both local, State and national.

I am from the Midwest so I will use the analogy of a tractor pull. It is very similar to a tractor pull where business is the tractor and Government is the weight upon the sled in which we pull. And as the weight of Government regulations gets greater and greater we have to work harder and harder and spinning our tires more often just to stay, just to sustain the pace that we are at now.

And I firmly believe that if something does not happen to Government regulation in general that businesses small and large alike are going to stall out under the weight of Government regulation.

The question was this committee, was the rising fuel prices and the appropriate Federal response. In my opinion, that Federal response and this committee's response can be summed up in some simple language and that is please, get Government off the backs of small business and, in particular, for this committee, pull the reins on the EPA. They are over-regulating business and in this particular case, there is identifiable areas where the gas prices have gone up simply because of non-attainment and those types of things.

There is an article in a northern Indiana newspaper and Mr. McIntosh was right on line when several of the counties in Indiana lie in the non-attainment zone and some do not. And the headline is, Drivers Bolt for County Lines To Fill Up Gas Tanks, because the gas on the other side of the county line is 30 cents cheaper. And, again, you all mentioned that there is no change in supply, there is no change in anything other than Government regulation by the EPA. And those effects or those regulations took effect in my State on June 1.

So, as I was talking to some of my peers and my colleagues telling them that I was going to appear before the committee, I was given some marching orders by several of them. And that is to plead with you to pull the reins on the EPA and to pull back on Government regulation in general.

Thank you very much.

[The prepared statement of Mr. Schneider follows:]

June 28, 2000

Comments to the Government Reform & Oversight Committee regarding the effects of high gasoline prices.

From: Scott M. Schneider
V.P. of Sales & Marketing
Mister Ice of Indianapolis, Inc.
7954 East 88th Street
Indianapolis, IN 46256

Members of the Committee, thank you for giving me this opportunity.

In 1964 my father realized the American dream of owning his own business. Starting in his garage he formed a small business supplying packaged ice to local businesses for resale. Now over 30 years and 12 employees later, his company with the help of his family, and loyal employees has grown into a well-respected supplier & distributor of Commercial Ice Machines and Restaurant equipment.

Our family business has 7 vehicles traveling a 60-mile radius of Indianapolis, Indiana 6 days a week performing service and sales functions for our customers. Needless to say, gasoline prices have a big impact on our family's business. As gas prices go up, quite simply our profits go down. Gas prices directly affect our bottom line. It affects our company much different than a price increase on merchandise for resale. Those prices can be recovered by a price increase of our own, which is passed on to the end user. It even affects our company different than normal fixed costs every business has. Because of the recent volatility in gas prices, there is no way to recover those prices except by absorbing them. Our company has two customer segments, retail, and wholesale. Our retail customers are under a long-term contract where costs are built in. Short-term spikes in gas prices can only be absorbed, not recovered. For our wholesale customers, gas prices effect the cost of freight carried by trucking companies. Freight is often negotiated as part of the discount structure to stay competitive. Already thin margins are now lower due to increased freight costs (usually in the form of a gas surcharge) from the freight carriers. Consequently, we are trying to order more items per shipment, while receiving fewer shipments. This in turn increases our inventory levels, and strains our cash flow. We are a strong company, and most likely can sustain a very short spike in gas prices, but if prices continue at these levels, we could be faced with cutbacks.

The obvious question now seems to be 'how do you correct it'? I would like to emphasize that I am in no way advocating Federal price control. What I am advocating is that this body make necessary changes it currently has the authority to make. Two changes that can have immediate positive impact are to: 1) lift strict EPA regulations on areas listed as ozone "non-attainment" areas, and 2) suspend or even cut the Federal gas tax.

1) Stringent EPA regulations took effect June 1 in my state of Indiana. These "reformulated phase two" regulations have been a direct cause of higher gas prices. According to the EPA, all "non-attainment" areas must use reformulated gasoline. This regulation caused prices to be $.10 to $.30 per gallon higher than for those not in non-attainment areas. Indiana has areas where neighboring counties fall into different categories. In northern Indiana, one newspaper headline reads "Drivers bolt for county lines to fill up gas tanks", specifically because one county is in the "non-attainment" area, while the other is not. I would certainly not want to own a gas station on the wrong side of that county line. While their intent is honorable, the fact remains that Government regulation hurts small business, and eventually the consumer. While the EPA is attempting to protect the environment, the real result is higher prices to the consumer, and less money to spend where they see fit.

2) In Indiana, our Governor recently suspended state sales tax on gasoline, and prices are starting to go down. On a national level, President Clinton has been critical of suspending the Federal gas tax, claiming Federal highway projects would be in jeopardy. If the Federal Government is estimating a budget surplus, why would those projects be jeopardized? With over $.18 per gallon Federal Excise Tax on gasoline, a suspension or better yet, a permanent cut would mean an immediate drop in gas prices nationally. I can't think of a better way to return surplus tax dollars than to cut the Federal Excise tax on gasoline. This body has the authority to make these changes. I ask you to give them your strongest consideration.

Mr. BURTON. Thank you, Mr. Schneider, and be sure to give your mom and dad my regards.

Mr. Hrobuchak.

Mr. HROBUCHAK. Mr. Chairman, and members of the committee, I would like to thank you for appearing today in front of you. I have a lot to say in a short period of time so I am going to be real quick about it. I have been in the transportation business, trucking business for 22 years, OK? As a refrigerated carrier, I was third in command of the 10th largest refrigerated trucking company in the United States at one time.

And we are located in northeastern Pennsylvania in the 11th Congressional District and due to Mr. Paul Kanjorski I have to thank him, Congressman, for being here. He has supported me all the way.

You know, we heavily rely on fuel. And, you know, this is not a problem that just happened a couple of weeks ago in the Midwest. This problem happened 8 months ago. And the trucking industry was struggling since then and we were promised an investigation then and we have not seen anything. They have held hearings, March 9, 2000. As a matter of fact, I was recommended to testify at those hearings, and it was actually the Energy of Power and Subcommittee hearing, chaired by Congressman Barton of Texas. And it was on oil market price fluctuations.

I have not heard a thing. I was promised that there would be something done. I will go further. This is not just about fuel. This is about jobs. OK? I have over 150 employees that work for me, owner-operators, company drivers, mechanics, office staff and administrative staff. OK? I started in 1995. I left the 10th largest refrigerated trucking company and went on my own. OK?

I started with nothing. By the year's end I did $3.4 million. At the end of this year I will have done $15 million in gross revenue and sales. And it was not an easy hike and it's not getting any easier.

The fuel is choking the transportation industry by the throat. And this is just by coincidence yesterday. A gentleman from the Travel Port Centers of America stopped in my office and it's a big chain of places where trucks can stop and get fuel and guys get showers and stuff like that. And he actually told me the reason the shortage as he experienced and why fuel was so expensive up in the New England area was because they have actually rerouted the pipeline up into the New England area and made him ship his trucks over to Kentucky when he was based in Richmond, VA, just to get the fuel he needed to support his truck stops. And all that fuel went up to the New England States.

So, I don't believe there was a shortage there. Let me hurry on with this.

I will address the fuel issue now. Our fuel price rose 78 percent in the 10-day period. MPH sustained losses during this period while our gross revenues increased 26 percent in the first quarter of 2000, OK, in comparison to the 1999 first quarter, OK? But our profits fell in 2000 98 percent in comparison to 1999 because of direct cause of the fuel shortage, so-called.

And all that's really happened in my opinion is that the trucking industry has gotten off the back of Congress and subcommittees and lowered the fuel enough to where now they raise the gas prices. And it's raising everybody's attention.

And they are seeing where they can get away with it. And, you know, I have several responses to that. And I contacted everybody. I started with Mr. Kanjorski, in the 11th Congressional District. I contacted Senator Sherwood, Holden, Specter, and Santorum, Energy Secretary Richardson, Pennsylvania State Senator Mellow, Pennsylvania Attorney General Fisher, Governor Ridge. I also contacted President Clinton and Al Gore, OK?

And I contacted everybody. I have been working on this since the very beginning and I work hard and I have actually ignored my business in spite of everything that has happened. And I take this serious. This is my livelihood. And I have independent owner-operators that work for me which, you know, tried to be self-employed independents and want to be the American entrepreneur with their own little truck running around the country.

I want you to know that 80,000 trucks were returned from one corporation in the United States that had 35 percent of the market share, OK, was given back by the American owner-operator who pulled freight. So, what I am trying to say there is that in my company during the fuel shortage for the first quarter is that 20 of my employees, owner-operators had, went bankrupt, they lost their homes, they lost their houses, they lost their cars, they lost everything because they just couldn't live up to the fuel prices.

And we need to take immediate action. I mean immediate. We need to do something this time. We can't say we are going to try to do something, OK? We need to make those parties responsible, OK, impose taxes, OK? Not only the parties responsible but the executives of those companies responsible and hold them.

And I don't agree with a peeling away with the Federal and State taxes. I just want you to put a moratorium on them. Just a moratorium on them so the trucking industry can get a grip and get back in line where it needs to be so their bottom line can get back on track with its profits.

OK? That is all I have to say. Thank you very much.

[The prepared statement of Mr. Hrobuchak follows:]

MPH *Transportation & Logistics*
Miles Ahead of the Rest

Remarks by Mark P. Hrobuchak
House Committee on Government Reform and Oversight
June 28,2000

Mr. Chairman Burton, distinguished members of the panel, I thank you for the opportunity to appear before you to discuss the current fuel pricing crisis.

I have been in the trucking industry for 22 years, working at all levels.

In 1995, I left the company that I helped to become the tenth largest refrigerated goods transporter in the United States, to open my own business, MPH Transportation and Logistics.

We are located in Pittston, in Northeastern PA, which is in the 11^{th} Congressional District. I live in the 10^{th} Congressional District. My company is a refrigerated and dry freight motor carrier which provides services to our clients. **More importantly, we provide jobs for over 150 owner operators, company drivers, mechanics, office staff and administrative staff.**

Owner operators are Americans who have saved and accomplished the American dream of working for themselves. They subcontract their equipment and services to my company. With very little capital of my own and utilizing these owner operators, **my company has grown from $3,400,000 in gross sales in 1995, to an estimated $15 million in 2000.**

I attribute the success of my company to the entrepreneurial spirit of the owner operators, my staff and my own experience in this industry as well as a lot of hard work .

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I will now address the current issue of fuel prices. **Our fuel prices rose 78% in a ten day period this year.** MPH sustained losses during this period. While gross revenues were increasing 26% first quarter 2000 vs first quarter 1999 year, my profit quarter to quarter dropped 98%.

Fortunately, I have been able to survive, some of my owner operators have not. 20 of them have lost their trucks, their homes and they have been forced into bankruptcy. That's 20 families who have lost everything because of these outrageous prices. They asked for my help.

Starting in January of this year, I wrote to Congressmen Kanjorski, Sherwood and Holden, Senators Specter and Santorum, Energy Secretary Richardson, PA State Senator Mellow, PA Attorney General Fisher and Governor Ridge.

I also contacted President Clinton, Vice-President Gore and the President of the American Trucking Association Walter McCormick, Jr.

My PA State people told me that there is legislation moving (SR 131)asking the federal government to release U.S. petroleum reserves to negotiate additional release of non-OPEC reserves and to ask OPEC to increase production. Senator Mellow asked me to contact the federal people again and I did.

Congressman Kanjorski sought an invitation for me to testify before the Energy and Power Subcommittee hearing , chaired by Congressman Barton, on oil market price fluctuations. The hearing was scheduled for March 9, 2000. There was a strong spike in the price of retail gas prices and I did not appear so that congressmen, administration officials, fuel associations and stock market officials could speak instead.

I have brought along a packet of information showing the journey that I have traveled since January and I also have included industry information pertaining to highway diesel prices as well as information about MPH.

I was growing my business following the American dream myself, when this catastrophe struck. I leased property in CA in November, 1999, preparatory to opening a terminal in 2000. The fuel price crisis has consumed more time than I spend operating my business. I have put my energies into trying to help my people who are suffering. Therefore, CA is on hold until further notice.

As you know fuel is the blood of the trucking industry. Without it we die. With prices rising faster than we can absorb, we die. We need your help to provide jobs for 150 people and to help us keep America growing by moving her freight and goods.

I am asking you to take immediate steps to reduce the high cost of fuel and to prosecute those who have unjustly shattered the lives of thousands of people across this country for the sole purpose of greed.

Thank you.

Mark Hubbard

MPH *Transportation & Logistics*
Miles Ahead of the Rest

Statement by Mark P. Hrobuchak
House Committee on Government Reform and Oversight
June 28, 2000

Mr. Chairman Burton, and distinguished members of the panel, I thank you for giving me this opportunity to express my frustration with the so-called fuel crisis.

My name is Mark Hrobuchak and I have been in the transportation business for 22 years, 18 of them as an executive. For the 16 years prior to owning my own company I moved up in the ranks of a company that had only several trucks on the road in 1979. I helped build that company to a massive fleet of 850 power units and 1200 trailers. The company had generated as much as 100 million dollars in sales and was the tenth largest refrigerated trucking company in the United States of America at the time I left. Prior to my resignation, I held the position of senior executive vice president of sales and marketing. In 1995 I made the decision to leave this company and start my own.

I am the sole stockholder, CEO, and president of MPH Transportation and Logistics Incorporated in Pittston, Pennsylvania, in Luzerne County in the Northeast Region of the Commonwealth. We are a full truckload refrigerated and dry freight motor carrier that provides jobs for over 150 individuals. Our staff includes contracted owner operators, company drivers, and executive, administrative, mechanical, dispatch, clerical and support personnel. I started the company in the fall of 1995 and by the middle of January 1996 MPH had moved its first load. By months end the company had generated 27 thousand dollars in gross revenue. By the end of 1996 the company had generated 3.4 million dollars in gross revenue. This was primarily due to the fact that we owned little company equipment and contracted most of the loads out to the independent owner operators.

The definition of an independent owner operator is a person that has bought a truck seeking the American dream of being his or her own boss. With the help of these owner operators the company grew to generate 7 million dollars of gross revenue in 1997, 10 million dollars in 1998, 12 million dollars in 1999, and we are on track to generate an estimated 15 to 17

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million dollars in 2000. We have acquired a fleet totaling 115 tractors and trailers. The success of the company is due in part to my knowledge of and experience in the business and more importantly to the hard work and dedication of these independent owner operators, and an experienced staff.

Since the so-called fuel crisis began in January I've seen fuel prices rise to $2.25 per gallon in Northeast Pennsylvania. Fuel prices rose 78 percent in a 10-day period, which had a devastating effect on my company, the independent owner operators contracted to me, and companies both in the state and nationwide. MPH has sustained losses during the early part of this year. Financially my company has been able to withstand the losses so far, but many of the independent owner operators have not. They are trying to build financial security for themselves and their families starting with one or two trucks on the road and the dream of one day having a multitude of their own trucks. With the rapid increase in fuel prices I have watched dozens of independent owner operators in my company as well as thousands throughout the country lose everything. They have lost their trucks, cars, and homes and filed for bankruptcy. This is a direct result of the high cost in fuel, which has turned a narrow profit margin into a loss. As this happened the cries for help from the independents wives saturated my office. They wanted my help to save them from financial ruin and to tell them how to put food on the table.

Asked what I could do, I immediately tried to help by contacting in writing our state and federal officials. I wrote to Congressman Kanjorski, Congressman Sherwood, Senator Mellow, Senator Santorum, Senator Specter, Congressman Holden, Pennsylvania Attorney General Fisher, Pennsylvania Governor Ridge and Secretary of Energy Richardson. I also wrote to the CEO and president of the American Trucking Association, Walter McCormick Jr. With no immediate response I then wrote to Vice President Gore and President Clinton. I wrote follow up letters a few days later and during this time was getting a lot of media attention which included front page articles in our local newspaper, repeated cover stories from local news stations and several lengthy radio interviews. I was relentless in my pursuit to find someone in the government to step in and get answers as to why this travesty would happen in our state and country.

I received a reply from Pennsylvania State Senator Robert Mellow informing me that he was a co-sponsor of Senate Resolution 131, calling upon the federal government to release the United States strategic petroleum reserves, negotiate release of additional oil reserves from non-OPEC countries or negotiate with OPEC on additional supplies. He informed me that while S.R.131 "urges" the federal government to take these steps, it did not ensure that it would. He advised me to contact my Senators, Santorum and Specter, which I did.

Congressman Paul Kanjorski sought an invitation for me to testify before the Energy and Power Subcommittee hearings on price fluctuations in the oil market that was held on March 9th. My appearance was not scheduled because retail gas prices started to soar, and much more important people than myself were asked to testify.

The only real help we have received from the government so far was to be allowed to apply for Small Business Administration loans. MPH was not able to take advantage of this opportunity because the maximum amount of gross revenue a company can have and qualify is 9 million dollars, and we had 12 million dollars in 1999.

Because the dramatic increase in the price of diesel fuel hit my company so hard, we had to pass some of the cost on to our customers in the form of fuel surcharges. We base this on the national average supplied weekly by the Department of Energy. Currently we are receiving 7 percent additional revenue from our customers who have agreed to a surcharge. The surcharge is based on the average fuel price as of June 19,2000 of $1.423 per gallon. Some of our customers have their own surcharge schedule, which gives us a lesser percentage, and some will not agree to any surcharge.

As we are a Pennsylvania based carrier and our point of origin is Pennsylvania, we were paying a pump price higher than the national average in the early part of the year. On February 7th, the national average was $1.470 and the average for our region was $2.122, 65.2 cents higher per gallon. Currently, the regional price is closer to the national average, at 8.7 cents higher. The current price reflects a greater that 35 percent increase over what we paid a year ago, which we are finding difficult to afford.

As a result of the increase in the price of fuel, other products that trucking companies depend on have increased in price also. Engine oil, synthetic lubricants, parts, and tires have all gone up in cost, some by 100 percent. The dynamics of the situation is that all of our costs are increasing systematically and there is still no hope in sight.

The financial burden that this places on MPH is that as an aggressively growing company we've found ourselves losing money on almost every mile traveled. Our margins for the 4 years prior to the rapid increase in fuel prices were between 1% and 2 ½% net profit. This was just enough to get by and to show the lending institutions that provide capital to expand our fleet that we were a profitable company and had the means to pay them back. We now find ourselves going to the lending institutions to borrow money to cover debt because of the sudden impact the fuel price increase has had.

I would like to ask you today how you could expect anybody to keep this country supplied with the precious commodities it is dependent on and cannot live without while allowing fuel prices to spike knowing that oil companies are reaping record profits while the American consumer and young business people like myself are at their mercy. You are probably questioning why I do not just raise my pricing in order to remain profitable. Just as you do not like paying more for your gas, our customers do not want to pay more for their transportation costs when their operating expenses have gone up as well due to the increase in fuel prices.

I consider myself fortunate to have a team of people working for me who are the best in the business and we will not only survive but also try to flourish. At the present we have stopped our growth completely because of the additional outlay of money for fuel. We cannot go forward with our expansion and our primary goal has become to make the necessary adjustments in our operations for utilization of equipment and to focus on being profitable so that we can are able to pay on the million dollar debt we have incurred primarily due to the increase in fuel prices.

We maintain the highest standards in all aspects of operations, with safety being our highest priority and this will never be compromised no matter what type of financial situation we face. I can tell you that there are smaller companies that will do whatever it takes and operate unsafely as a desperate attempt to stay in business.

Finally, as a businessman who provides a valuable service without which this country could not run, I appeal to you to please seek relief to reduce the high cost of fuel and to prosecute those who unjustly have shattered the lives of thousands of people for the sole purpose of greed, and make those who are responsible pay back damages to the American trucking companies, independent owner operators, everyone who is dependent on fuel and was unjustly overcharged, and any other parties that have endured these atrocities.

Mr. BURTON. Thank you very much, and we will get back to you in the question-and-answer period.

Mr. Bailey, if you could, you might keep your eye on that little clock there. When it gets to "sum up," you have about 1 minute left. If you could stay within that timeframe, it would help us.

Thank you.

Mr. BAILEY. Good afternoon, Mr. Chairman and members of the committee. My name is Charles Bailey. I live in Jefferson, OH, the county seat of Ashtabula. It is part of the Ohio's 19th Congressional District.

Let me begin my testimony by saying I am honored to be here on behalf of northeast Ohio. I thank Chairman Burton for holding this hearing and Congressman LaTourette for inviting me to testify.

I am a foster parent, I am an adoptive parent. I am probably the closest thing you are going to see to a typical American family here. I work as an electrician. My wife is a stay-at-home mom. I drive 880 miles a week to and from work. I work at an outfit in North Canton called Schaub Electric as a union electrician.

The price of gasoline has cut into my family's budget, as it has with everybody else in this country. We no longer have any luxuries in life, and barely have enough money to buy groceries. There will be no fairs or festivals in my children's lives this summer, no amusement parks, and because we have chosen to move closer to work and save on gas, there won't even be many trips to grandma's house.

I have been chosen to tell my story about how this has affected me and my family. But in truth, I am telling the story of millions. Every person in this country feels the effect of the rising price of gasoline. It has doubled in a matter of a few months and has made the cost of living increase in more ways than just at the pumps. Our grocery prices have gone up, due to the rising cost of delivery. We live close to Lake Erie, and the Great Lakes, and I have seen this effect at marinas, as far as fishing charters, anything that has to do with the Great Lakes.

There isn't any part of our lives or the local economy this hasn't affected. Our country has grown to rely on transportation that uses gasoline, which means, in reality, that not only has this affected us at home, but it has affected everything in this country. There are many people who have it much worse than my family: people who have to travel for a living, people who have loved ones in the hospital and need to be visited, people who are barely making it on what they were being paid before the hike in gasoline and now can't pay their bills at all. And what about those individuals on fixed incomes? Social Security, the people that need to make it to the doctors or the pharmacy, are they going to be able to pick up their prescriptions after paying for gas?

As a Nation, this has hit everyone's pocket, and there doesn't seem to be any relief in sight. How are our children supposed to become well-rounded when they can't even play extracurricular activities because there is no money to pay for it; when they are not allowed to take the trip in sixth grade to Washington, DC, because mom and dad won't have the money to get back and forth to work if they take that extra money and use it for the field trip. What is this world coming to when your children can't even take a field trip?

In the past year, we have been able to do very little. The cost of gasoline is so high that we can barely make it to the grocery store. Our grocery budget has been cut almost in half. With six children and two adults, we have five children—and I also have a 15-year-old niece staying with us over summer break—that doesn't leave a whole lot for us to choose from. The days of big dinners are over for us at this point.

We try to make sure that the kids have everything that they need before we even concern ourselves with any needs we may have. There have been many evenings in this last year that either myself or my wife have gone without a meal so that the children can have seconds. We feel it is more important to let them have a second helping for their growing bodies. I never want any of my children to go to sleep hungry. This is an issue for many people in our area. We have others who are getting public assistance because they can't work and support their family. However, there is no assistance for those of us who go out and work every day and still don't earn enough to simply feed their family, let alone try and supply them with all of the other basic necessities of life.

I am fortunate to have a good enough job. But I drive 88 miles one way to work, so I can have hospitalization for my children. Like many families, we have two car payments. We have nothing new. We have two 1992s. My Jeep has 160,000 miles on it, and it will probably be wore out before I ever have it paid for.

As for any trips to the amusement park or the zoo, we just don't have it in the budget to go anywhere. With the cost of the tickets, food and, of course, the added expense of gasoline for a family, it is just impossible to go anywhere. We had hopes of taking our children to Disney World before they get too old, but I don't ever think that will ever happen. I now spend $400 a month for gasoline just to go to work and back.

After local media did a story about me coming to Washington, I received e-mails. In a matter of 3 days, I have a folder here 1-inch thick from Northeast Ohio people reaching out and telling me their stories. I have read every one of these e-mails, and I have responded.

And I wish for my Federal Government to take the steps that are necessary to bring our gas prices back down, so the local families can have the things in life that this Nation has promised us and that is here for us. That is the reason we are here.

Thank you.

[The prepared statement of Mr. Bailey follows:]

Testimony of

Charles Bailey
Jefferson, Ohio

Before the Government Reform Committee

Hearing

Rising Fuel Prices and the Appropriate Federal Response

June 28, 2000

Good afternoon, Mr. Chairman and Members of the Committee.

My name is Charles Richard Bailey and I live in Jefferson, Ohio — the county seat of Ashtabula County and part of Ohio's 19th Congressional District.

Let me begin my testimony by saying I am honored to be here on behalf of Northeast Ohio. I thank Chairman Burton for holding this hearing, and Congressman LaTourette for inviting me to testify.

I am a foster parent and the father of five children. I work as an electrician and my wife, Delores, is a stay-at-home mom. I drive 880 miles each week to my job at W.W. Schaub Electric Company in North Canton, Ohio.

The price of gasoline has cut into my family's budget, as it has with everyone else in this country. We no longer have any luxuries in life, and barely have enough money to buy groceries. There will be no fairs or festivals in our children's summer, no amusement parks, and because we have chosen to move closer to work and save on gas money, there won't even be many trips to grandma's house.

I have been chosen to tell my story, about how this has affected me and my family. In truth, I am telling the story of millions. Every person in this country feels the effects of the rising price of gasoline. It has doubled in a matter of a few months and has made the cost of living increase in more ways than just at the pumps.

Our grocery prices have gone up, due to the rising cost of delivery. We live close to Lake Erie, and this affects the prices of fishing charters, due to the cost of fueling the boats. There isn't any part of our lives or our local economy that hasn't been affected. Our country has grown to rely on transportation that uses gasoline, which means in reality that not only has this affected us at home, but it has affected everything this country does.

There are people who have it much worse than my family, people who have to travel for a living, people who have loved ones in hospitals that need to be visited, people who were barely making it on what they were being paid before the hike in gasoline, and now can't pay their bills at all. And what about those individuals on fixed incomes? The people who are on Social Security and can't go to the doctors or even to the pharmacy to get a prescription because they don't have gasoline money?

As a nation this has hit everyone's pocket and there doesn't seem to be any relief in sight. How are our children supposed to become well rounded when they can't even play in extra curricular activities because there's no money to pay for it, when they're not allowed to take that trip in sixth grade to Washington because Dad and Mom won't have the money to get back and forth to work if they take the extra money and use it on the field trip? What is this world coming to when your children can't even take a field trip?

In the past year we have been able to do very little. The cost of gasoline is so high, we can barely make it to the grocery store. Most of the time either my wife, Delores, or one of the children rides a bicycle to the store to pick up just the necessities. Our grocery budget has been cut almost in half. With six children and two adults — we have five children and a 15-year-old niece lives with us — that doesn't leave a whole lot for us to choose from. The days of a big dinner are over for us, at this point.

We try to make sure that our children have what they need before we even concern ourselves with any needs we may have. There have been many evenings in the last year that either myself or my wife goes without a meal so the children have enough. We feel it's more important to let them have a second helping for their growing bodies. I never want any of my children to go to sleep hungry because I didn't have the means to support them properly. This is an issue for many people in our area. We have others who are getting public assistance because they can't work and support their family, however, there is no assistance for those of us who go out and work every day and still don't earn enough to simply feed their family, let alone try and supply them with all the other basic necessities of life.

I am fortunate to have a good job, but if I didn't drive the 88 miles to and from work every day, I would not have medical insurance for my family. As it stands right now, even with medical insurance, I can barely pay the co-pay and deductibles for our doctor visits. Add to that the rising cost of gasoline and you will see why most of the doctors and dentists we use are within walking distance of our house.

Like many families, we have two car payments, and not for new or almost-new cars. My wife drives a 1992 Ford Taurus and I drive a 1992 Jeep Cherokee with more than 160,000 miles on it. I don't even think of using air conditioning, and carry a few extra quarters in my pocket just to make sure I have enough to pay the clerk at the gas station. My wife wants to take classes so she can get a good job, but she's facing a 200-mile commute to New Castle, PA, to get the training she needs. We are saving to buy a home.

As for any trips to an amusement park or even the zoo, we just don't have it in the budget to go anywhere. With the cost of the tickets, food, and of course the added expense of gasoline, for a family of 8, it is just impossible to go anywhere. We had hopes of taking our children to Disney

World before they get "too old," but I don't even think that will ever happen. I now spend $400 a month for gasoline just to get to work — double what I did a year ago. Gas prices have doubled. My paycheck hasn't.

After the local media did stories about me coming to Washington to testify, I received many e-mails from folks who are also in dire straits and can't afford these gas prices. Along with this testimony I will also forward them to you. This way you can hear from many people about how the high price of gasoline has affected their lives.

Mr. Chairman, I thank you for holding this hearing and allowing me to tell my story.

Mr. BURTON. Thank you very much, Mr. Bailey. And those emails that you have, if you would like to share those with the committee, we would be happy to have those, and we will review them.

Ms. Oberweis.

Ms. OBERWEIS. Thank you for inviting me here today. I am indeed honored to be asked to testify in front of this distinguished committee, and I would especially like to thank Representative Biggert for extending the invitation.

I am Elaine Oberweis. I am president and CEO of Oberweis Dairy, the processor of the finest milk and the most delicious ice cream on the planet. We utilize three means of distribution: direct home delivery, company-owned retail stores, and wholesale distribution to both single-store and chain-store grocery stores. Our service area covers most of Illinois and the St. Louis, MO, area. Milk is brought in from Illinois and Wisconsin and processed in our North Aurora facility and then distributed either directly to homes, our stores or our wholesale accounts. We utilize approximately 75 trucks to accomplish these deliveries.

It is troubling that our fuel costs have increased more than 40 percent from May 1999 until June 2000. This translates to an additional $15,000 per month for fuel. While this number does not sound huge in governmental budgetary terms, the increased cost on an annual basis represents 16 percent of our 1999 pre-tax net income; dollars that could have been spent to expand our business and better serve our customers.

We have also been assessed fuel surcharges of up to 4 percent by most of the trucking companies serving our own suppliers. Thus, the cost of our farm milk, raw materials and resale items, such as butter and eggs, have also increased.

High gas prices have hidden costs as well. Our employees receive the IRS-mandated $.31 per mile for business use of their personal vehicles. This is a national standard. Thus, the Chicago area employee is penalized by the higher price of fuel. Our employees are also paying much more just to get to and from work each day, as Mr. Bailey has testified, so their paycheck is effectively shrinking.

We have an extremely difficult time attracting employees to the Chicago job market. The national media coverage of the cost of fuel in Chicago is fanning the flame of fear about the high cost of living in the area. Recruiting in an already very tough job market is only becoming more difficult.

What does this mean in the long run? The convenience of Oberweis home delivery that we provide to our customers may become an unaffordable luxury. It will be increasingly more difficult to hire new employees. As a result, our ability to grow our business will be restricted, if not stopped all together.

Mr. Chairman, Government involvement in fuel formulation affecting the economics of fuel pricing has created today's environment. The inequalities that exist between Chicago's price of fuel and that of the rest of the United States is the direct result, at least in part, of a bureaucratic execution of a plan. On its own merits, reducing emissions through the change in gasoline formulations may be worth doing—however, not at the expense of job creation or product quality.

The EPA has set standards for air quality that would result in required changes to gasoline formulations. The EPA, oil industry and local Governments were aware of Chicago's need to implement these new formulations. The EPA and the oil industry should have been working together to forecast the changes in demand based on new regions being required to use reformulated fuels. Thus, the adjusted cost of fuel should not have been a surprise. And the increased cost of the EPA-mandated formulations could have been softened by an increased supply, allowing the basic price of fuel to fall during the implementation period. The new formulation could have been introduced with little fanfare.

But also affecting supply are OPEC's monopolistic restrictions on supply. Also, it is my understanding that a supply issue in the "pipeline" is affecting the oil industry's ability to deliver fuels to market. Combined, these two issues are seriously depleting supplies. Thus, rather than an increased supply at the moment of implementation of the new formulation, we experienced a decreased supply and higher prices at the pump. It is my claim that only the Government would behave as it has in continuing to mandate the reformulated fuels during a crisis.

As a businessperson, I can testify this is an unworkable strategy. No business would force or implement a plan that is no longer viable. When business conditions change, businesses alter their plans to allow them to continue to be successful. In any major business undertaking of which I have been part, at the time of the plan's implementation, we reassess the environment to assure ourselves the underlying assumptions are still true. The existing supply of required fuel is one assumption the EPA had a responsibility to check, and it didn't check its plan for viability.

Now the Congress has a chance to say to Chicago and the Upper Midwest, "We can wait until all of our ducks are in a row before we make this important change." Congress can remove the requirement for reformulated fuels mandated by the EPA or, at a minimum, delay such action until both the oil industry and the EPA can assure increased supplies. Or, best of all, in lieu of mandating reformulated fuel usage, Congress can increase the tax on the current formulation of fuel and reduce the tax on reformulated fuel nationwide. The market would then be allowed to solve the problem, as it should.

Mr. Chairman, I thank you again for this opportunity to present my views, and I am more than happy to answer questions.

[The prepared statement of Ms. Oberweis follows:]

Testimony of Elaine Oberweis
Before the House Government Reform Committee
On
Rising Fuel Prices and the Appropriate Federal Response
June 28, 2000

Thank you for inviting me here today. I am indeed honored to be asked to testify in front of this distinguished Committee.

First, allow me to introduce my myself and my company. I am Elaine Oberweis, President and CEO of Oberweis Dairy, processor of the finest milk and ice cream on the planet. We utilize three means of distribution: direct home delivery, company-owned retail stores, and wholesale distribution to both single-store and chain grocery stores. Our service area covers most of the state of Illinois and the St. Louis, Missouri area.

The milk brought in from Illinois and Wisconsin farms is processed in our North Aurora facility and then distributed either directly to homes, our stores, or our wholesale accounts. We utilize approximately 75 trucks to accomplish these deliveries.

Troubling, our fuel costs have increased more than 40% from May of 1999 until June of 2000. This translates to an additional $15,000 per month for fuel. While this number does not sound huge in governmental budget terms, the **increased cost** of fuel on an annual basis represents 16% of our 1999 pre-tax net income; dollars that could have been used to expand our business and better serve our customers.

We also have been assessed fuel surcharges of up to 4% by most of the trucking companies serving our suppliers. Thus the cost of our farm milk, raw materials and resale items such as butter and eggs, has increased.

High gas prices have hidden costs as well. Our employees receive the IRS mandated $.31 per mile for business use of their personal vehicles. This is a national standard. Thus the Chicago area employee is penalized by the higher price of fuel. Our employees are also paying much more just to get to and from work each day so their paycheck is effectively shrinking.

We are having an extremely difficult time attracting employees into the Chicago job market. The national media coverage of the cost of fuel in Chicago is fanning the flame of fear about the high cost of living in the area. Recruiting in an already very tough job market is only becoming more difficult.

What does this mean in the long run? The convenience Oberweis Dairy home delivery provides to its customers may become an unaffordable luxury. It will be increasingly more difficult to hire new employees. As a result, our ability to grow our business will be restricted.

Mr. Chairman, government involvement in fuel formulation affecting the economics of fuel pricing has created today's environment. The inequalities that exist between the Chicago price of fuel and that of the rest of the United States is the direct result, at least in part, of bureaucratic execution of a plan. On its own merits, reducing emissions through the change in gasoline formulations may be worth doing. However, not at the expense of job creation or product quality.

The EPA set standards for air quality that would result in required changes to gasoline formulations. The EPA, oil industry and local governments were aware of Chicago's need to implement these new formulations.

The EPA and the oil industry should have been working together to forecast the changes in demand based on new regions being required to use re-formulated fuels thus the "adjusted" cost of fuel should not have been a surprise. And the increased cost of the EPA-mandated formulations could have been softened by an increased supply allowing the basic price of fuel to fall during the implementation period. The new formulation could have been introduced with little fanfare.

But also affecting supply are OPEC's monopolistic restrictions on supply. Also, it is my understanding that a supply issue in the "Pipeline" is affecting the oil industry's ability to deliver fuels to markets. Combined, these two issues are seriously depleting supplies. Thus, rather than an increased supply at the moment of implementation of the new formulation, we experienced a decreased supply and higher prices at the pump. It is my claim that only the government would behave as it has in continuing to mandate the reformulated fuels during this crisis.

As a businessperson, I can testify, this is an unworkable strategy. No business would force or implement a plan that is no longer viable. When business conditions change, businesses alter their plans to allow them to continue to be successful. In any major business undertaking of which I have been a part, at the time of a plan's implementation, we reassess the environment to assure ourselves the underlying assumptions are still true. The existing supply of required fuel is one assumption the EPA has a responsibility to check. The EPA has not checked its plan for viability.

Now the Congress has a chance to say to Chicago and the upper Midwest, *we can wait until all of our ducks are in a row, before we make this important change.* Congress can remove the requirement for re-formulated fuels mandated by the EPA, or at a minimum, delay such action until both the oil industry and the EPA can assure increased supplies.

Or best of all, in lieu of mandating reformulated fuel usage, Congress can increase the tax on the current formulation of fuel and reduce the tax on reformulated fuel nationwide. The market would then solve the problem, as it should.

Mr. Chairman, I thank you again for this opportunity to present my views. I am more than happy to answer questions that you may have.

Mr. BURTON. Thank you, Ms. Oberweis.

Mr. Wilson.

Mr. WILSON. Thank you, Mr. Chairman and members of the Committee, for this opportunity to discuss the rising price of gas for farmers and our perspective of what the right solution could be for what I see is a preventable problem.

My name is Doug Wilson, and I am a farmer in north central Illinois, and I am also the immediate past president of the Illinois Corn Growers Association. I am testifying today on behalf of the NCGA and the more than 30,000 farmers they represent in the 48 States.

Let me make one thing perfectly clear right off the bat. No group suffers more from skyrocketing fuel prices than farmers. This year, the typical corn farmer will pay a whopping $5,000 more for fuel and other inputs than he did last year. For many of us, especially family farmers like myself, that is a giant chunk out of our wallets, and it will have a devastating impact on our ability to make ends meet.

Why has this occurred? Because fuel prices have increased phenomenally since last year's harvest. I called my local petroleum distributor yesterday in Livingston County. I asked him for a comparison of what the price of gasoline, diesel fuel and other products I use were 1 year ago and what they were today. The price of gasoline has jumped 64 percent, and the price of diesel fuel is up 73 percent for the off-road price that I pay for the diesel. That is none of the Federal tax. Last year I was able to contract my fuel needs for 69.9 cents a gallon. Today, that price is $1.209.

Most of our equipment runs on diesel. In fact, U.S. agriculture uses almost 4 billion gallons of diesel every year. Consequently, American farmers will be spending approximately $2 billion more to plant and harvest this year's crop. And if these higher prices persist, we are going to be looking at higher costs for agricultural chemicals, and farm fuels and supplies as well. For instance, the cost of anhydrous ammonia, one of the most-used fertilizers for corn, is up $50 per ton in my area just in the last 5 weeks. This is because of the increasing demand for natural gas, from which it is made.

Farmers are paying through the nose, despite a record in energy conservation that we have implemented. By switching to more fuel-efficient machinery, adopting conservation practices, reducing tillage and becoming smarter about pest management, farmers' energy consumption has declined by nearly 30 percent since 1978. At the same time, corn yields have increased by more than 22 percent. We are doing everything we can, and then some, to be environmentally responsible and hold down our costs, while maximizing our productivity.

So let me repeat: There is no one out there with a greater stake in reducing energy costs than American farmers, which is why we want to be doubly and triply sure that any action that Congress takes to address the issue really addresses the real problems.

Let me start with what I believe is not one of the problems, and that is the Clean Air Reformulated Act program, the RFG program that so many of you have been mentioning today. Big Oil would have you believe that consumers have been paying $2.30 a gallon or more for gasoline in the Midwest because of costs of complying with more stringent phase 2 Clean Air guidelines that took effect earlier this year, particularly in areas of Chicago and Milwaukee where corn-based ethanol is used to make cleaner-burning RFG.

During the summer months, refiners must use a lower volatility gas to blend with ethanol to make RFG 2, yes, but the lower volatility gasoline costs only slightly more than the U.S. Environmental Protection Agency has repeatedly emphasized that it should be no more than 5 to 8 cents, as some of the opening comments said earlier.

On the other hand, consider the fact that a gallon of ethanol delivered to Chicago-Milwaukee market is currently selling for $1.28 to $1.32 a gallon. That is well below the current price of gasoline. This means that blending less-expensive ethanol into gasoline actually reduces the cost of finished gasoline. If we were not using ethanol in RFG in places like Chicago and Milwaukee, gasoline prices could be even higher than they are today.

But despite the economic and environmental benefits of using ethanol in RFG, the EPA hasn't helped us either. Despite repeated urgings from ourselves and many others, including the Illinois delegation, the agency has failed to make appropriate regulatory changes that could reduce the cost of producing phase 2 RFG.

Current EPA rules fail to give ethanol credit for significant carbon monoxide reduction benefits. If these environmental benefits were fully accounted for, refiners could blend ethanol into their RFG much more cheaply and easily. But as the rules now stand, there is actually a disincentive to use ethanol in RFG.

Corn growers and ethanol manufacturers long ago geared up to meet the demands of the new phase 2 RFG. With 58 facilities in 19 States, producers are making ethanol at a rate that exceeds 1.6 billion gallons per year. This means the United States is using 1.6 billion gallons less of gasoline than we otherwise would have, and we could easily make more.

So from both a price and supply standpoint, you reach the inescapable conclusion, ethanol is not the problem, it is the solution.

So why have gasoline prices gone so high? No one seems to know the answer. But one thing that we do know for sure, something smells in the barnyard. And that is why we asked the Federal Trade Commission to investigate, and we applaud your committee's action of looking into the problem, but the facts just don't add up.

Crude oil prices have leveled off, so they cannot account for the recent price rise. The supply of crude is plentiful, at least if you believe ExxonMobil's recent statement that the company has exceeded 100-percent replacement of its oil and gas reserves for the 6th year in a row.

Meanwhile, oil companies have allowed gasoline inventories to drop to alarmingly low levels in many areas. And despite having 5 years to prepare for phase 2, refiners failed to build adequate supplies of low-volatility gasoline to blend with ethanol.

Ethanol-blended gasoline should be selling for less than conventional gasoline. But since April, both RFG and conventional gasoline prices have risen at close to the same rate, 34 percent and 29 percent respectively.

So are we looking at price gouging by the oil industry or is it a cleverly orchestrated attempt to eliminate RFG requirements? I will openly say Big Oil has never liked the RFG program and has not been very happy to work with it. My hope is that your good work and that of the FTC will get to the bottom of the matter.

Now, I would also hope you use this occasion as a unique opportunity to craft a more rational national energy policy, one that expands the use of reformulated fuels, such as ethanol, and domestic energy sources, such as oil, coal and natural gas. By reducing our dangerous dependence on foreign oil, we can benefit the environment, while increasing our energy security.

Mr. Chairman and members of the committee, I hope you will heed what has been said by the panel today and those that follow. I hope you will recognize that ethanol remains the answer. It is the only fuel that is made from all-American resources, 100-percent renewable, it is clean burning and it improves our air quality. And as not mentioned by those supportive of MTBE, it does not pollute groundwater. And so I hope that all of this will help to improve our national energy security, our environment and our economy.

I thank you for your time, and I would also be pleased to answer any questions.

[The prepared statement of Mr. Wilson follows:]

STATEMENT BY THE
NATIONAL CORN GROWERS ASSOCIATION
BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
June 28, 2000

Mr. Chairman and members of the committee, thank you for the opportunity to discuss the impact of rising gas prices on farmers and our perspective on the right solution to this preventable problem.

My name is Doug Wilson. I am a farmer from north central Illinois and immediate past president of the Illinois Corn Growers Association. I am also a former board member for the National Corn Growers Association and I serve on the NCGA Public Policy Action Team. I am testifying this morning on behalf of NCGA and more than 30,000 farmers in 48 states who make up the association's membership.

Let me make one thing clear right off the bat – no group suffers more from skyrocketing fuel prices than farmers. This year, the typical corn farmer will pay a whopping $5,000 more for fuel than he or she did last year. For many of us, especially family farmers like myself – that's a giant chunk out of our wallets. It will have a devastating impact on our ability to make ends meet.

Why has this occurred? Because fuel costs have increased phenomenally since last year's harvest. At my local petroleum supplier in Livingston County, Illinois, the price of gasoline has increased 64 percent, and the price of diesel fuel is up 73 percent. Most of our equipment is made to run on diesel – in fact, U.S. agriculture uses almost four billion gallons of diesel fuel every year. Consequently, American farmers will be spending approximately $2 billion more to plant and harvest this year's crop.

And, as these higher fuel prices persist, we are looking at higher costs for agricultural chemicals and farming fuels and supplies as well. For instance, the cost of anhydrous ammonia, one of the most-used fertilizers for corn, is up $50 per ton in my area just the last five weeks. This is because of increasing demand for the natural gas from which it is made.

Farmers are paying through the nose despite a record in energy conservation that is second to none. By switching to more fuel-efficient machinery, adopting conservation practices, reducing tillage and becoming smarter about pest management, farmers' energy consumption has declined by nearly 30 percent since 1978. At the same time, corn yields have increased more than 22 percent. We are doing everything we can – and then some – to be environmentally responsible and hold down our costs while maximizing our productivity.

So let me repeat -- there is no one out there with a greater stake in reducing energy costs than American farmers. Which is why we want to be doubly and triply sure that any action Congress takes addresses the real causes of the problem.

Let's start with what is most assuredly *not* the cause of the problem – Phase 2 of the Clean Air Act's reformulated gas (RFG) program.

Big Oil would have you believe that consumers have been paying $2.30 a gallon and more for gasoline in the Midwest because of the costs of complying with the more stringent Phase 2 clean fuel guidelines that took effect this year, particularly in areas like Chicago and Milwaukee where corn-based ethanol is used to make cleaner-burning RFG.

During the summer months, refiners must use a special lower-volatility gasoline to blend with ethanol to make Phase 2 RFG. Yes, this lower-volatility gasoline costs slightly more, but the U.S. Environmental Protection Agency has repeatedly emphasized that it should add no more than five to eight cents per gallon to the total cost.

On the other hand, consider the fact that a gallon of ethanol delivered to Chicago/Milwaukee market is currently selling for $1.28 to $1.32 a gallon – well below the current price of gasoline. This means that blending less-expensive ethanol into gasoline actually *reduces* the cost of the finished gasoline. If we were not using ethanol in RFG in places like Chicago and Milwaukee, gasoline prices could be even higher than they are today.

But despite the economic and environmental benefits of using ethanol in RFG, EPA hasn't helped matters either. Despite our repeated urging, the agency has failed to make appropriate regulatory changes that could reduce the cost of producing Phase 2 RFG. Current EPA rules fail to give ethanol credit for its significant carbon monoxide reduction benefits. If these environmental benefits were fully accounted for, refiners could blend ethanol into their RFG much more chcaply and casily. But as the rules stand now, there's actually a *dis*incentive to use ethanol in RFG.

Corn growers and ethanol manufacturers long ago geared up to meet the demands of Phase II RFG. With 58 facilities in 19 states, producers are making ethanol at a rate that exceeds 1.6 billion gallons per year. That means the United States is using 1.6 billion gallons LESS of gasoline than we would be otherwise. And we can easily make more ethanol to meet increased demand.

So from both a price and supply standpoint, you reach the inescapable conclusion: Ethanol is not the problem – it's the solution!

So why have gasoline prices gone so high?

No one seems to know the answer. But one thing we know for sure is this: Something smells in the barnyard.

That's why we asked the Federal Trade Commission to investigate. And why we applaud your looking into the problem, too.

The facts just don't add up:

- Crude oil prices have leveled off – so they cannot account for the recent price rise. The supply of crude is plentiful, at least if you believe ExxonMobil's recent statement that the company exceeded 100 percent replacement of its oil and gas reserves for the sixth year in a row.

- But meanwhile, oil companies have allowed gasoline inventories to drop to alarmingly low levels in many areas. And despite having had five years to prepare for Phase 2 RFG, refiners failed to build adequate supplies of low-volatility gas to blend with ethanol.

- Ethanol-blended gasoline should be selling for less than conventional gasoline. But since April, both RFG and conventional gasoline prices have risen at close to the same high rate – 34 percent and 29 percent respectively.

So, are we looking at price gouging by the oil industry? Or is this a cleverly orchestrated attempt to create a so-called crisis in order to get rid of the RFG requirement – which Big Oil has never liked despite RFG's proven benefits to the environment and consumers? Or is something else is at work?

My hope is that your good work and that of the FTC will get to the bottom of the matter.

I also hope you will use this occasion as a unique opportunity to craft a more rational national energy policy — one that expands the use of renewable fuels such as ethanol and domestic energy sources such as oil, coal and natural gas. By reducing our dangerous dependence of foreign oil, we can benefit the environment while increasing our energy security.

I'd like to read you a quote from four individuals who are among America's most distinguished national security leaders: Retired Air Force General Lee Butler, former National Security Advisor Robert McFarlane, former CIA Director R. James Woolsey, and the former Chairman of the Joint Chiefs of Staff, Admiral Thomas Moorer:

> *Sitting on only 3 percent of the world's reserves while using 25 percent of the world's oil, nothing could be more short-sighted than for Americans to abandon the incentives for producing transportation fuel from sustainable sources. Such an abandonment would entrust the future of our energy supplies, and of key aspects of our security, to the potpourri of psychopathic dictators, such as Saddam [Hussein], and vulnerable autocrats who control over three-quarters of the world's supply of oil.*

Mr. Chairman and members of the committee, I hope you will heed those wise words. And I hope you will recognize that ethanol remains the answer – as the only fuel that is made from all-American sources, that is 100 percent renewable, that is clean burning and improves the quality of our air, that does not pollute the water, and that is eminently affordable. It benefits our national security, our environment, our economy and the American people. And it would be a tragedy if its use was impeded in any way as a result of what the oil companies are doing today.

Thank you for your time and I will be pleased to take your questions.

# # #

Mr. BURTON. Thank you very much, Mr. Wilson. Let me just ask a couple of questions. I know you have been here a long time, and I really appreciate your patience.

Let me start with you, Mr. Schneider. Since the gas prices have increased, how much more is your company spending for transportation per month of all kinds? And you can give me a percentage, if you would like, or a dollar amount, either one.

Mr. SCHNEIDER. I don't have a particular number because it is sort of a recent phenomenon in Indianapolis that gas prices have gone up so high—as of yesterday, $1.84. But I would say the simple math, a year ago I believe a newspaper article said that we were at 89 to 90 cents a gallon 1 year ago in Indianapolis. So if you look at just another dollar per gallon, you can look at the math there.

Mr. BURTON. So you are looking at almost double your fuel costs right now.

Mr. SCHNEIDER. Absolutely.

Mr. BURTON. You talked about getting fuel surcharges when you received shipments. Can you give me an example of how that has kicked up the cost of your products.

Mr. SCHNEIDER. Our freight carriers, we use an LTL carrier, which means that we don't contract a full truck body out. We use one or two skids go out per shipment to different areas. As the base rates have also gone up over the last few years, the fuel surcharge has gone up, and that has gone up an average of 10 to 12 percent, which is a direct drop to any profit that we have in those——

Mr. BURTON. So it affects the bottom line substantially.

Mr. SCHNEIDER. Absolutely.

Mr. BURTON. Yes.

How about the rest of you? We will start with you, and go right down the line. What kind of an increase have you seen in the spending, as far as your transportation costs are per month?

Mr. HROBUCHAK. Currently, for the last 2 months, since fuel came down 50 cents a gallon, it is approximately up 52 percent. But at one time it was up 125 percent in comparison to this time last year.

Mr. BURTON. And then when you have that kind of an increase and it starts biting into your profits, do you have to consider laying off people and that sort of thing?

Mr. HROBUCHAK. Well, no, I have been in the business long enough. We aggressively pursue surcharges, like he was saying. So our customers, we pursue surcharges several percent, which does not nearly accommodate our fuel costs. But what we do is redirect our trucks in different fashions, to where we can compensate and make money in other areas, something that we don't specialize in doing. We just figure out the math in different areas.

Mr. BURTON. So you eat part of the costs yourself, and the rest you try to pass on to your consumers.

Mr. HROBUCHAK. Right.

Mr. BURTON. Let us say, for instance, it was a person that used flour and you were transporting that, and they were making bread, the cost of bread naturally would go up, and it would be passed on to the consumer.

Mr. HROBUCHAK. Right.

Mr. BURTON. So they can only eat part of the loss themselves and the rest is borne through inflationary trends in the country.

Mr. HROBUCHAK. Well, out of the 50-percent increase in costs, they would be paying roughly 7 percent of that.

Mr. BURTON. How about you?

Mr. BAILEY. I am going to address that in two ways: First, in my home, right now we are experiencing about a $200-per-month increase in fuel use compared to last year, which, you know, your house payment, your utilities, those things are set. You can't change that. So, basically, you take away from necessities, as far as groceries or any sort of entertainment or anything like that you might do with the children.

And the other I wanted to address it is I notice this at my work. We use on the average of 3,500 gallons of gas per month. The National Electrical Contractors national average is 1.8-percent profit before taxes, after all expenses. So when you're talking on an average of $4,000 more per month and you have to recoup that at 1.8 percent before taxes, that is an awful lot more work that you have to get and make a profit on just to recoup that small amount of money.

Mr. BURTON. Ms. Oberweis.

Ms. OBERWEIS. It has cost us about $15,000 a month, and if you annualize that out in terms of our net income, that represents about 16 percent of our 1999 net. So that is, for us, a huge number.

Mr. BURTON. Mr. Wilson.

Mr. WILSON. My list is a little bit longer than just gasoline or diesel fuel. In addition to diesel fuel, which is the No. 1 way that I power my equipment, I also use gasoline in trucks, and sprayers and things like that. I also use liquid propane [LP], a natural gas product, which has gone up about 30 percent so far. Also, which I mentioned earlier in my testimony, anhydrous ammonia is up about $50 a ton, also a product of natural gas. And DAP, a dry fertilizer that contains nitrogen, is up about $15 a ton. I have a feeling that that is going to go substantially higher.

What I have seen is the energies follow each other. And as we have seen higher prices in one particular sector, the others seem to follow. And so I am afraid that we are going to see, going into the fall and winter season, a lot harder situation.

Mr. BURTON. Thank you. Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman, and I want to thank the panel. In deference to trying to get to your statements, I forewent an opening statement. So bear with me as I probably talk a little more than I question at the moment.

It took some pains to listen to what you said, and I don't dispute anything that any of you said in terms of the impact that it is having on you. It is happening in our district. It may be a little less extreme to what is happening in the Midwest, but we also felt a similar impact with the home heating fuel situation last winter and anticipate more problems this winter.

But I looked through the CRS report, and I note that there are five reasons for costs going up, according to them: One is that 25 cents of the increase is allocated to the pipeline difficulties. One pipeline had a leak and one pipeline went on fire. Now, certainly the Government and the EPA didn't have anything to do with those incidents, and those are costly. Yet I don't see those industries taking any of the hit on that. Neither of those pipelines and their owners are asking to lower their prices or are taking a hit on their profits, but they are the ones that caused 25 percent, either through bad operation or bad maintenance or maybe it was just bad luck.

Forty-eight percent of it is because of supply. Crude oil costs have increased because supply is down. Again, the industry apparently did not do what they should have done in anticipation of the situation we are in. Again, they are not taking a hit on their profit margin. You all and everybody else is taking a hit.

Two cents to 8 cents is on the EPA regulations, and although I know it's fashionable among some to all want to pile onto the EPA on this, I think Mr. Wilson has it right when he says that, you know, 2 cents to 8 cents is not our problem here. It may—and I guess we can talk a little about this, Mr. Wilson, as to whether or not ethanol and the fact that it has gone up, they say, 25 to 34 cents higher in certain areas like Milwaukee and Chicago because they use ethanol as opposed to MTBE or something else, and that's a local decision of the refiners. It is not government, it's not the EPA that requires that, it is the refiners. And, again, they are doing it to appease the corn growers, and they are not taking any hit on their profits or anything like that. They are passing it along to all of you.

The last category, of course, then is the higher profits. The fact that with the supply lower than it is and demand being greater, they have jacked up their prices. They are having a great time for themselves, and again they are not taking a hit, they are passing it along to you.

So I go back to Mr. Hrobuchak's comment and Mr. Schneider's comments, who said, "Yeah, we need relief and we need it now." Maybe one suggestion on that is that the States whose taxes on gasoline are generally higher than the Federal Government, and the Federal Government, each temporarily have a moratorium on some of their taxes, and maybe we do something about having the companies that are responsible take some relief from some of the excess profits that they have got in an interim basis, and we spread it around instead of trying to all jump on the EPA for what amounts to about 2 to 8 cents. And then we can focus on keeping our environment where it ought to be and getting some relief here while the FCC—the FCC has some impact in taking a look and investigating what is going on with these companies that all of a sudden are making miraculous profits from everybody else's misfortune, and apparently, their ineptitude in a number of different areas.

Mr. Wilson, just before my time is up, let me ask you: do you think the use of ethanol based gasoline is responsible for the recent price increases in the Midwest?

Mr. WILSON. I don't think the production and the usage of adding ethanol to the gasoline is at all in the fault. If I were to speculate, and I guess let me clarify, as president of the Illinois Corn Growers last year, this little farm boy from Pike Township found himself in a lot of doorways I never thought I would be, all the way from the

White House to a lot of these types of chambers, to the Chicago City Council, to Springfield, to too many hallways in the EPA.

If I am going to speculate on the situation, we have a situation that EPA could have been more responsive to earlier on as they implemented phase II. And, the oil companies had issues with supply and other things happening. However, let us look at the situation we have. The Reformulated Gasoline Program is a nationwide program. However, in almost every other area, people are screaming to get rid of MTBE, the other oxygen additive, because of groundwater contamination. In Chicago, we have lowered carbon monoxide levels by 25 percent and we haven't polluted 1 gallon of water. And guess what? It is not an oil product.

Is there something going on here that means we have been targeted? Is indeed there a problem that has been tried to turn into an opportunity to break RFG's back? I am mad at the EPA. I am mad at the oil companies, and there is probably some of you on the panel I don't agree with either, because the bottom line is, a lot of us, everyone sitting on this panel, is feeling the pinch, and I think there is enough blame to go around. But there is a situation here that, as I said earlier, something smells in the barnyard.

Mr. TIERNEY. I think it coincides with remarks that I made. I think we can point our finger at where some investigation needs to be done. And, you know, the companies certainly should have anticipated it. EPA should have anticipated it. The companies should have anticipated it. And EPA doesn't control the supply and what they keep on in their inventories, and that is the point that I want to make clear. Those companies knew damn well that they were going to have this situation. They could have done it at a reasonable price. They had the time to put that in here, and instead, they work around and try to jack all of you up so you can all get mad at the EPA, when in fact, they could have had the supplies on hand, they could have prepared for this, and they could have moderated the prices down on that, and they could have done a better job in a lot of those areas.

So I want to thank you all for your testimony here today and let you know that we should do something about this, but we should not direct our attention and our anger in the wrong direction, and we should understand that as much as this is a free market out there, some people are taking extreme advantage of this free market at your expense. Thank you.

Mr. BURTON. Thank you, Mr. Tierney. Mr. Souder.

Mr. SOUDER. I thank the chairman, and I wanted to continue a little bit with Mr. Wilson on the ethanol question.

You heard in the opening statement of our distinguished ranking minority member, a direct attack on ethanol, which is kind of a bipartisan southern California attack on ethanol, because it is certainly happening on the Republican side as well. And in the CRS report that we were given, part of its argument is that the low volatility oxygenate blending is more expensive because it is harder to manufacture. Do you know any data on that, and is that true?

Mr. WILSON. Well, now you are getting past where a farmer's knowledge is into the situation, although I do have a lot of folks that have been helping and assisting keeping me informed.

From everything that I have been able to see and read, and a lot of the same sources that you have had access to, I cannot believe that the ethanol is the No. 1 issue. Could the EPA have made some adjustments that would have made life easier for the oil refineries? Absolutely. They brought phase II gasoline in at the maximum level. We encourage them to look at ways—and as a matter of fact, the Illinois delegation has offered solutions. Illinois EPA Director Skinner has led with some alternatives available. Those were refused. And so I think I am back to the assessment that ethanol isn't the problem. The two or three different choices of how to move forward with implementing the next phase of the Clean Air Act has been the problem.

Mr. SOUDER. It is important, if you can communicate too to your association, that those of us who are strong supporters of ethanol for both energy independence and the question of environmental, and happen to also represent agricultural areas, which I am sure is just happenstance. But it does. The energy independence is ultimately one of our major goals. Those of us who are conservatives are concerned that we haven't adequate drilling in our country, that we haven't given adequate incentives in addition to ethanol. And once you become dependent, then you become vulnerable.

But as we move forward in the ethanol argument, we have to be prepared to address this question. In other words, if—I understood you to argue that the actual cost of ethanol is less than the others, but if its blending adds above that, we kind of need to know where that ultimate cost is, because to be able to advocate on behalf of ethanol, that is going to be one question of this, and part of my understanding from this would be is, that is an argument that EPA should have factored in and phased in if indeed there wasn't enough production capacity to meet that. They could have even done a phase in. It doesn't mean the policy was bad, because we are actually trying to extend that policy, but it has to be a logical implementation status, and we need to know what the cost is so it doesn't have these big jumps and will set the whole ethanol campaign backward.

The second thing is, as we start to look at this on a broader scale, is how do we deal with questions of drought and of the cyclical variations in the corn crop, because as we become more dependent—could you kind of address that question in a broader energy way, and what that could do to prices if we become more dependent on ethanol?

Mr. WILSON. Well, I think what you have to look at is that corn-based ethanol is what got us to the dance, but if we are going to continue, we are going to have to look at biomass and all types of other alternatives, whether it is methane-based or other types of biomass ethanol, we need to look at gathering more and more alternative sources. Alternative energy sources have to be a component of the national energy policy, and I firmly believe we need a national energy policy. If you refer back to the 1970's when we were 35 percent dependent on foreign oil, we are now over 50 percent dependent, and I am not going to project how many years it will be, given the current course we are running, to where we are going to be close to 60 percent dependent. That is not good sense for any of us here.

Now, we can increase our domestic energy sources, and in my testimony I talked about oil and coal and natural gas. Folks that, at different times, we have been at each other's throats, but the bottom line is we need renewables, we need to lessen our foreign dependency, and we need to get on it now, because we are on our second run, and I am afraid to think what will happen to the next run.

Mr. SOUDER. And just as a matter of parochial interest, which all of us politicians do, Ms. Oberweis, I do need to say that I represent the largest ice cream factory in the United States, Edy's, as well as No. 3, Good Humor, which is based out of Huntington, Edy's out of Fort Wayne, and so I am sure your ice cream is delicious, but we have delicious ice cream as well.

Ms. OBERWEIS. It is good.

Mr. BURTON. These commercials. Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman.

The testimony I have heard so far allows us to jump to the conclusion that EPA and their regulation is somewhat responsible, and I think I agree with Mr. Wilson that is a minimal amount. But in order to extract that from the problem, I think, Mr. Hrobuchak, if you could tell a story of when we first got together in January and February, EPA regulations at the price of diesel and heating oil, had no effect on that, did it?

Mr. HROBUCHAK. Absolutely none at all.

Mr. KANJORSKI. Tell this committee and the record what happened in January and February, and how the companies spiked the prices in the northeastern United States and New England.

Mr. HROBUCHAK. The reason why I am here is because a portion of my fleet runs up into the New England area. I do a lot of local delivery. Well, that is a local, regional haul for me. I do the West Coast. I do the southern. I do the Midwest. I am subject to the prices in Chicago as well. And I would come to work for—it is in my testimony—about a 10-day period, and 1 day I came to work, it was up 40 cents a gallon, diesel fuel, and I just—over the course of 10 days it was up 78 percent. It was actually at $2.25 a gallon, so that was actually a 125 percent increase. In New England it was as high as $3 a gallon. I absolutely forbidded my trucks to buy fuel in New England, and would not even go to New England. That is how bad the crisis was. And it is more serious than you think.

I want to just say one more thing that I didn't say before. An average driver that owns his own truck makes about $43,000 a year, which is 35 cents a mile, OK? Since he is paying 50 percent more or 52 percent more in operating costs due to fuel, that brings his yearly annual income down to $20,000, which is 16.8 cents a mile that man has to drive. OK? How do you support a family on that type of money? And you know, once you are accustomed to a lifestyle.

Mr. KANJORSKI. Did we ever get an explanation from the oil companies as to what happened in January and February and the spikes of those prices?

Mr. HROBUCHAK. I will tell you what, not one gas company, not one fueling company, not one refinery, not one pipeline in my area ever went dry or closed up or couldn't pump a gallon of gas. And I kept track of prices starting in February on forward.

Mr. KANJORSKI. And I have made a request that FTC do a study on that, and we are still awaiting the results in the next several weeks, but that is 6 months later. Of course, they indicated to me that they are overcome with the merger examinations that are a priority to them and because of the cut in finances, I dare say. And this isn't political, Mr. Chairman. Because we have cut back the amount of money the FTC has, they are not able to do the investigations with the speed and accuracy that they would like to do.

But the other problem in your earlier testimony you gave, and I am not sure the committee understood what you were talking about, in that crisis in January and February, one of your competitors had to drive his trucks to Kentucky to get them fueled, because the people in Richmond, VA were shipping their oil to New England so they could get $3 a gallon.

Mr. HROBUCHAK. The oil parties that were responsible for the Mid-Atlantic area at the time were pipelining their oil and their fuel up into the New England area because it was such a lucrative market. Therefore, the independent truck stops, where the truckers go to fuel and take showers and stuff like that, these companies had to send their trucks 300 or 400 miles away to a different State in order to purchase fuel just to support their truck stop.

Mr. KANJORSKI. So, Mr. Chairman, the point I am trying to make is that it isn't all or the EPA isn't completely removed from some responsibility. We haven't had the testimony of the oil and gas companies, and I think they are going to give us answers for why they do this and how prices are used to make profits, and that is our system, supply and demand driving the price to wherever it can go.

The problem that I see exacerbated by all five witnesses here today is that they seem to lean on the side of not desiring the Federal Government to get involved in their lives any more than they are. And I am just wondering whether or not you have all given it some thought. If we don't do anything, the market is setting what is happening in chicago and what happened in New England in January. One of my colleagues said we have the capacity to increase the supply or the capacity to reduce the demand. And I don't know how that is done in the United States with the economy as strong as it is, how we are going to encourage people to drive less. We have a third alternative. And that is we can discourage spiking, as some people define as gouging, by making the oil companies pay a windfall or excess profit tax. They don't have to go for the $1.50 profit a gallon. But that takes governmental action. And Mr. Schneider, I go to you because I listened to your testimony. If you really don't want us involved, we probably shouldn't have had you come all this distance, because the government is not in the business of providing oil or petroleum. We deregulated, to a large extent over the last 10, 15 years, what regulation and capacity we did have to affect the marketplace. I don't think any of us want to assume it any more. But I do have to be honest with you. We probably, philosophically, disagree to an extent, but there is a role sometime for government in our society, when individuals such as yourself, or Mr. Bailey who has to spend $90 a week for fuel, you have nowhere else to look, and if you say you don't want government regulation and you want us totally off your back and you want free market operation, then you are voting for what happened in Chicago, and you are voting for what happened in New England in January. And unless we find a balance—and I think the answer is a balance, is Mr. Wilson's answer—and you are talking about alternative fuels, new supplies, more efficient cars.

I will point one thing out for the committee, Mr. Chairman. I have been working in the fuel cell business for several years now and encouraging that. It is a tremendous alternative. But, you know, so that the committee is alert, and when it happens we don't act like we were blind, deaf or dumb, the oil and petroleum industry today in the United States is instrumentally working very hard to be certain that the fuel used and the fuel cell in this country is only a petroleum product so that they will not lose their market or their profit.

And I think that is what Mr. Wilson was talking about. The reason they spiked Chicago is they were going to do two things: make more money, but discourage the ethanol use because they don't control ethanol from corn. They wanted the gasoline to be refrained with the product that they controlled and gained a profit on. Is that what you were saying, Mr. Wilson?

Mr. WILSON. That is one of the scenarios that could be painted, yes.

Mr. BURTON. Thank you, Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, just—I didn't make my formal opening statement, so I ask unanimous consent that it be entered in the record. I know Mr. Hrobuchak has a file that he has prepared that is quite extensive, and I would ask unanimous consent that his file be made part of the record.

Mr. BURTON. Without objection, so ordered.

[The prepared statement of Hon. Paul E. Kanjorski follows:]

OPENING STATEMENT OF CONGRESSMAN PAUL E. KANJORSKI
HOUSE GOVERNMENT REFORM COMMITTEE

HEARING ON
RISING FUEL PRICES AND THE APPROPRIATE FEDERAL RESPONSE

WEDNESDAY, JUNE 28, 2000

Thank you Mr. Chairman for convening this long overdue hearing on rising fuel prices and the appropriate federal response, and for allowing me the opportunity to speak. I would also like to take this opportunity to welcome and thank Mr. Mark Hrobuchak, President and CEO of MPH Transportation and Logistics, located in Pittston, Pennsylvania, in my Congressional district, for taking the time to appear before our committee. His testimony will provide us a vivid description of how these price increases, which first hit Pennsylvania at the start of this year, have devastated individuals and small businesses across the Commonwealth.

In late January, I began receiving numerous phone calls and letters from my constituents complaining about exponential increases in the price of their home heating oil and diesel fuel. According to the Energy Information Administration, in a three-week period in January, residential heating oil prices in the Central Atlantic region rose from $1.06 per gallon to $1.59 per gallon. In 1999, prices in this region were only $.85 per gallon. During that same three-week period, the region's retail diesel fuel prices rose 58 cents per gallon or 42 percent to peak at $1.96 per gallon. Some constituents informed me that they were paying as much as $2.59 per gallon at the pump. This regional diesel price surge compared to the 16 cents increase in the national average. Heating oil in other parts of the country, however, rose relatively little.

These dramatic increases over last year's prices struck my congressional district swiftly and severely affected families, municipalities, and small businesses. Independent truckers, for example, had to park their rigs because they could not afford to purchase fuel, and local governments struggled to find funds in their budgets to meet increased heating costs. Moreover, many families experienced sharp increases in their transportation costs and home heating outlays.

At that time, I joined several of my colleagues from the Northeast in calling for the Administration to immediately address this critical situation. First, we urged the immediate release of oil from the Strategic Petroleum Reserve (SPR). We also urged that OPEC and our major foreign suppliers be pressured into increasing their production of both crude oil and home heating oil. We additionally asked that the emergency funds in the Low Income Home Energy Assistance Program (LIHEAP) funds be distributed, and we further urged the Administration to convene an emergency meeting with the major integrated oil companies and other refiners for the purpose of increasing the supply of home heating oil. Secretary Richardson met with members of OPEC, and OPEC increased production of oil, which in turn led to the decrease of crude oil prices. Additionally, the President did release all of the emergency LIHEAP funds this past winter, totaling $300 million, to help low-income families meet their energy needs. And finally, the Administration pledged to ensure the availability of low-interest loan guarantees through the Small Business Administration.

Most importantly, in taking these actions, I asked not only the Administration but also this Committee to investigate possible price gouging by the oil industry. Oil company profits are surging, in some cases by more than 400%, according to consumer protection groups. Wholesale prices are also dropping. But, retail prices in affected areas have not followed suit. I look forward to the conclusion of the FTC's investigation, which I understand is to occur in the next few weeks.

At the same time that the Congress is asking the FTC to thoroughly investigate price gouging, the House has not fully fund the agency so that it may do this most important work. Just last week the House leadership failed to restore funds to the agency in the Commerce-Justice-State Appropriations bill. An amendment was not allowed that would have increased funding for the antitrust division of the FTC by $29.7 million.

Now that increased fuel prices have affected other regions of the country, others in this body and in this Committee are now demanding much of what Northeastern Members of Congress initially requested in January. In the meantime, this Congress has still not acted on legislation that would stabilize oil prices and lighten the burden of individual consumers. On March 31st of this year, the President's authority to release oil from the Strategic Petroleum Reserve expired. Although the House passed the Energy Policy and Conservation Act, which extended the President's authority to draw down the SPR twelve days later, the Senate still has not acted. And just last night, the House attached a similar amendment to the Energy and Water Appropriations Act. Without the authority to draw down the SPR, the Administration is without the power to protect against oil price shocks related to supply interruptions. I have joined with a bipartisan coalition of my colleagues asking the President to use his inherent executive powers to draw down the SPR and urging the Congressional Leadership to act quickly on this pending legislation.

The Energy and Policy Conservation Act also contained a provision to establish a home heating oil reserve in the Northeast. USA Today reported on Monday, June 28, 2000, that forecasts for next winter's home heating oil prices are dim. At this time last year, according to the Energy Information Administration, the Northeast had 41.3 million barrels of distillate stocks on hand. Currently, there are only 15.3 million barrels of heating oil stockpiled for the East Coast. EIA suggested the volatility of prices in the Northeast last year was due to a supply shortage. Based on the current supply, markets in the Northeast are projected to be volatile, unless we have a mild winter. I plan to soon re-introduce legislation, which I have introduced in the 102nd, the 103rd, and the 104th Congresses, that would require the EIA to gather more information on petroleum product stockpiles, and require the Energy Department to make projections on and establish mandates for supply stockpiles based on this information gathering.

In addition to failing to act on these important initiatives, the Congress has failed to initiate efforts that will reduce this country's dependence on foreign oil. Over the past few weeks the House has voted, without my support, to defund the voluntary partnership with automakers to develop a new generation of fuel-efficient vehicles that would run on such alternative sources of energy as hydrogen fuel cells. Budgets for research into renewable energies have also been slashed, at a time when the development of these technologies is most critical.

The cost of energy greatly impacts all aspects of our economy. It is essential that this Congress and the Administration work together to take action now to avoid causing any dislocation that would fuel an inflationary spiral that could jeopardize our economic prosperity. Over the years we have deregulated this industry to the point that it is extremely difficult for the government to implement immediate solutions to such crises. In a free market economy, there is a limit to the ability of the government to control the cost of commodities. However, through a sound national energy policy, we can encourage the development of alternatives to petroleum.

Thank you again, Mr. Chairman, for convening this hearing. I look forward to the testimony that we will hear today and the comments that will bring us closer to developing the sound energy policy that this country needs.

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MPH Transportation & Logistics
Miles Ahead of the Rest

NEWS RELEASE SENT TO ALL TV/RADIO AND LOCAL PAPERS
02/01/00

For Immediate Release:

Area truckers face an economic crisis! In the past two weeks the price of diesel fuel jumped nearly 70% from $1.37 to $1.99 a gallon!

It has come to the point where area truckers are ready to park their rigs and those that stay on the road are seeing their income swallowed up by oil companies and retail vendors that are gouging us with no good reason.

MPH Transportation and Logistics on Route 315 in Pittston dispatches 125 trucks daily. That represents 125 families, plus maintenance crews, clerical staff, administration, dispatchers and more—a total of about 200 workers being impacted by the price gouging.

MPH Transportation and Logistics is also in contact with dozens of other similar trucking companies in our area, combined we generate a billion dollars in revenue annually for Northeastern and Central Pennsylvania. Now some of those companies and drivers are talking bankruptcy.

I have attached letters we have sent to area lawmakers asking for emergency help!

Please investigate this economic crisis. I would be pleased to talk to you and allow you to talk to as many truckers and workers as you need to, to develop this news report. I'm sure you will see that while many people are talking about a thriving economy, there is a group of workers facing a serious economic crisis because of the price gouging by oil companies and area retail vendors.

You may contact me or my executive Vice President Hurlow Rowlands at any time.

Respectfully,

Mark P. Hrobuchak
MPH Transportation and Logistics Inc.

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

NEWS RELEASE #2 SENT TO ALL TV/RADIO AND LOCAL PAPERS
02/04/00

For Immediate Release:

Area diesel fuel prices increase again! At the Pilot truck stop in Pittston prices jumped another four cents a gallon today and our industry tells us it won't be long before prices for diesel fuel in our area are well over $2.00 a gallon.

We have attached a State Senate resolution introduced by State Senator Robert Mellow asking for immediate relief. You will also find copies of letters to the U.S. Department of Energy stating our outrage at his apathy and lack of action. A similar letter went to the President of the American Trucking Association. We have also called on the White House for help and members of the Pennsylvania Delegation seem determined to stand together to help area truckers.

As always you may contact me or my executive Vice President Hurlow Rowlands at any time.

Respectfully,

Mark P. Hrobuchak
MPH Transportation and Logistics Inc.

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MPH Transportation & Logistics
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NEWS RELEASE SENT TO ALL TV/RADIO AND LOCAL PAPERS
02/08/00

FOR IMMEDIATE RELEASE

The battle against staggering diesel fuel prices hits the air waves tonight! Mark Hrobuchak, CEO/President of MPH Transportation and Logistics will be the guest on the Nicki Walton Radio Show staring at 7 P.M. on The Bear, 97.9 FM and 95.7 FM. He will talk about his personal battle against the gouging being aimed at area truckers by oil companies and retail vendors.

The Bear is part of Citadel Communications located in the new East Mountain Industrial Park in Wilkes-Barre. You are invited to cover the event and hear about the latest responses from lawmakers, the U.S. Secretary of Energy and the state Attorney General.

As always if you have any questions or concerns feel free to call or fax.

Cordially,

Mark P. Hrobuchak,
CEO/President
MPH Transportation and Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

Fred Williams
WILK Radio
305 Highway 315
Pittston, Pennsylvania 18640-3986

02/14/00

Dear Mr. Williams:

I am writing this letter to express my sincere appreciation for helping educate the community about the economic crisis that our truck drivers are facing. I have been part of several talk shows and yours was by far the most enjoyable. I applaud you for the tremendous service you continually perform for the public. Because of your sincere interest in not only the diesel fuel costs, but the general well being of the community raises you to a higher plateau in the radio industry and demands praise. Your overall professional work ethics are of the highest standard that I have ever had the pleasure to be experience.

Sincerely,

Mark P. Hrobuchak,
CEO/President
MPH Trucking and Logistics

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MPH Transportation & Logistics
Miles Ahead of the Rest

NEWS RELEASE SENT TO ALL TN/RADIO AND LOCAL PAPERS
06/27/00

For Immediate Release

On February 1, 2000, I contacted you concerning the fuel price crisis that was hitting the trucking industry.

As we all know it has continued and in fact fuel for trucks actually rose 78% before backing off somewhat. Interestingly, when our fuel prices dropped, gasoline prices rose.

This Wednesday, June 28, 2000, I am testifying at the Committee on House Reform, chaired by congressman Dan Burton, on the impact of fuel prices on small business.

I want to tell you that the situation is worse now than it was in February. This affects you directly!

We have 150 owner-operators, mechanics, office, and administrative staff. Since fuel prices have skyrocketed, 20 of our owner operators have been forced out of business. They lost everything. That's why I'm continuing to fight this battle. These people have had their lives devastated for the greed of a few.

It's time for the federal government to step in and stop this. I urge everyone to call or write your Congressmen and Senators.

Mark P. Hrobuchak
MPH Transportation & Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

Pennsylvania Governor Tom Ridge
Governor's Office
Harrisburg, PA 17120

02/01/00

Dear Governor Ridge:

Thousands of your constituents in this area need your emergency assistance right now! It's a matter of economic survival.

I'm talking about area truckers. I operate a trucking company based in the Pittston area called MPH transportation and logistics Incorporated. We have 200 workers and dispatch 125 trucks daily, nearly half are owner/operators. The problem is the gouging we are taking at the hands of the oil companies and retail vendors. In the past two weeks the price of diesel fuel jumped nearly 70%, from $1.37 a gallon to $1.99 a gallon. My truckers deliver goods already contracted for, so we cannot simply pass on the cost of the increased fuel expense. That comes out of their pockets and mine. It's very similar to the recent crisis faced by area dairy farmers—I now see many drivers talking bankruptcy and ready to walk away from the business that has up until now put food on their table.

We need your emergency help now! We need The U.S. Department of Transportation to step in and freeze, or roll back Federal highway taxes for a time, and we need some kind of emergency legislation allowing us to pass on the increased cost of fuel to manufacturers who use motor carriers. Most importantly we need someone with power and influence such as yourself, to stop the price gouging that s threatening our jobs and families.

My company is like dozens of other similar companies statewide. Combined, we generate more than a billion dollars of revenue in Northeastern and Central Pennsylvania and we stand together to fight this crisis. Please help us. We need you now, we cannot wait another day!

You may fax or call me at any time, but please help the truckers and the families that elected you and need you now.

Respectfully

Mark P. Hrobuchak
MPH Transportation And Logistics Inc.

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics

Miles Ahead of the Rest

The Honorable Paul Kanjorski
U.S. House of Representatives
Pennsylvania 11th Congressional District
2353 Rayburn HOB
Washington, DC 20585

02/04/00

Dear Congressman Kanjorski:

I am writing to you to ask for your emergency assistance now before local jobs are lost and businesses close!

The problem is the staggering increase in the cost of diesel fuel and its impact on area truckers and their families. In the past two weeks the price of diesel fuel went up 70% from $1.37 to $1.99 a gallon.

I operate MPH Transportation and Logistics in the Luzerne county community of Pittston. There are 200 workers here including clerical and administrative staff along with maintenance and of course drivers who are in desperate need of your help. Nearly half of the 125 trucks we dispatch daily are owner operated. Many of the drivers are now struggling to pay their mortgages, put food on the table and take care of family needs because the high cost of diesel fuel is eating their profits. Some are talking about just quitting or even filing for bankruptcy. We have contacted all members of the Pennsylvania Delegation asking for immediate help and I brought up this crisis on the WVIA show "State of Pennsylvania" which you were a part of.. We need prices to be rolled back now. We can't survive a drawn out investigation or red tape. That is why we need your help.

The financial crisis facing area families has been a major news story in our area. It was page one of the Scranton Times and Tribune. It was the subject of special reports on several area radio stations, and both WBRE and WYOU TV continue to press for answers as to why oil distributors and retail vendors are gouging the Pennsylvania truckers.

We did contact the U.S. Secretary of Energy about the crisis, his replay was "it's a matter of supply and demand." But Congressman Kanjorski, I have been in this business all my life, I know there is no supply problem in our area. We are simply being gouged.

Enclosed you will find a resolution introduced in the State Senate asking for immediate relief. You will also find a map showing that Pennsylvania has the highest fuel tax in the nation at .308 cents per gallon.

Please help us now. Your commitment to the area is well known. We need your influence and experience now. Don't let political red tape destroy area families.

You may write or fax or call me at anytime if you need more information.

Thank you for your attention to this matter.

Respectfully,

Mark P. Hrobuchak,
MPH Transportation and Logistics

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MPH Transportation & Logistics
Miles Ahead of the Rest

Walter B. McCormick, Jr.
CEO and President
American Trucking Association
2200 Mill Road
Alexandria , VA 22314-4677

02/04/00

Dear Mr. McCormick:

I am writing to state my outrage at your apathy and complete lack of action to save jobs and businesses in the Northeastern part of the U.S. and many other states.

The issue is the staggering increase in the price of diesel fuel that is threatening truckers jobs and families. Your ridiculous comment to the media about the issue was that it is a matter of "supply and demand." As a man who has been in the trucking/transportation business all my life, I must argue that your comments show you know nothing about the real issues and probably don't care.

I operate MPH Transportation and Logistics in Pittston, Pennsylvania. We have 200 employees. We dispatch 125 trucks daily. Half are owner operated. In the past two weeks the diesel fuel that is the lifeblood of these truckers and my business went up 70% from $1.37 to $1.99 a gallon. But no suppliers are out of business, no retail vendors have closed—it seems clear there is no problem of "supply and demand." You have failed the American trucker.

Your job is to be a watchdog for America's trucking industry. So I must ask you, what are you doing to deal with this fuel crisis? Are you doing your job or are you too busy to care about the truckers. Your call for the President to take immediate action was wimpy to say the least. We have accomplished more here, writing to lawmakers and getting area media to demand answers from oil distributors and retails vendors that are simply gouging us. Are you content to just sit and wait for a long drawn out investigation? By then many of my drivers will be in bankruptcy or out of the business.

I have attached letters we've sent to area lawmakers and a resolution introduced in our State Senate demanding immediate action.

This is a battle for our financial lives. You should be on the frontline fighting for us, but it appears you are standing back watching the American trucker take the worst of it. The last thing you should be at a time like this is a bureaucrat.

Do something. Earn your pay. I expect to hear from you with a response that has some substance, not just another patronizing cliché.

A copy of this letter is being sent to every member of the Pennsylvania Delegation and area media.

Please Mr. McCormick, write, call or fax me as soon as possible.

Urgently,
Mark P. Hrobuchak
Mark P. Hrobuchak
MPH Transportation and Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics

Miles Ahead of the Rest

President William Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

02/04/00

Dear Mr. President:

I am asking to you to ask for your emergency assistance now before local jobs are lost and businesses close!

The problem is the staggering increase in the cost of diesel fuel and its impact on area truckers and their families. In the past two weeks the price of diesel fuel went up 70% from $1.37 to $1.99 a gallon.

I operate MPH Transportation and Logistics in the Luzerne county community of Pittston. There are 200 workers here including clerical and administrative staff along with maintenance and of course drivers who are in desperate need of your help. Nearly half of the 125 trucks we dispatch daily are owner operated. Many of the drivers are now struggling to pay their mortgages, put food on the table and take care of family needs because the high cost of diesel fuel is eating their profits. Some are talking about just quitting or even filing for bankruptcy. We have contacted all members of the Pennsylvania Delegation and Congressman Don Sherwood of the 10th Congressional District, who apparently has a great deal of respect for you, suggested we write to you asking for your help now. There are many, many truckers in your district facing the same financial crisis and the feeling is, if the Pennsylvania delegation fights this together, with your help and influence, area families can get immediate help. We need prices to be rolled back now. We can't survive a drawn out investigation or red tape. That is why we need your help.

The financial crisis facing area families has been a major news story in our area. It was page one of the Scranton Times and Tribune. It was the subject of special reports on radio and TV news and reporters continue to press for answers as to why oil distributors and retail vendors are gouging the Pennsylvania truckers.

We did contact the U.S. Secretary of Energy about the crisis, his replay was "it's a matter of supply and demand." But Mr. President, I have been in this business all my life, I know there is no supply problem in our area. We are simply being gouged.

Enclosed you will find a resolution introduced in the State Senate asking for immediate relief. You will also find a map showing that Pennsylvania has the highest fuel tax in the nation at .308 cents per gallon.

Please help us now. Your commitment to the area is well known. We need your influence and experience now. Don't let political red tape destroy area families.

You may write or fax or call me at anytime if you need more information.

Thank you for your attention to this matter.

Respectfully,

Mark P. Hrobuchak

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MPH *Transportation & Logistics*
Miles Ahead of the Rest

President William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington D.C. 20500

02/08/00

Dear Mr. President:

This is a follow up to a letter faxed to you a couple of days ago. We asked for your emergency assistance in our fight against the rising cost of diesel fuel. Day by day we are watching prices go up and truck drivers suffer tremendous financial hardship along with their families.

This is a major news story in the Northeast. TV news stations have been covering the story daily. It has been page one news for area newspapers, and radio news has been following every development in this economic crisis. As I write to you diesel prices are well over $2.00 a gallon. As you will recall from my first letter, it was just two weeks ago that prices were $1.37 a gallon!

The main reason for this follow up, is because in a few hours I will be taking part In a one hour long talk show on the staggering increase in diesel fuel prices and I want to be able to report what you, our Chief Executive, is doing to save truckers jobs and area trucking
companies.

Please call me with some information on steps you have taken to help area truckers or fax the information as soon as possible. I would regret having to report that you have not responded to our urgent plea for help.

Respectfully,

Mark P. Hrobuchak,
CEO/President
MPH Trucking and Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

The Honorable Tim Holden
U.S. House of Representatives
1421 Longworth HOB
Washington D.C. 20515

02/08/00

Dear Congressman Holden:

This is a follow up to a letter faxed to you a couple of days ago. We asked for your emergency assistance in our fight against the rising cost of diesel fuel. Day by day we are watching prices go up and truck drivers suffer tremendous financial hardship along with their families.

This is a major news story in the Northeast. TV news stations have been covering the story daily. It has been page one news for area newspapers, and radio news has been following every development in this economic crisis. As I write to you diesel prices are well over $2.00 a gallon. As you will recall from my first letter, it was just two weeks ago that prices were $1.37 a gallon!

The main reason for this follow up, is because in a few hours I will be taking part In a one hour long talk show on the staggering increase in diesel fuel prices and I want to be able to report what you, our Congressman is doing to save truckers jobs and area trucking
companies.

Please call me with some information on steps you have taken to help area truckers or fax the information as soon as possible. I would regret having to report that you have not responded to our urgent plea for help.

Respectfully,

Mark P. Hrobuchak,
CEO/President
MPH Trucking and Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

Pennsylvania Attorney General Mike Fisher
Harrisburg, Pa 17120

02/08/00

Dear Attorney General Fisher;

I am writing to ask for your help. I am Mark Hrobuchak, CEO and President of MPH Transportation and Logistics. We are a trucking company based in Pittston, Pennsylvania. Including all staff members in all departments we employ 200 people. Half of our drivers are owner operators and the escalating price of diesel fuel is threatening their jobs, their families, and many trucking companies.

You were recently quoted in one area newspaper as deeply concerned about the staggering increase in the price of home heating oil. That is a major problem as well, but please don't forget the Pennsylvania trucker. We understand you are launching an investigation into the drastic increase in fuel prices. Please do so as soon as possible, get us relief and prosecute to the full extent of the law, any company or vendor that is willfully violating laws by gouging truckers.

In just a couple of hours, I will be part of a two hour talk show on this problem and what is being done to get immediate and emergency relief for truckers. If possible please fax me the latest on your role in solving this crisis so I may report on the actions of the Attorney General to save jobs and families.

Thank you for your attention to this matter.

Respectfully,

Mark P. Hrobuchak,
CEO/President
MPH Trucking and Logiistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

January 26, 2000

Senator Arlen Specter
Washington, DC

Dear Senator,

My name is Mark P. Hrobuchak and I own a small fleet of trucks in Northeast Pennsylvania. My company is called MPH Inc., and we employ a total of 200 people with 125 trucks on the road that service the entire 48 states. Of these 125 trucks 44% are owner/operators who are independent contractors. I am sure that you are well aware that the price of diesel fuel has risen 80 cents per gallon in the last seven days. I have contacted over a dozen other trucking companies who are equally concerned with this situation. These companies range in size from 100 to 1,000 trucks generating one billion dollars or more in annual sales. The actual number of people that are directly affected is 15,000 to 20,000 from Northeastern Pennsylvania.

With 22 years of experience in the trucking industry, I have a few suggestions. I think that the Department of Transportation should put a 60-day moratorium on all Federal Highway Use Taxes. During this time, there should be an investigation into fuel gouging by retail vendors. Secondly, the Department of Energy or Congress should pass immediate legislation telling manufacturers that use motor carriers that they must pay these carriers a 10% increase for fuel surcharges.

Remember that I have over a dozen companies that are willing to convene at the drop of a hat to discuss this issue with you via conference call or in person. I have retained Thomas J. Munley, Esquire who will facilitate a media event within the next few days, and we hope that you will take advantage of this opportunity. One last comment, as the presidential candidates are debating on welfare reform it is important to consider the very real possibility that if immediate action is not taken, there could conceivably be a few million independent owner/operators nationwide forced into bankruptcy and will further complicate the issue of welfare reform.

I am hopeful for a quick and positive response.

Sincerely yours,

Mark P. Hrobuchak

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

February 24, 2000

Honorable Paul Kanjorski
U.S. House of Representatives
Pennsylvania 11th Congressional District
2353 Rayburn HOB
Washington, DC 20585

Dear Congressman Kanjorski:

I am not writing to you today not as a representative of big companies, or any major transportation affiliation, but rather as a spokes person for the thousands of Independent Owner/Operators who own one or two trucks and are two small to voice their concerns to you. These independents are currently in the struggle for their lively hoods. Their families depend on what immediate course of action will be taken in the next few days.

I want to express to you, that thousands of Independent Owner/Operators are currently struggling to pay their bills, keep their homes, and feed and clothe their children. Without some immediate action to relieve the current fuel price situation these Owner/Operators and their families will be forced out of business. This could have devastating effects on the national economy. I started taking action eight weeks ago when drivers came to me begging for help. I feel that I am the ideal choice to testify since these drivers are not being fairly represented by the American Trucking Association or the Pennsylvania Trucking Association.

I am personally asking you Congressman, to please voice an opinion to the Pennsylvania delegates whom sit on this committee.

Respectfully,

Mark P. Hrobuchak
President / CEO
MPH Inc.

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH *Transportation & Logistics*
Miles Ahead of the Rest

U. S. Rick Santorum
120 Russell Senate Building
Washington, DC 20510

02/27/00

Dear Senator Santorum:

I am writing to thank you for your continuing help with high fuel prices, especially diesel fuel. Without your vigilance, truckers in our area and nationwide would be left with no voice in Washington fighting for them and their families.

As you know, on March 9th, the Subcommittee on Energy and Power will hold a hearing on price fluctuations in oil markets. I have been asked to testify because my company, MPH Transportation and Logistics of Pittston has taken the lead, fighting against what we see as price gouging by oil companies and retail vendors. Once again we need your help.

I think I have an important message for the Subcommittee. My message illustrates the impact of this price gouging on truckers and their families and the overall impact of this fuel price crisis on the economy, both regionally and nationally.

We are asking you to write to Congressman Joe Barton, the Chairman of the Power and Energy Subcommittee, and Congressman Tom Bliley, Chairman of the Commerce Committee, to ask them to be sure I get a chance to testify on behalf of truckers, their families and the companies they work for.

Realizing how busy you are, I am enclosing the latest information on fuel prices and the effect of this fuel emergency.

As you know, I have taken my fight to TV, Radio and Newspaper. MPH Transportation and Logistics and it's fight against this shameless profiteering has become front page news and the lead story on all three area network affiliates. We have also been featured on area talk shows because of the sincerity of our message.

Thank you for continuing to work with me and Pennsylvania truckers. As always feel free to write or call anytime.

Gratefully,

Mark P. Hrobuchak

Mark P. Hrobuchak
President/CEO
MPH Transporttation and Logistics

Fa/mph

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

Congressman Don Sherwood
10th Congressional District
1223 Longworth Office Building
Washington, DC 20515

02/27/00

Dear Congressman Sherwood;

Area truckers need your help again in the battle with high fuel prices, and we know we can count on you.

Before I get into the specific request, let me thank you for all the work you've done so far to help us. My Director of Media Relations, Frank Andrews, who served as emcee at the Lincoln Day dinner at which you spoke, reported to me on your comments to the audience about the fuel crisis and your work to help us. I was pleased to hear he publicly thanked you for your help.

The sincerity of my message on price gouging by oil companies and retail vendors has taken another step forward. We have already been on all three area TV news stations, been featured on area radio talk shows and made the front page of area newspapers, but now I have been asked to testify before the House Subcommittee on Power and Energy on March 9th at 10:00 A.M. It will look into price fluctuations in oil prices.

I know you understand the way Washington works. That's why I have been advised to write to you again. I am hoping you will write to Congressman Tom Bliley, Chairman of the Commerce Committee, and Congressman Joseph Barton of Power and Energy, supporting my message and urging them to make sure I get to testify.

Copies of letters we have written to those lawmakers are attached.

You have been there when we needed you. Thanks for being there again for area truckers and their families.

Respectfully,

Mark P. Hrobuchak/President-CEO
MPH Transportation and Logistics

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

MPH Transportation & Logistics
Miles Ahead of the Rest

Congressman Joe Barton
Chairman Subcommittee on Energy & Power.
Dear Chairman Barton:

My name is Mark Hrobuchak. I am The President and CEO of MPH Transportation and Logistics In Pittston, Pennsylvania. My company and I have taken the lead in this area, fighting the staggering increase in fuel prices, especially the price of diesel fuel.

Because of the sincerity of our message, I have been asked by Congressman Paul Kanjorski (D) 11th Congressional district, Congressman Don Sherwood of the 10th District and Senator Rick Santorun of Pennsylvania to testify before your Subcommittee hearings on price fluctuations and fixing in the oil markets on March 9th at 10:00 A.M. It is imperative that I get a chance to speak on behalf of Independent truckers and their families. My message is simple. Oil companies and retail vendors are gouging Independent Truckers. I'm sure you or the committee are fully aware of the hardship that the person only owning one or two trucks are being affected. Let's make simple. Independents who provide just need the basic essentials of living for there families are being lost. The American dream has or is currently being stolen from Independent owners. I have been vigilant in tracking prices at the wholesale level. Fuel suppliers are taking advantage of a reduction in OPEC oil production, and retail vendors follow right along. Our tracking of price trends showed that these companies profit margins jumped by as much as 50%! The impact on local independents is so devastating they can no longer afford to feed their families. This despicable crime against these American families needs someone like myself to represent them. Mr. Chairman I represent no special interest or association. I have for the last two months dedicated my time and money to help save owner from unemployment or welfare. You ask why? Some could not afford to drive their rigs. Diesel prices jumped 70% in a week. Many parked their rigs and just file for bankruptcy. Mr. Chairman, price gouging by oil companies and retail vendors has already had a major impact on the financial stability of independent truckers and their families.

It is this message that brought MPH Trucking and Transportation to the front page of area newspapers, to the lead story several times on all three TV network affiliates and to radio talk shows where phone lines lit up with calls from grateful truckers who knew we were fighting for them. I need to share my message with Congress. Please allow me to testify for those people that can't afford reprsentation!

Expect letters of support from Congressman Kanjorski and Senator Santorum. Congressman Don Sherwood. 10th Congressional District
Again I plead for those in dyer need. I look forward to testifying.

Mark Hrobuchak

Respectfully
Mark P. Hrobuchak/President-CEO
MPH Trucking and Transportation

P.O. Box 3723 ❖ Scranton, PA 18505 ❖ (570) 451-0222 ❖ Fax (570) 451-1488

22ND DISTRICT
ROBERT J. MELLOW
SENATE BOX 203022
THE STATE CAPITOL
HARRISBURG, PA 17120-3022
PHONE: (717)-787-6481
FAX: (717)-783-5198

524 MAIN STREET
P.O. BOX B
PECKVILLE, PA 18452
PHONE: (570) 489-0336
PHONE: (570) 346-5721
FAX: (570) 963-3170

The Democratic Leader

Senate of Pennsylvania

COMMITTEES

RULES AND EXECUTIVE NOMINATIONS
DEMOCRATIC CHAIRMAN
ETHICS, DEMOCRATIC CHAIRMAN
APPROPRIATIONS
LAW & JUSTICE
1-800-364-1581 (TT)

February 7, 2000

Mr. Mark P. Hrobuchak
MPH Transportation and Logistics Inc.
P.O. Box 3723
Scranton, PA 18505

Dear Mr. Hrobuchak:

I am in receipt of your letter concerning the recent increase in diesel fuel costs. Thank you for bringing this matter to my attention.

I am proud to say that I am a co-sponsor of a resolution, S. R. 131, which calls upon the federal government to take immediate action to release the United States strategic petroleum reserves, negotiate release of additional oil reserves from non-OPEC countries or negotiate with OPEC on additional supplies. I have enclosed a copy of the resolution for your convenience.

Please be aware that S. R. 131 "urges" the federal government to take these steps, but does not ensure it will. I recommend you also contact your U.S. Senators concerning this matter since it falls under **federal** jurisdiction. Your U.S. Senators are: Senator Rick Santorum, 120 Russell Office Building, Washington, D.C. 20510; Senator Arlen Specter, 711 Hart Senate Building, Washington, D.C. 20510.

Again, thank you for taking the time to write to me. If I may be of further assistance in this or any other matter involving state government, please do not hesitate to contact me.

Sincerely,

Bob M

ROBERT J. MELLOW
The Democratic Leader

RJM/gh
enc.

PRINTER'S NO. 1636

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 131 Session of 2000

INTRODUCED BY SALVATORE, KASUNIC AND CORMAN, FEBRUARY 1, 2000

INTRODUCED AND ADOPTED, FEBRUARY 1, 2000

A RESOLUTION

Urging the President of the United States and the Secretary of Energy to take immediate action to release emergency funding for the Low-Income Home Energy Assistance Program (LIHEAP) and to release the United States strategic petroleum reserves, negotiate release of additional oil reserves from non-OPEC countries or negotiate with OPEC on additional supplies.

WHEREAS, Fuel, in particular diesel fuel, and home heating oil prices have skyrocketed to record highs in the first weeks of 2000, threatening this Commonwealth's citizens' well-being and safety to crisis proportions; and

WHEREAS, Retail prices of home heating fuel and diesel fuel in some areas of this Commonwealth have reached $2 per gallon, and level rack prices of diesel fuel are 106% higher than they were in the first week of February 1999; and

WHEREAS, The impact of escalating oil prices on an industry that is operating on narrow profit margins is being compounded by driver shortages and other increased costs; and

WHEREAS, These increases dramatically affect prices for essential utility and municipal services, and increases in transportation costs threaten jobs and could cause major disruption of vital supplies and other goods and services; and

WHEREAS, Home heating oil supplies are extremely tight, particularly in the Mid-Atlantic and the Northeast, and weather forecasts call for continued below-normal temperatures; and

WHEREAS, Refineries in Pennsylvania and other states must produce more home heating fuel, which may cause shortages of other oil products such as gasoline, kerosene and undyed diesel fuel, thereby driving up prices accordingly; and

WHEREAS, The Organization of the Petroleum Exporting Countries (OPEC) has indicated its desire to extend existing output cuts amounting to over 4 million barrels per day, resulting in nearly triple prices in less than one year, devastation to world economic growth and inflation; and

WHEREAS, According to the International Energy Agency, global oil supplies could be as much as 3 million barrels per day below demand in the first quarter of 2000, and as much as 1.5 million barrels per day below requirements in the second quarter; and

WHEREAS, A mid-January snowstorm, which occurred in the northeast region of the United States, triggered even faster price increases in Pennsylvania, resulting in United States light crude oil selling just 4¢ below the $30 per barrel mark; therefore be it

RESOLVED, That the Senate of the Commonwealth of Pennsylvania urge the President of the United States and the Secretary of Energy to take immediate action to release emergency funding to the State for the Low Income Home Energy Assistance Program (LIHEAP) and to release the United States strategic petroleum reserves, negotiate release of additional oil reserves from non-OPEC countries or negotiate with OPEC on additional supplies;

and be it further

RESOLVED, That copies of this resolution be sent to the President of the United States, the Secretary of Energy, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

RICK SANTORUM
PENNSYLVANIA

United States Senate
WASHINGTON, DC 20510-3804
202-224-6324

COMMITTEES:
ARMED SERVICES
AGRICULTURE
RULES
JOINT ECONOMIC
AGING

February 15, 2000

Mr. Mark P. Hrobuchak
CEO/President
MPH Transportation & Logistics
PO Box 3723
Scranton, Pennsylvania 18505-0723

Dear Mr. Hrobuchak,

Thank you for contacting me regarding gas prices. I appreciate hearing from you and having the benefit of your views.

As you may be aware, falling petroleum demand coupled with essentially stable output caused a depression in prices in international crude oil markets from late 1997 until the spring of 1999. Consumers in the United States, consequently, benefitted from very low gas prices. In order to restore member nation oil revenues which plunged along with prices, the Organization of Petroleum Exporting Countries (OPEC) announced in March that it would significantly reduce oil production. The quotas they agreed upon were intended to raise prices to an average of $21 per barrel for the full calendar year a goal which necessitated raising prices even higher than this amount to offset the lower prices that prevailed earlier in the year. In turn, U. S. gas prices increased as the overall supply of gas was reduced. And as demand increased, prices began to rise again through the summer. Indeed, the shift in petroleum prices has been dramatic: from September 1998 to September 1999, crude oil prices increased by 61 percent and gasoline prices by 23 percent.

Over recent months, Americans have experienced not only a sustained high price level, but even further price hikes in petroleum products as crude prices rose to nearly $25 per barrel. I have heard from many Pennsylvanians who are paying unprecedented prices for gasoline and home heating oil. Commuters and the transportation industry are directly affected, and many are paying more for their home heating bills as the Northeast suffers through severe winter weather.

You may be interested to know that on February 2nd, I sent a letter to Secretary of Energy Bill Richardson and requested that he use all available means to mitigate this rise in fuel prices and that he give prompt attention to this important matter that is on the minds of many citizens in our Commonwealth. On Thursday, February 10th, Secretary Richardson announced that the federal government will release an additional $130 million in emergency funds to help low-income Americans cope with heating costs one third of which will be targeted to the Northeast.

PAUL E. KANJORSKI
11TH DISTRICT, PENNSYLVANIA

COMMITTEE ON BANKING AND FINANCIAL SERVICES

RANKING MEMBER:
SUBCOMMITTEE ON CAPITAL MARKETS, SECURITIES, AND GOVERNMENT SPONSORED ENTERPRISES

COMMITTEE ON GOVERNMENT REFORM

DEMOCRATIC WHIP-AT-LARGE

Congress of the United States
Washington, DC 20515–3811

WASHINGTON OFFICE:
2353 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3811
(202) 225-6511

Website: http://www.house.gov/kanjorski
E-mail: paul.kanjorski@mail.house.gov

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WILKES-BARRE, PA 18702-5283
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KULPMONT MUNICIPAL BUILDING
860 SPRUCE STREET
KULPMONT, PA 17834-1346
(570) 373-1541

TOLL FREE HELP-LINE
(800) 222-2346

March 3, 2000

The Honorable Joe Barton, Chairman
Energy and Power Subcommittee
House Committee on Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barton:

As you know, over the last several months dramatic increases in the prices of petroleum products, especially for diesel fuel and home heating oil, have caused economic hardships for many small businesses and families in the Northeastern United States. I would like to testify before your subcommittee at its March 9th hearing on this crisis.

In addition, I would like to request that you invite Mr. Mark Hrobuchak, CEO/President of MPH Transportation and Logistics, to testify. For a number of weeks, Mr. Hrobuchak has been bringing attention to the increased diesel fuel prices and the detrimental effect these costs are causing independent truck drivers. Mr. Hrobuchak has been meticulously tracking diesel fuel prices in Northeastern Pennsylvania and across the country. As a result of his attention to the plight of independent truck owners and small trucking companies, Mr. Hrobuchak has been featured almost daily on area television and radio stations. Local newspapers have also featured stories on the impact to truckers.

Based in Scranton, Pennsylvania, Mr. Hrobuchak represents nearly 200 people who work for MPH Transportation and Logistics, including 125 truckers, many of whom own and operate their own trucks. According to Mr. Hrobuchak, many of these owner/operators are facing bankruptcy because the high cost of fuel is cutting into their already small profit margins. These hardworking men and women are being faced with the prospect of not being able to put food on their families' tables.

With respect to my testimony, in investigating the price increases of home heating oil and diesel fuel in the Northeast, I hope that your subcommittee will explore proposals that will avert this type of situation in the future. As Members of Congress, we need to develop a long-term program to prevent extraordinary price increases. The cost of energy has an enormous impact on all aspects of our economy. We have been fortunate to have fairly low petroleum costs in recent years, but our experience in these most recent weeks should remind us that another energy crisis like that of the late 1970s is always a possibility. In a free market economy, there is a limit to the ability of the government to control the cost of commodities. However, through a sound national energy policy, we can encourage the development of alternatives to petroleum. I would appreciate the opportunity to comment on these issues.

Thank you in advance for your consideration. If you need additional information, please feel free to contact either myself or my staff at 225-6511.

Sincerely,

Paul E. Kanjorski

Paul E. Kanjorski
Member of Congress

PEK/smb

03/03/00 17:00 FAX

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RICK SANTORUM
PENNSYLVANIA

COMMITTEES:
AGRICULTURE
ARMED SERVICES
CHAIRMAN, SUBCOMMITTEE ON AIRLAND FORCES
RULES
AGING
BANKING
VICE CHAIRMAN, SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

United States Senate
WASHINGTON, DC 20510-3804
202-224-6324

March 3, 2000

The Honorable Joe Barton
Chairman
House Committee on Commerce
Subcommittee on Energy and Power
2125 Rayburn H.O.B.
Washington, D.C. 20515

Dear Chairman Barton,

I understand that your subcommittee has scheduled a hearing for Thursday, March 9, 2000, on the price fluctuation in oil markets. Given the recent and steep rise in oil prices and its widespread impact, I appreciate your attention to this very important issue.

One of the constituencies who has been hardest hit by the surge in oil prices has been the transportation industry. I have met with and spoke to many truckers in the Commonwealth of Pennsylvania, and their message is simple: their businesses are suffering and they need immediate relief. Mr. Mark Hrobuchak, President and CEO of MPH Transportation and Logistics based in Scranton, Pennsylvania, knows firsthand how the trucking industry has been affected by the dramatic price shift of diesel fuel, in particular.

I hereby ask that you give strong consideration to Mr. Hrobuchak testifying before the subcommittee on March 9th. I believe he is uniquely positioned to represent the views of the transportation industry in Pennsylvania, and that his testimony will contribute to a constructive discussion of how we address the price fluctuation in the oil markets.

Thank you for your consideration of this request, and please feel free to call on me directly if I can provide further information. Mr. Hrobuchak can be reached at (570) 451-0222, and P.O. Box 3723, Scranton, PA, 18505.

Sincerely,

Rick Santorum
United States Senate

OFFICE OF THE GOVERNOR
HARRISBURG, PENNSYLVANIA
17120

HARRISBURG PA 171
PM
FEB
2000

Mark P. Hrobuchak
MPH Transportation And
Logistics Inc.
PO BOX 3723
Scranton PA 18505

Thank you for taking the time to share your concerns about the recent increase in fuel prices with Governor Tom Ridge. While both state and federal governments impose taxes on fuel oil, gasoline and other petroleum distillates, we have no control over the fair market pricing of these or any other commodities or products in the private sector.

THE VICE PRESIDENT
WASHINGTON

May 8, 2000

Mr. Mark P. Hrobuchak
P. O. Box 3723
Scranton, Pennsylvania 18505-0723

Dear Mr. Hrobuchak:

Thank you very much for bringing your concerns about the rising prices of oil and gasoline to my attention. I appreciate hearing from you.

Although oil prices reached a nine year high earlier this year, they have fallen significantly over the past few months. Throughout the period of high prices, the Administration took several steps both to alleviate the effects of high oil prices and to reduce the likelihood of such price increases in the future.

The Administration proposed creating a home heating oil reserve in the Northeast that could supply heating oil to the region in the event of future price spikes similar to the one experienced this past winter. At the same time, the President has repeatedly called on Congress to reauthorize the operation of the Strategic Petroleum Reserve, an emergency supply of oil stored along the Gulf of Mexico, so that it will be available for his use in the unlikely event of a supply disruption in the future.

In his budget, the President proposed a comprehensive set of tax incentives for U.S. oil companies to reduce American reliance on imported oil, and tax credits for electric, fuel cell, and non-petroleum based energy sources such as wind, biomass, and methane. Our budget also called for strong funding to make America's homes and buildings more efficient, to weatherize low-income households, and to support the public-private Partnership for a New Generation of Vehicles, each initiatives that will reduce reliance on imported oil. We will continue to work with Members of Congress to persuade them to pass measures that will effect long-term energy security for America.

Abroad, the President, the Secretary of Energy, and I engaged in quiet diplomacy efforts to negotiate with foreign oil producers to increase supply. White House officials and the Department of Energy are monitoring closely oil production

May 8, 2000
Page 2

volumes, worldwide demand, and the price of oil as agreements are implemented.

We are taking this problem very seriously. Please be assured that we are continuing to pursue policies that will reduce our reliance on imported oil and mitigate the effects of future price increase. Your views are helpful to us as we do so. Again, thank you for contacting me.

Sincerely,

Al Gore

Al Gore

AG/amc

ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
MINORITY (202) 225–5051
TTY (202) 225–6852

June 23, 2000

Mr. Mark Hrobuchak
CEO/President
MPH Transportation & Logistics
P.O. Box 3723
Scranton, PA 18505

Dear Mr. Hrobuchak:

Pursuant to Rules X and XI of the House of Representatives, the Committee on Government Reform has oversight jurisdiction of the Environmental Protection Agency. In fulfilling our oversight responsibilities, the Committee will hold a hearing on rising fuel prices in the United States, and the appropriate federal response. The hearing will convene on Wednesday, June 28 at 1:00 p.m. in Room 2154 of the Rayburn House Office Building.

I am writing to request that you testify at this hearing. Specifically, we would like you to address your personal experiences with the dramatic increase in fuel costs and the affect it has had on your personal and professional life.

Please provide 100 copies of your written testimony to the Committee no less than 24 hours prior to the date of the hearing. Also, to facilitate printing of the hearing record, please provide a computer disk containing your testimony to the Committee.

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act (ADA). Persons requiring special accommodations should contact Lisa Smith Arafune at 202/225-5074 at least four business days prior to the hearing.

Also, Rule XII of the House Committee on Government Reform requires that witnesses, "when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year." If you have any questions, please contact Committee Professional Staff Members Mildred Webber and Caroline Katzin. Ms. Webber can be reached at 202-225-4068 (#5). Ms. Katzin can be reached at 202-225-5074.

I look forward to hearing your testimony.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman
The Honorable Paul E. Kanjorski

JUN 27'00 11:21 FR CONGOLEUM PURCHASING 609 584 3705 TO 915704140407 P.01/01

Congoleum CORPORATION

June 27, 2000

Mr. Mark Hrobuchak
President and CEO
MPH Transportation and Leasing Inc.

Dear Mr. Hrobuchak,

I would to take this opportunity to outline for you the devastating effect that the rising cost of gas has on our company. Congoleum Corporation is one of the largest manufacturers of resilient flooring in the nation and as such is heavily dependent on over the road deliveries of both raw materials and finished product. In addition we maintain a nation-wide sales force of 80 people whose job it is to travel from customer to customer logging thousands of miles each year. Each of these categories is adversely affected by rising gas prices. Because of the skyrocketing price of gas, other vendors have also taken to adding gas surcharges onto their invoices. All of this addition expense directly impacts our profitability. This in turn limits our ability to conduct business in a normal fashion. Finally, it is not good for any business when the customers have to pay more to have products delivered to them as is the case for flooring which relies exclusively on truck transportation. If you need any further information you can contact me at (609)-584-3325.

Sincerely,

Robert E. Sklenar
Purchasing Manager
rs160

3705 Quakerbridge Road • Suite 211 • Post Office Box 3127 • Mercerville, New Jersey 08619 • (609) 584-3000

** TOTAL PAGE.001 **

EIA Retail On-Highway Diesel Prices

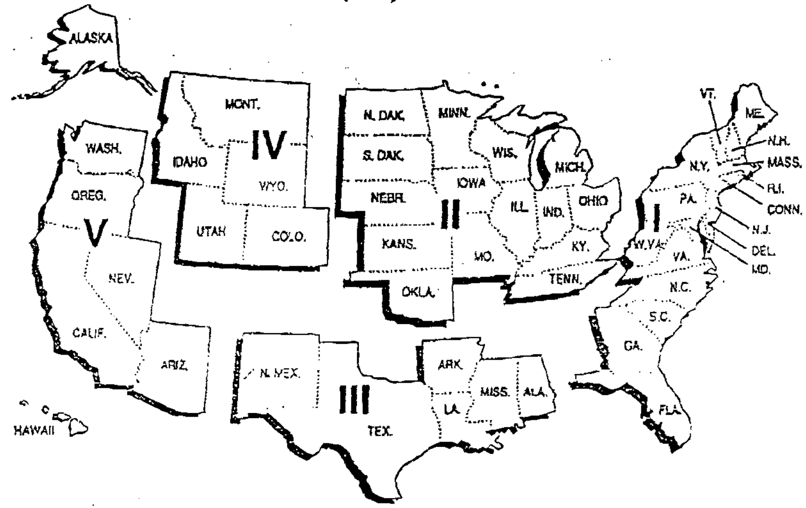
Prices in Dollars Per Gallon

Date	National U.S. AVG.	East Coast PADD 1	New England PADD 1A	Central Atlantic PADD 1B	Lower Atlantic PADD 1C	Midwest PADD 2	Gulf Coast PADD 3	Rocky Mountain PADD 4
06/19/00	1.423	1.425	1.510	1.514	1.380	1.435	1.367	1.458
06/12/00	1.411	1.420	1.510	1.516	1.370	1.410	1.359	1.462
06/05/00	1.419	1.425	1.523	1.523	1.374	1.424	1.368	1.456
05/29/00	1.431	1.436	1.518	1.532	1.387	1.441	1.383	1.458
05/22/00	1.432	1.438	1.500	1.540	1.388	1.442	1.380	1.457
05/15/00	1.415	1.414	1.487	1.507	1.368	1.422	1.361	1.442
05/08/00	1.402	1.403	1.482	1.497	1.355	1.400	1.351	1.437
05/01/00	1.418	1.415	1.490	1.503	1.371	1.423	1.368	1.445
04/24/00	1.428	1.425	1.480	1.514	1.381	1.440	1.371	1.452
04/17/00	1.398	1.400	1.468	1.483	1.359	1.382	1.354	1.469
04/10/00	1.419	1.414	1.469	1.485	1.379	1.406	1.365	1.503
04/03/00	1.442	1.436	1.485	1.502	1.403	1.426	1.387	1.515
03/27/00	1.451	1.449	1.505	1.525	1.411	1.426	1.401	1.509
03/20/00	1.479	1.485	1.549	1.574	1.441	1.460	1.421	1.507
03/13/00	1.496	1.507	1.589	1.593	1.463	1.482	1.446	1.494
03/06/00	1.490	1.510	1.609	1.601	1.462	1.484	1.434	1.465
02/28/00	1.461	1.500	1.643	1.616	1.438	1.454	1.397	1.424
02/21/00	1.456	1.520	1.739	1.653	1.443	1.439	1.393	1.409
02/14/00	1.456	1.567	1.930	1.819	1.425	1.418	1.389	1.398
02/07/00	1.470	1.626	2.122	1.961	1.437	1.406	1.397	1.393
01/31/00	1.439	1.564	1.966	1.847	1.405	1.370	1.395	1.367
01/24/00	1.418	1.505	1.836	1.694	1.394	1.369	1.382	1.357
01/17/00	1.307	1.312	1.441	1.385	1.269	1.286	1.276	1.327
01/10/00	1.307	1.302	1.374	1.384	1.260	1.294	1.276	1.332
01/03/00	1.309	1.303	1.372	1.375	1.265	1.301	1.274	1.331
12/27/99	1.298	1.290	1.367	1.373	1.248	1.296	1.257	1.332

On-highway diesel prices, by week and PADD
(Self Service Cash Price in Dollars per Gallon, Including Taxes)

DATE	US NATL AVG	EAST COAST PADD I	NEW ENGLAND PADD IA	CENT ATL PADD IB	LOWER ATL PADD IC	MIDWEST PADD II	GULF COAST PADD III	ROCKY MTN PADD IV	WEST COAST PADD V	CA
990329	1.046	1.025	1.078	1.107	0.986	1.020	1.008	1.082	1.230	1.385
990322	1.018	1.009	1.067	1.086	0.969	0.995	0.985	1.047	1.162	1.279
990315	1.000	0.995	1.058	1.077	0.954	0.974	0.967	1.024	1.145	1.262
990308	0.964	0.969	1.050	1.051	0.927	0.943	0.929	0.996	1.066	1.158
990301	0.956	0.965	1.049	1.049	0.922	0.935	0.929	0.992	1.034	1.101
990222	0.953	0.961	1.056	1.047	0.916	0.930	0.928	0.986	1.032	1.097
990215	0.959	0.964	1.065	1.047	0.919	0.940	0.933	0.987	1.037	1.105
990208	0.962	0.967	1.063	1.052	0.922	0.943	0.939	0.985	1.042	1.108
990201	0.962	0.970	1.063	1.054	0.925	0.944	0.935	0.982	1.041	1.107
990125	0.964	0.974	1.068	1.066	0.927	0.944	0.935	0.985	1.045	1.104
990118	0.970	0.979	1.073	1.073	0.930	0.949	0.944	0.985	1.056	1.114
990111	0.967	0.976	1.072	1.067	0.928	0.947	0.941	0.985	1.050	1.106
990104	0.965	0.974	1.071	1.061	0.929	0.937	0.940	0.992	1.059	1.114

Petroleum Administration for Defense (PAD) Districts



PADD (Petroleum Administration for Defense District). Originally defined during World War II for purposes of administering oil allocation, the five divisions (and three subdivisions) include the 50 States and the District of Columbia.

PADD I (East Coast):
PADD IA (New England) :
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
PADD IB (Central Atlantic):
Delaware, District of Columbia, Maryland, New Jersey, New York, and Pennsylvania.
PADD IC (Lower Atlantic):
Florida, Georgia, North Carolina, South Carolina, Virginia, and West Virginia.

PADD II (Midwest):
Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Wisconsin.
PADD III (Gulf Coast):
Alabama, Arkansas, Louisiana, Mississippi, New Mexico, and Texas.
PADD IV (Rocky Mountain):
Colorado, Idaho, Montana, Utah, and Wyoming.
PADD V (West Coast):
Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington.

Definitions

PADD: Petroleum Administration for Defense Districts

PAD District 1 (East Coast) is composed of the following three subdistricts:

Subdistrict 1A (New England): Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Subdistrict 1B (Central Atlantic): Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania.

Subdistrict 1C (Lower Atlantic): Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia.

PAD District 2 (Midwest): Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Wisconsin.

PAD District 3 (Gulf Coast): Alabama, Arkansas, Louisiana, Mississippi, New Mexico, Texas.

PAD District 4 (Rocky Mountain): Colorado Idaho, Montana, Utah, Wyoming.

PAD District 5 (West Coast): Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington.

File last modified: 02/15/2000
http://www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/weekly_on_highway_diesel_prices/current/html/padddef.html

Mr. SCHNEIDER. Mr. Chairman, if I could just respond to what the Congressman was saying. I guess in your previous remark, if I remember it correctly, I am here because I advocate a free market economy, and I advocate the least amount of government control as possible, and I make no bones about that. That is why I am here, and I appreciate the chairman for asking me to address you all.

All things being equal, your statement would be correct, but if you are going to have a free market, and you are going to have the market forces dictate price, it can be a one-sided deal where you have government interfering in environmental policy and regulations which affect from the top down, all the way to the job or to the convenience store, or to the guy that pumps the gas. All things being equal, yeah, you are probably right, but we are not—the prices are—especially in Indiana, when you have one county that is in the ozone non-attainment area and one county that is not, and the prices are 30 cents higher, there is only one explanation in my mind.

Mr. KANJORSKI. No, no. And I am glad you brought it up. There is another explanation. Mr. Schneider—and I think Mr. Wilson may have referred to it. Look, we can pay now or we can pay later. We can do away with any guide as to what kind of gasoline or what kind of pollution pours into the air or goes into our water. I happen to agree with my friend from Indiana and his side, I think ethanol is a very smart choice to add to gasoline instead of the chemical they are adding. The things I am reading about the additive, we are going to have clean air, but we are going to have awful damn dirty water, and spend a fortune somewhere down the road when we start finding out how many cancers get caused by whatever that pollutant will be in the water.

So, you know, we are not magical. We use jurisdictional lines that are false, but if you are living in a containment area, and if we don't try to bring that into a reasonable ability to breathe oxygen, we are going to pay the expense out in medical care in the future, in limited capacity to produce in the future, in all kinds of things that we can't even estimate.

Mr. BURTON. The gentleman's time has expired, and we could get into a long discussion about this, and I might even be tempted to get involved myself, but we will let that pass right now.

Mr. LaTourette.

Mr. LATOURETTE. Mr. Chairman, I don't have any questions of this panel other than to thank them for——

Mr. BURTON. Would the gentleman yield to me for just a second?

Mr. LATOURETTE. Be happy to yield.

Mr. BURTON. One of the things that we have not talked about and I mentioned in my opening statement was we have a 500-year supply of natural gas, and with a attachment to our gas line at home and a chance in our cars, we could fill up our cars right out of our own gas line at night for about one-third the cost of gasoline. The problem is we have a petroleum monopoly in this country, and we ought to look at these alternative sources. And I think Democrats and Republicans alike ought to look at natural gas as a possibility of being used for motor transportation in this country, because all of these people right here, if they use natural gas, could cut their costs, all things being equal, by probably at least half, and maybe more than that. And so we need to look at natural gas an alternative to the regular gasoline that we use.

Mr. LATOURETTE. If I can reclaim my time, then I am going to yield it to Mrs. Morella. But when we were briefed by the Energy Information Administration, they indicated that the price of natural gas is going up, and one of the problems that we are going to have is that now the refiners are going to have to make a choice between RFG, regular gasoline, making distillate fuels or building up stocks for the home heating oil season, or we are going to have a repeat of exactly what we had last summer that Mr. Hrobuchak was talking about again. And so this is a big mess that needs a fix. I promised Mrs. Morella.

Mr. BURTON. Before you yield, let me just say this: the natural gas though has so few contaminants to the environment, that you wouldn't run the risk of the things you are talking about if we used that more.

Mr. KANJORSKI. Mr. Chairman, could I add——

Mr. LATOURETTE. I promised Mrs. Morella. If she has a few seconds, she can give it to my good friend from Pennsylvania.

Mrs. MORELLA. If the good friend from Pennsylvania only needs maybe a half a minute?

Mr. KANJORSKI. I think the chairman said something very important that may make us more sensible——

Mrs. MORELLA. I yield to you, sir.

Mr. KANJORSKI. I would like to join the chairman, and make sure that the future fuels of America and the world are not monopolized, and I think give these alternatives. And I think you are coming close to the solutions, one of the solutions that Mr. Wilson. So as a Democrat, I will join you, Mr. Burton.

Mrs. MORELLA. Splendid, and I thank Mr. LaTourette for yielding time to me, because I really want to thank you for being here. You have waited a long time, you have traveled a distance. You all have personal experiences that you shared with us.

Now, when you go back, you are probably going to be asked about what happened in Congress with those members, what did they ask you? What is it you want us to remember from what you said? We want to learn from you. We are going to have the Secretary of Energy appearing after you, and we are going to have the EPA Director. Maybe something you want us to ask them, or is there one thing you would like us as Members of Congress to remember, and maybe we could do that kind of quickly, starting with Mr. Schneider.

Mr. SCHNEIDER. Thank you very much. I did touch on this in my opening statement, but if business—and I am sure Mr. Kanjorski would disagree with me, but if business is given the opportunity to operate without regulation and restriction, I believe that you would see an economy that would boom even faster than what it is now. And if there is one thing that I could ask you to say, would be just to ease off on the regulations, give us an opportunity to freely exercise our talents and make a profit, because there is nothing wrong with profit and there is nothing wrong with a profit motive. Thank you.

Mrs. MORELLA. Thank you.

Mr. HROBUCHAK. Thank you. I still want to make one point very clear. I am concerned about jobs, and I am concerned about my people and our State making money and then the United States making money. And at the present rate, because of the fuel situation, people cannot survive on a $20,000 income and work 80 hours a week. OK? And I just need to know that—or let Mr. Richardson to know that people that were making 40,000 to $43,000 last year are making $20,000 this year and still working just as hard.

Mrs. MORELLA. That he should step up to it and do something in terms of whether it is a concerted energy policy, strategic petroleum reserve, OPEC nations responding, laying off regulations. Have you, your employees, been able to see any significant benefits at the pump from the recent decrease in wholesale gasoline prices over the past week?

Mr. HROBUCHAK. No. Our costs are still up 52 percent. Like I said, they were up 125 percent initially in January, and you know, I don't care if Mr. Richardson pulls it out of his hat. You know, we need to get the oil from somewhere, because without the trucking industry in America, a lot of things won't happen in this country, and that is, No. 1, putting food on our tables, and that is what I do best.

Mrs. MORELLA. Thank you. Mr. Bailey.

Mr. BAILEY. Just need to remember that this fuel cost is affecting the foundation of America, and that is us citizens, and for every person out there like myself and my family, there is 1,000 more that aren't speaking up, that maybe you are not hearing, but we are, and that just goes to show by the contacts that I have had——

Mrs. MORELLA. That something needs to be done is what you are saying.

Mr. BAILEY. Absolutely.

Mrs. MORELLA. Ms. Oberweis.

Ms. OBERWEIS. I am very intrigued by a lot of the long-range thoughts and ideas that have been shared in terms of alternative fuels, but I think that what we are dealing with right now is a crisis, and a crisis doesn't need a long-term solution, it needs a solution immediately.

The one thing that I guess I would like to have you go away with is if there is an implementation of any sort of program that causes total chaos, back off. Allow the chaos to settle down. You can re-implement at a later date. But when I see an implementation, and from my view the EPA's implementation has affected gas prices, that has contributed certainly to total chaos, and we can't control—government can't control the oil industry, but they certainly can control our own organizations, and that is when I would ask back off, allow it to settle, and then let us look at it again.

Mrs. MORELLA. And finally Mr. Wilson.

Mr. WILSON. A couple of points. One thing that I would like to point out, when I said 5 to 8 cents more for using ethanol-blended reformulated gasoline, that includes the ethanol component. So that does not, in my mind, add to the other cost.

We talk about the RFG program. I live in a nonattainment area. Yet as I look at my gasoline prices for bulk delivery, I'm looking at $1.95 for unleaded, I am looking at $1.94 for unleaded with ethanol, and I am looking at $2.09 delivered to my farm for premium gasoline. I already talked to you about the rise we have seen in diesel fuel prices. RFG is what is taking the brunt because that is where it seems to be the most out of whack, and indeed it is.

There is a bigger issue here, and the gentleman from Pennsylvania and Ohio said that they did not share the same problems, but yet they suffer the same situation. And so I think we need to look long and hard at what is going on. I am tired, not only from the fuel and energy crisis, I am tired from regulatory efforts that I am polluting the water, and other issues I can't even begin to go into. It seems like we farmers have been under attack for a long time. The bottom line is we produce food, we produce energy, we produce it better and cheaper than anyone else in the world. We have been able to lower your share of what you spend on food from 17 percent down to about 12 percent.

And quite honestly, I am getting tired of getting kicked around on every issue that comes up. That something we produce is renewable, and positive and helpful to this economy—in Illinois, where agriculture is our No. 1 industry, and I think that everyone needs to stop and think about what is happening. It should not be taken for granted because if you want it grown in South America, if you want it grown in the European Union, you are not too many steps away from taking a lot more farmers out with situations like this.

Mrs. MORELLA. Thank you, Mr. Wilson; thank you, panel; thank you Mr. LaTourette; thank you, Mr. Chairman. It was an excess of time I took.

Mr. BURTON. That is all right. Thank you.

Ms. Schakowsky.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I really want to thank the panel very much, the Illinois representatives. I appreciate it. Mr. Wilson, I really appreciate your testimony, the contributions that your products have made to helping clean our air, and hopefully the rest of the Nation as well.

I welcome the suggestion of the chairman, that Democrats and Republicans work together to find alternative fuels that can provide a reliable source of energy, and hopefully cleaner energy. And we would just like to point out to Mr. Schneider that that kind of suggestion is the kind of ways that Government can work in a very positive way. I am really disturbed by that image of yours of having to drag along the business, and enterprise has to drag along Government regulations. And I am sure that there are some things in your business that Government has provided that actually help you, I am sure, if you looked hard enough, even the roads that you drive on.

I, also, just wanted to tell you, as the mother of a son that has had breathing problems, I really appreciate regulations that help him breathe easier, and just as an aside, the oil companies have opposed waiving the phase 2 regulations at this point and feel that it would add to the chaos, if that is even an appropriate word; that it would make things more difficult if, at this point, the phase 2 regulations were lifted.

But most of all, I just want to thank you for your testimony, your contribution to this debate and for coming here today and being so patient.

Thank you.

Mr. BURTON. Thank you, Ms. Schakowsky.

Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. I have a statement I would like to have entered in the record.

Mr. BURTON. Without objection, so ordered.

Mr. WALDEN. Mr. Wilson, I wanted to followup on something you said. I come from a very rural agrarian district out in Oregon. Our gas prices in the West Coast did this blip months ahead of the rest of the country, and we have had serious concerns. But the comment I wanted to followup earlier today, I was in a hearing involving the EPA and USDA on TMDLs, which I know are certainly an issue that farmers must be facing, and I am sympathetic to the, as a small business owner myself, problems that we face from overzealous regulation. It is not common-sense regulation, it is the overzealous regulation I think you were referring to, wasn't it?

Mr. WILSON. Yes. If you look at my bio, I have a very diverse background. I have been involved in environmental projects. I am currently the president of the Illinois Council on Best Management Practices. I have been involved in the Mackinaw River projects, Vermillion River project and other instances.

I am the first point—my family is the first point of exposure to what I do on my farm. I do not want to contaminate anyone. However, there is a balance between environmental concern and economic understanding. And I think the old saying, I had a friend that said a pendulum never stops in the middle, it swings from one extreme to the other. And I think part of what has caused some of our problems is the pendulum swinging to where we have lost the ability to do more with domestic energy. And I think that goes ways, from the development of renewables to further implementing more of the energy that we have available to us, that perhaps hasn't been as readily available as it could have been. We have been willing to move it to other countries, and we have been willing to subsidize that dependency, both in dollars and in lives to defend an area that supplies us a lot of our energy.

Mr. WALDEN. As we meet here today, there is a forum going on elsewhere in this very building on renewable energy alternatives that are out there.

Congressman Mark Udall and I chair the Renewable Energy Caucus. And I think what we need to do is make these renewable energy opportunities, whether it is wind or geothermal or natural gas or, well, the other ones, the fuel cells, things of that nature far more a part of a comprehensive energy plan for this country. And it seems like I think we all share a little blame in getting complacent in between energy crises. We kind of get over the hump, the prices go down, we think we have resolved it. And it is unfortunate that we wait until we are all caught in a squeeze again, where family budgets are dramatically impacted, small businesses are hit hard, farmers and ranchers are really crunched, before we take a look at a comprehensive policy.

I know the Secretary of Energy even said, is quoted as saying the administration has been asleep at the wheel on this one. And I am not being critical of him. I think he is right. But I think perhaps we all share in that, to the extent that we can have a positive step forward here to say, "OK. How do we deal with the emergency that is before us, as it affects our economy?" I think we need to be much tougher on the OPEC nations if we are going to spill blood to defend some of them. I think we need to figure out why we are unable to use the WTO process to get at price fixing. That is what they do, and that is not right.

So I appreciate all of your testimony, and I am very sympathetic with what you have brought with us today, and hopefully we can be of help.

Thank you, Mr. Chairman.

Mr. BURTON. Mrs. Biggert.

Mrs. BIGGERT. Thank you, Mr. Chairman. I, too, would like to thank everyone for their testimony. It is a lot longer panel or questioning than we thought because you have such interesting testimony.

I would like to ask just one question of Mr. Wilson. And I know ethanol is so important to the State of Illinois. In fact, I think it is about 15 percent of our corn production goes to ethanol, and certainly that has been very important. But I am concerned about something that you said. It made it seem like ethanol, the reformulated phase 2, was a question of just 5 to 8 cents, and that is an estimate by the EPA.

But the CRS Report, which is really a bipartisan study, it is an independent study, says that it can be roughly estimated that about 48 percent of the current price is due to the higher crude oil costs in the region of Chicago-Milwaukee. Another 25 cents of the regional cost is due to transportation difficulties, and that was the breakdown of a couple of the pipelines, the cost of actually putting a reformulated gas into the pipeline because of the difference. You know, in Illinois, we have 12 or 16 different types of gasoline coming to different areas, four zones where there are different costs. And then another 25 cents could be due to the unique RFG situation.

I don't think, and I would like to know if you agree with me, but that the cost of ethanol is not the problem. It is the cost of the uniqueness of the blend that we have to put in because of the RFG phase 2. It is much more costly. And there is also a patent from Unocal that really can make most of that gas, and a lot of the refiners would like to go around that patent so that they have to make a very expensive blend.

So I don't know. I would hate to have it just that it is 5 to 8 cents, when somebody else has said that it is 25 cents. And I think that we have asked, the Illinois delegation, has asked the EPA to really take a look at this and then report back to us by yesterday. And we have not heard anything back from them, and so I intend to ask them about that today.

Mr. WILSON. One thing I would point out about the report, I have read it as well, in the beginning of their report they talk about that this is an estimation. They did not have time to study the problem and do analysis. In the past year, I have talked with USDA, Department of Energy, the U.S. EPA and others along that line. They have taken more time to do an analysis. I would tend to feel that their analysis is a little bit more accurate than the analysis done here. I am not discrediting those folks. There are problems in how the prices have spiked.

But if I go on the basis of who has had time to analyze it, because a lot of these agencies have been looking at the problem for over a year, they perhaps maybe have a better handle, and as you are very much aware, as is the rest of the Illinois delegation. We have all been at their doorstep.

Mrs. BIGGERT. Well, we have asked them for a year, and actually had a hearing in Springfield last year to request that this be done. And the Illinois EPA actually recommended that study. So I am not sure that that study has been done.

Mr. WILSON. Right.

Mrs. BIGGERT. And that is why we recommended that there either be the waiver, because they had not come up with whether we could have a carbon monoxide credit, which then would have solved some of this problem and not had that definite spike on June 1st. But I just wanted to clarify that.

Mr. WILSON. In my opinion, EPA knew they were taking a risk by pushing the way that they did. The oil companies knew they had a problem, but they also were taking a risk. I used the analogy over a year ago in March, they are rolling the dice with our economic future and——

Mrs. BIGGERT. Well, how could the refineries make that product until June 1st, when they had to, since it is more expensive to do? Wouldn't they want to keep the RFG phase 1 until June 1st, and then they have to provide for it. But to do it ahead of time and store it I don't think was a good idea.

Mr. WILSON. I think there have been supply issues. I think the pipeline has added dramatically to that. I flew out of St. Louis this morning. When I drove into town last night, that is an RFG city, it was $1.54.

Mrs. BIGGERT. And that is because they have had a waiver from the EPA.

Mr. WILSON. I think the waiver expired June 12th, unless it was extended, though. I think there is a knot in the system, and I am hoping that supplies will improve. The last thing I will reiterate is that the reformulated gasoline program has helped improve air quality, and it has done it in a way that has not been dramatically costly until now.

Mrs. BIGGERT. Absolutely. It is has been very good for Illinois.

Mr. WILSON. And I think there are several ways to look at a problem.

Mrs. BIGGERT. Thank you.

Thank you, Mr. Chairman.

Mr. BURTON. Well, as you can hear from all of these buzzes, that we have at least one vote, and probably a series of votes, on the floor. I don't believe, Mrs. Maloney, do you have any other questions or anything?

Mrs. MALONEY. No, I don't.

Mr. BURTON. We are going to go vote right now. And then when we return, after the series of votes, we will go with our second panel.

I want to thank all of you very much. You have put a human face on the problems, and I can assure you that we are going to do everything we can to help resolve them. Thank you very much.

We stand in recess until the fall of the gavel.

[Recess.]

Mr. BURTON. The committee will reconvene. And if we could get our guests to come to the table, we will try to get started.

Here is the way we are going to work this because of the time constraints. The guests, witnesses will be sworn. Then we will go, according to the rules that were established earlier today, the majority has 30 minutes on our side.

Mrs. Biggert will be recognized for 10 minutes, then Mr. Ryan will be recognized for 10 minutes, and then Mr. LaTourette will be recognized for 10 minutes, and then we will go to the minority. And we may be able to expedite this in a quick way if we get to the questions and get them answered.

So with that, would the three of you please stand and raise your right hands.

[Witnesses sworn.]

STATEMENTS OF BILL RICHARDSON, SECRETARY, DEPARTMENT OF ENERGY; CAROL BROWNER, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; AND ROBERT PITOFSKY, CHAIRMAN, FEDERAL TRADE COMMISSION

Mr. BURTON. Please be seated. And I ask unanimous consent that your statements be submitted for the record. And I would also like to ask you, if we send you written questions, if you can respond to those if we don't get to them tonight. Thank you.

[The prepared statements of Mr. Richardson, Ms. Browner and Mr. Pitofsky follow:]

**PREPARED STATEMENT OF
U.S. ENERGY SECRETARY BILL RICHARDSON
BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM
JUNE 28, 2000**

Thank you for giving me this opportunity to speak with you about energy issues before us this summer, the near- and long-term responses forwarded by the Administration, and the corresponding solutions now before you in the Congress.

We both have opportunities to answer the nation's energy challenges. My responses to the energy issues of this year have been based on the Clinton-Gore Administration's energy policy. This unwavering policy is informed by several principles, and focuses serious attention on ensuring our energy security. We believe in:

- market forces, not artificial pricing;
- diversity of supply and strong diplomatic relations with energy producing nations;
- improving the production and use of traditional fuels through new technology development;
- diversity of energy sources, with long-term investment in alternative fuels and energy sources;
- increasing efficiency in the way we use energy; and
- maintaining and strengthening our insurance policy against supply disruptions: the Strategic Petroleum Reserve.

We are seeing some recent signs of encouragement in our oil and gas markets, thanks to our adhering to this policy. The Energy Department's Energy Information Administration reports that conventional regular gasoline has dropped 3 cents per gallon over the past week, nationwide. In the Midwest, where we were disturbed about exceedingly high prices, EIA reports a drop of about 7 cents per gallon for conventional regular.

Reformulated gas is down 12 cents a gallon in the Midwest. I think we can agree that this is heartening.

Part of this relief stems from our work of the past six months, when we moved aggressively to help improve supply. As you know, I've talked extensively with oil producing nations. OPEC and other producers have heard our concerns and have twice boosted their output.

Our latest data shows that there are about 3.5 million barrels per day more oil on the market than during this time last year. That is a significant addition to the world market.

So we've had some success. However, we have not been able to replenish world stocks as demand continues to skyrocket, and we see no chance for abatement any time soon. The world is demanding more and more oil – and even bringing 3 million barrels per day back onto the market is not going to assuage that swarming demand.

We need to pursue longer-term solutions. This is the only way we can bring stability in prices.

President Clinton is committed to such a long-term vision, rolling-out proposals to increase domestic production, to spur energy efficiency, and increase the use of alternative energy resources.

You remember the heating oil shortfall we had this spring. To meet it, the President released nearly a third of a billion dollars in the spring, to help low income families pay their heating bills. He asked for $600 million more in Low Income Housing Energy Assistance funds. And he is requesting an additional $19 million from Congress for low income home weatherization.

We addressed the issue of supply, through increased support for tankers; Small Business loans for distributors and other small businesses impacted by high prices; and encouraged refiners to increase production.

We're also working aggressively to ramp-up domestic production of oil, cultivate alternative sources of energy, and amplify energy efficiency.

We're helping independent oil producers test new production technologies, and lending a hand to small producers already in the field. And our ultra clean fuels program is helping refiners comply with the new EPA Tier II rules.

We also re-established an Office of Energy Emergencies at the Energy Department, to coordinate with the States and other federal agencies regarding any energy-related crises. This move is helping us right now as we assess the demand for power and the impact on our grids during a very hot summer.

But still, America, and the world, are demanding their fossil fuel. As Americans hit the road for the Fourth of July, demand has reached the highest levels ever for this time of year. Refineries in the U.S. are working at 96%, and at 99% in the Midwest.

So we cannot predict that the additional 3.5 million barrels a day are going to immediately push prices lower. Demand right now is absorbing nearly all of that. But I think, in time, we will see the price pressure eased a bit.

And while we did see those pennies dropping off prices at the pump in the past few days, we remain troubled about gasoline prices in the Midwest, particularly around Chicago and Milwaukee. Our experts are talking to the Environmental Protection Agency to see what we can do in the near term to bring some relief to consumers. And as you know, Chairman Pitofsky and the Federal Trade Commission (FTC) continue their investigation of pricing practices in the region.

Mr. Chairman, we also took several other steps in the past two weeks to meet some unexpected issues.

On June 15th, I ordered a limited exchange of crude oil from the Strategic Petroleum Reserve's West Hackberry site to two refineries after a commercial dry dock collapsed near Lake Charles, Louisiana. Our response came within hours, and shows our commitment to responding quickly. The U.S. Army Corps of Engineers has since worked overtime to dredge a new channel, and oil traffic is moving again.

And when there was a pipeline problem near St. Louis, Administrator Browner and the EPA granted a waiver that postponed implementation of their new rule on reformulated gasoline until the problem was solved.

But there is still more that we can do to get relief to consumers.

Last week, President Clinton sent a letter to the Senate Majority Leader, urging that the Congress work with the Administration to enact the President's pending energy proposals without delay. One chief component of the President's energy initiatives is a $4 billion package of tax incentives to encourage domestic oil and gas production, and for consumers to purchase more efficient cars, homes, and consumer products. This package has gathered dust on the Hill for two years.

The President has also repeatedly asked for increased investments to meet our energy needs. In FY2001, the President advanced a $1.4 billion investment for Energy Department programs in:

- energy efficiency;
- renewable energy;
- natural gas; and
- distributed power systems.

But Congress has failed to support these goals, approving only 12% of the increases over the past seven years.

This year, the House has already slashed the Department's FY2001 budget for energy efficiency to below last year's enacted level. The House has squelched nearly all Department funding for the Partnership for a New Generation of Vehicles program.

And the Congress has delayed action to extend the Energy Policy and Conservation Act, which authorizes two central components of our nation's energy security: the Strategic Petroleum Reserve and our participation in the International Energy Agency. We need to reauthorize EPCA now.

The President also submitted the Comprehensive Electricity Restructuring Act two years ago. Congress has not yet enacted a bill. Just last week came the latest breakdown, when the Senate Energy and Natural Resources Committee failed to report comprehensive legislation.

And to better ensure our energy security year round, the President has also called for:

- establishing a regional home heating oil reserve in the Northeast; and
- replenishing the Low Income Home Energy Assistance Program emergency funds – which we needed to access during the heating oil shortfall last year.

These are our actions, both performed and proposed, to respond to the energy issues encountered this year. We have seen some success, and I believe that is based on our adherence to the Administration's informed energy policy. But we have more work to do.

As I mentioned, the Congress, too, has opportunities before it. Let's discuss how we can bring both our strengths to bear in delivering America the best energy security.

CAROL M. BROWNER
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
June 28, 2000

Thank you, Mr. Chairman and Members of the Committee, for the invitation to appear here today. I appreciate having the opportunity to share what we know about the recent sharp increases in gasoline prices, particularly in the Midwestern part of the country. I also will explain the Environmental Protection Agency's efforts, in coordination with the Department of Energy and the Federal Trade Commission, to address the situation.

Mr. Chairman, first and foremost we are very concerned that consumers receive the air quality benefits of the clean burning gasoline (also called reformulated gasoline, or RFG) program at a fair and reasonable price. In the following testimony I will show that the cost of producing RFG does not account for the extremely high price differentials we have seen in the Chicago and Milwaukee areas. As EPA reviewed the various requests for waivers from the RFG program, factors such as the pipeline, tank turnover and patents were examined. We do not believe that these factors adequately explain the price differentials that we have seen in the Chicago and Milwaukee areas.

Let me begin with a history of the RFG program.

History of RFG

When Congress passed the Clean Air Act Amendments of 1990 it put in place a number of programs to achieve cleaner motor vehicles and cleaner fuels. These programs have been highly successful in protecting public health by reducing harmful exhaust from the tailpipes of motor vehicles. In the 1990 Amendments, Congress struck a balance between vehicle and fuel emission control programs after extensive deliberation. The RFG program was designed to serve multiple national goals, including air quality improvement, enhanced energy security by extending the gasoline supply through the use of oxygenates, and encouraging the use of domestically-produced, renewable energy sources.

Congress established the overall requirements of the RFG program by identifying the specific cities in which the fuel would be required, specific performance standards, and an oxygenate requirement. The oil industry, states, oxygenate producers and other stakeholders were involved in the development of the RFG regulations in 1991 through a successful regulatory negotiation. EPA published the final regulations establishing the detailed requirements of the two-phase program in early 1994. Thus, the oil companies and other fuel providers have had six years to prepare for the second phase of the program that began this year. In addition, the oil industry has been involved in an EPA RFG implementation advisory workgroup since 1997 and at no time during those discussions did the companies raise concerns about production, supply or distribution problems that might occur.

The first phase of the federal reformulated gasoline program introduced cleaner gasoline in January 1995 primarily to help reduce vehicle emissions that cause ozone (smog) and toxic pollution in our cities. Unhealthy smog levels are a significant concern in this country, with over 100 million people living in 36 areas currently violating the 1-hour ozone standard.

The federal RFG program is required by Congress in ten metropolitan areas which have the most serious air pollution levels. Although not required to participate, some areas in the Northeast, in Kentucky, Texas and Missouri have elected to join, or "opt-in" to the RFG program as a cost-effective measure to help combat their air pollution problems. At this time, approximately 30 percent of this country's gasoline consumption is cleaner-burning reformulated gasoline.

The Clean Air Act Amendments of 1990 also required that RFG contain 2.0 percent minimum oxygen content by weight. Neither the Clean Air Act nor EPA requires the use of any specific oxygenate. Both ethanol and MTBE are used in the current RFG program, with fuel providers choosing to use MTBE in about 87 percent of the RFG. Ethanol, however, is used exclusively in RFG in the upper Midwest (Chicago and Milwaukee).

Ambient monitoring data from the first year of the RFG program (1995) confirm that RFG is working. RFG areas showed significant decreases in vehicle-related tailpipe emissions. One of the air toxics controlled by RFG is benzene, a known human carcinogen. The benzene level at air monitors in 1995, in RFG areas, showed the most dramatic declines, with a median reduction of 38 percent from the previous year. The emission reductions which can be attributed to the RFG program are the equivalent of taking 16 million cars off the road. About 75 million people are breathing cleaner air because of cleaner burning gasoline. Since the RFG program began five years ago, it has resulted in annual reductions of smog-forming pollutants of at least 105 thousand tons, and toxic air pollutants by at least 24,000 tons.

As required by the Clean Air Act, the first phase of the RFG program began in 1995 and the second phase began in January of this year. As an example of the benefits, in Chicago, EPA estimates that the Phase II RFG program will result in annual reductions of 8,000 tons of smog-forming pollutants and 2,000 tons of toxic vehicle emissions, benefitting almost 8 million citizens in the Chicago area facing some of the worst smog pollution in the nation. This is equivalent to eliminating the emissions from 1.2 million cars in Illinois.

Administration Response to Increasing Prices

In early June, as gasoline prices rose, particularly in the Midwest, EPA and DOE invited Midwest oil refiners to a meeting in Washington, DC. Simultaneously, EPA, DOE and the Energy Information Agency (EIA) sent two teams of technical experts to the Midwest to investigate the situation and to talk to refiners, distributors, pipelines, jobbers, terminal operators and retail outlets. Following those meetings, which occurred on June 12 and 13, EPA Administrator Browner and DOE Secretary Richardson sent a joint letter on June 15 to Chairman Pitofsky requesting that the Federal Trade Commission conduct a full and expedited formal investigation into the pricing of RFG in Chicago and Milwaukee.

Since June 15, the wholesale price of reformulated gasoline has dropped by over 38 cents per gallon in Chicago and Milwaukee. The Oil Price Information Systems (OPIS) has reported that the wholesale price differential between RFG and conventional gasoline in nearby cities has dropped to less than 1 cent a gallon in Chicago and 8 cents a gallon at Milwaukee terminals.

In our discussions, representatives of oil companies listed a number of factors which they believed contributed to the price differential between RFG and conventional gasoline in the Midwest. These included: the additional cost of producing RFG phase II, temporary shutdown of the Explorer Pipeline, the difficulty with replacing winter gas with summer blends (draining tanks), and the Unocal patent. I would now like to discuss each of these factors and show why EPA believes even taken together they do not account for the high gasoline prices.

Production Costs for RFG Do Not Explain Price Increases

As I stated earlier, we are very concerned that consumers receive the benefits of the RFG program at a fair price. Across the country hundreds of communities are benefitting from RFG II for pennies per gallon. In fact, this Monday (June 26), the average retail price of conventional gasoline across the country was $1.65 per gallon. EPA has calculated, based on EIA and OPIS surveys, that the average retail price for RFG II everywhere except in Chicago and Milwaukee was $1.64 per gallon, while the average retail price in Chicago and Milwaukee was $2.08 per gallon.

EPA strongly disagrees that the RFG program is responsible for increases in gasoline prices in the Midwest. In fact, EPA's estimates of the average cost for the production of Phase II RFG range from 4 to 8 cents more per gallon than conventional gasoline (with the use of either ethanol or other oxygenates). Several studies agree with EPA's estimates of the average costs:

Analysis by Bonner and Moore Management Science, a nationally recognized firm that specializes in refinery cost analysis, estimated that RFG I would add 3-5 cents more per gallon to the average cost compared to conventional gasoline. Subsequent studies by Bonner and Moore and Oak Ridge National Laboratory estimated that RFG II would add 1-2 cents to the average cost of RFG I or 4-7 cents to the average cost of conventional gasoline. Oak Ridge National Laboratory estimated that the average added cost of blending ethanol into RFG II as compared to RFG I was about 1 cent more per gallon.

As I have already stated, over the past week, the wholesale price differential between RFG and CG has dropped dramatically in the Chicago/Milwaukee area. We do know that this differential is now in line with differentials observed in other parts of the country. EPA does not believe that the cost of complying with RFG regulations accounts for the extremely high price differentials we have seen in the Chicago-Milwaukee areas.

Temporary Shutdown of Explorer Pipeline

EPA investigated the situation with the Explorer pipeline to respond to the waiver requests we received and would like to share our findings. The Explorer pipeline has historically provided 10 to 15 percent of the RFG supply for the Chicago/Milwaukee area. The outage of the pipeline in mid-March meant a loss of 108,000 barrels of RFG destined for the Chicago area. Chicago consumes about 200,000 barrels of gasoline a day. Thus, the RFG lost due to the Explorer pipeline outage was less than one day's RFG needs for Chicago. Since mid-March, the Explorer pipeline from Houston to Tulsa has been running at 90 percent capacity, while the pipeline north of Tulsa to the Midwest has been capable of operating at 100 percent capacity. The supply of RFG to the Midwest has increased this year over last year and, in fact, for the month of June refiners expected to supply 650,000 more barrels of RFG this year than last year. The Explorer pipeline has informed us that more RFG could be sent if the companies elected to do so. For example, the pipeline company has informed us that, beginning earlier this month deliveries of RFG to Chicago have increased by approximately 100,000 barrels per ten day cycle.

Tank Turnover

Tank turnover refers to the need to replace winter gasoline in terminal storage tanks with summer blends. Fuel providers have been doing this for over ten years to comply with summertime gasoline volatility requirements. This normally begins in April and, as required by regulation, the tanks at terminals must all meet summertime RFG requirements as of May 1st.

Unocal Patent

EPA has heard comments as to the impact of the Unocal patent. While we understand that this matter may be in litigation, the refiners have told us in meetings with them that they are able to produce RFG that is not subject to the patent. In our discussions with refiners and with Unocal, no one has identified any cost or supply issues related to the patent that could in any way explain the price increases for RFG that we have seen in the Midwest over the last two months.

Waiver Issues

In recent weeks there have been many calls for EPA to waive the RFG Phase II requirements in Milwaukee and Chicago. The RFG regulations provide for an administrative waiver under very limited circumstances - extreme and unusual circumstances, such as Acts of God or natural disaster, where the refiner or importer is unable to comply with the RFG requirements despite their exercise of due diligence and planning. The various criteria for an administrative waiver under the regulations have not been met in the Milwaukee or Chicago area, so EPA has treated all of the requests for a waiver as requests for enforcement discretion. Enforcement discretion is normally used in situations such as occurred in St. Louis early this spring, where the short term shut down of the Explorer pipeline led to actual and acute shortages. The pipeline supplies on average 70 percent of fuel delivered to St. Louis.

For Chicago and Milwaukee the supply of RFG continues to be adequate and prices are going down. All refiners have strongly recommended that EPA not grant RFG waivers. It is highly uncertain what effect a waiver would have on supply and prices. Refiners would need to make adjustments and switch gears, imposing short term costs and the possibility of supply problems. No RFG Phase I is currently available, and supplies of conventional gasoline are tight as well. Waiving the RFG Phase II requirements under these kinds of circumstances could exacerbate the supply and price situation in the Midwest, for both RFG and conventional gasoline.

Conclusion

In closing, I would like to reiterate the following points:

- Clean burning RFG II is providing public health benefits to almost 75 million citizens nationally and nearly 8 million in the Chicago area alone.

- EPA believes the cost of producing RFG II does not account for the extreme prices being paid by Midwest consumers. The pipeline disruption, the tankage issue, the Unocal patent and its implications, as well as ethanol use, have all been analyzed. EPA does not believe that these factors adequately explain the price increases we have seen in recent weeks.
- We are concerned that consumers are paying these high prices for RFG II.

This concludes my prepared statement. I would be pleased to answer any questions that you may have.

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Prepared Statement of the Federal Trade Commission

Midwest Gasoline Prices

Presented by Robert Pitofsky[1]

Chairman

Before The

Committee on Government Reform
United States House of Representatives

June 28, 2000

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1 This written statement represents the views of the Federal Trade Commission. My oral presentation and response to questions are my own, and do not necessarily represent the views of the Commission or any other Commissioner.

I. Introduction

Mr. Chairman and members of the Committee, I am pleased to appear before you today to present the Federal Trade Commission's testimony on recent increases in gasoline prices in certain Midwest markets. Competition in the energy sector–particularly in the petroleum industry–is vital to the health of the economy of the United States. Antitrust enforcement has an important role to play in ensuring that the industry is, and remains, competitive.

Consumers in some Midwest markets, such as Chicago and Milwaukee, have experienced considerable price increases in gasoline since early spring, and prices have continued to spike up in the past month. The national average retail price of reformulated gasoline ("RFG") increased from $1.29 to $1.67 per gallon from November, 1999 to June 12, 2000.[2] In Chicago, the average RFG price rose from $1.85 per gallon on May 30 to $2.13 on June 20.[3] From May 30 to June 20 in Milwaukee the increase was from $1.74 to $2.02.[4] During the week of June 19, RFG prices at some Chicago gas stations apparently rose as high as $2.50, although they reportedly receded

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[2] Energy Information Administration, Office of Oil and Gas Daily Price Report (June 12, 2000). In comparing average RFG prices at different times and at different places, it should be noted that RFG requirements may differ between summer and winter and also between localities.

[3] EPA Data, RFG-CG Price Information, based on Oil Price Information Service data (June 14, 2000, June 23, 2000).

[4] *Id.*

several cents towards the end of last week.[5]

Conventional gasoline prices in the Midwest have also risen substantially in recent weeks. National average retail prices increased from $1.25 to $1.61 per gallon for conventional gasoline between November, 1999 and June 12, 2000.[6] Average conventional gasoline retail prices in the Midwest rose from $1.55 to $1.85 per gallon from May 29 to June 19, 2000.[7] Increases as dramatic as those seen in recent weeks, without any obvious complete explanation, call for scrutiny by antitrust enforcement authorities to determine whether they result from collusion or other unlawful anticompetitive conduct.

The FTC is a law enforcement agency with two related missions: to preserve competition in the marketplace for the ultimate benefit of consumers and to protect consumers from deceptive or unfair practices that may injure them more directly. Unlike agencies that focus on particular industries, the Commission's statutory authority covers a broad spectrum of sectors in the American economy, including the energy industry and its various components. The Commission's Bureau of Competition shares responsibility for antitrust enforcement with the Antitrust Division of the Department of Justice. The Commission also shares its expertise in both competition and consumer protection matters by providing advice to the States and to other

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[5] *See* R. Kemper & K. Mellen, "As Pressure Builds, Price of Gas Falls," *Chicago Tribune* (June 23, 2000).

[6] EPA Data, RFG-CG Price Information (June 14, 2000).

[7] Energy Information Administration, Motor Gasoline Watch (June 21, 2000) at 2.

federal regulatory agencies.

Consumer welfare is the goal of antitrust enforcement across all industries. Its importance is particularly clear in the energy industry, where even small price increases can strain the budgets of many consumers, particularly those with low and fixed incomes, and of small business, and, as a result, can have a direct and lasting impact on the entire economy. In fiscal years 1999 and 2000 to date, the Bureau of Competition spent almost one-third of its total enforcement budget on investigations in energy industries.

Today, we provide an overview of our investigation into whether illegal conduct has led to gasoline price increases in Chicago, Milwaukee, and elsewhere in the Midwest.

II. Potential Causes of the Current Price Spikes

Publicly available information suggests that several factors may have contributed to the recent spikes in prices. The first factor is the reduced global supply of crude oil. In the second half of 1999, OPEC countries, joined by several non-OPEC oil exporting countries, curtailed the global supply of crude oil. During the same time period, a number of Asian economies began to recover from a regional recession, causing increased demand for petroleum products. Moreover, in recent months, many foreign economies have experienced impressive growth, while the U.S. economy has continued its record expansion. The result is that worldwide consumption of crude oil has exceeded production, and world and U.S. inventories have been drawn down. Refiners responded to the crude price increases caused by this crude shortage by cutting gasoline production and using inventories of gasoline to meet demand, in the expectation that inventories could be replenished once crude oil prices dropped, with the result that the spread between crude oil and conventional gasoline increased. All of these factors have led to tight supply situations in many countries.

In the Spring of this year, the OPEC countries agreed to increase production in an attempt to moderate the price of crude petroleum, which had increased from a low of about $12 a barrel in February 1999 to over $32 a barrel in March 2000.[8] The announcement of the Spring supply increase caused crude prices to dip temporarily, but they have since recovered, reaching $33 a barrel earlier this month, in the face of continued world-wide economic expansion and summer increases in demand for gasoline. It remains to be seen whether, when and to what extent OPEC's announcement last week of a further crude supply increase will reduce prices.[9]

Chicago, Milwaukee, and other places, principally in the Midwest, have suffered particularly severe recent price increases that cannot be explained solely by the OPEC actions and other world market factors, which would have an impact on all regions of the United States. One factor specific to the Midwest markets that may have contributed to the price increases was the introduction of EPA Phase II regulations for summer-blend reformulated gasoline that went

[8] Energy Information Administration, Update: A Year of Volatility-Oil Markets and Gasoline, June 21, 2000 (West Texas Intermediate crude oil spot prices).

[9] On June 21, OPEC announced a production increase of 708,000 barrels per day. "OPEC Agrees to Increase Oil Production," *Wall Street Journal* (June 22, 2000) at A3.

into effect on May 1, 2000 at the wholesale level in both Chicago and Milwaukee. The new, more-stringent regulations require that winter-blend gas be drained from storage tanks before the summer-blend supply could be added. These regulations may have led to abnormally low inventories. According to some reports, summer-blend Phase II RFG is proving more difficult to refine than anticipated, causing refinery yields to be less than expected. The ethanol-based RFG used in Chicago and Milwaukee is reportedly proving to be the most difficult of all to make. Further, St. Louis has now entered the RFG program for the first time, thus adding additional demand to an already tight Midwest RFG supply situation.[10] Moreover, the recent appeals court decision upholding Unocal's patent for some formulations of RFG may have caused some refineries to change RFG blends in an effort to avoid infringement, leading to production delays and decreased refinery throughput.[11] As with the OPEC factor, RFG-related issues seem unlikely, however, to provide a complete explanation for recent Midwestern gas price increases, given that in the Midwest as a whole, conventional gasoline prices have risen more dramatically than RFG prices since the end of May.[12]

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[10] St. Louis received EPA waivers to delay implementation of Phase II RFG until early June, because of a break in the Explorer pipeline which serves the region. St. Louis uses primarily MTBE-based RFG, which many observers believe to be less costly than ethanol-based RFG. St. Louis has not so far experienced price increases as great as those in Chicago and Milwaukee.

[11] *Union Oil Co. v. Atlantic Richfield Co.*, 208 F.3d 989 (Fed. Cir. March 29, 2000).

[12] According to Energy Information Administration figures, average retail prices throughout PADD II (the Midwestern Petroleum Administration for Defense District) rose 18.9 cents for RFG and 29.4 cents for conventional gasoline from May 29 to June 19. *See* Energy Information Administration, Motor Gasoline Watch (June 21, 2000) at 2.

Another possible factor underlying the price increases could be the break in the Explorer pipeline last March. This pipeline moves refined petroleum products from the Gulf of Mexico through St. Louis to Chicago and other parts of the Midwest.[13] Explorer is still not operating at full capacity.[14]

These supply and demand factors could explain the Midwest price increases in whole or in part. However, these price spikes are particularly large. None of these factors precludes the possibility that collusion may have occurred at some point that further contributed to higher gas prices for consumers. If non-collusive marketplace events do not explain the price spikes, that may provide circumstantial evidence that illegal activity has taken place. In addition, we may find more direct evidence. As we undertake this inquiry, we do not know what we will find.

III. The FTC's Investigation

The Commission protects competition by enforcing the antitrust laws. We do not regulate or attempt to determine the reasonableness of energy prices. Instead, we investigate whether or not specific anticompetitive and unlawful conduct has occurred that interferes with the operation of the free market. Thus, our investigation will not determine whether prices are too high or too low, but only whether there is reason to believe that the antitrust laws have been

[13] Environment News Service, "Gasoline Spill Threatens Dallas Water Supply" (March 13, 2000).

[14] EPA/DOE briefing of results of field interviews to FTC staff, 6/14/2000 and to Midwest/Northeast Congressional Caucus, 6/16/2000.

broken.

For analytical purposes, it is best to think of the Commission's antitrust enforcement authority as divided into merger and nonmerger sectors. Enforcing the law against anticompetitive mergers prevents the accumulation of unlawful market power, that is, the ability profitably to raise prices above competitive levels. The matter we are discussing today involves enforcing the nonmerger provisions of the antitrust laws. There are two principal types of nonmerger conduct that may have unlawful anticompetitive effects: (1) the illegal acquisition or maintenance of monopoly power, which typically consists of a single firm's exclusionary conduct to prevent or impede competition; and (2) collusion among two or more independent firms to increase prices, curtail output or divide markets. Our investigation will focus on whether any industry participants have engaged in collusion because it does not appear, at the outset, that any single oil company has sufficient market power to raise prices unilaterally.

The Commission has initiated a formal investigation into the causes of the recent gas price increases in the Midwest. This will be a civil investigation conducted pursuant to our authority under the Federal Trade Commission Act.[15] The investigation is being spearheaded by our Midwest Regional Office, located in Chicago. We are working closely with the Attorneys General of the affected States to coordinate our combined efforts.

[15] 15 U.S.C. § 41 et seq. The Commission does not have criminal enforcement authority. The Antitrust Division of the Department of Justice has exclusive responsibility for criminal enforcement of the antitrust laws, pursuant to authority granted under the Sherman Act. 15 U.S.C. § 1 et seq. If we uncover evidence of criminal activity, however, such as hard-core price fixing, we can forward the matter to the Antitrust Division.

The Commission's investigative process in a nonmerger collusive practices case involves a thorough search for evidence that the industry participants are engaging, or have engaged, in collusive behavior prohibited by the antitrust laws. Once a formal investigation is opened, staff typically requests from the Commission the authority to use compulsory process. The Commission has approved the use of compulsory process in this investigation, permitting the issuance of both subpoenas and Civil Investigative Demands, and the taking of depositions under oath.[16] Process will be used to take testimony and gather evidence from the various entities that refine, transport and distribute gasoline in the Midwest, as well as suppliers and customers, and other knowledgeable or affected persons. The Commission already has begun issuing subpoenas to the entities involved in the chain of gas supply to the affected region. These entities include refiners, pipeline owners and operators, terminal owners and operators, and blend plant owners and operators. Our staff also has begun conducting interviews with market participants, consumers, corporate users of gasoline, and others with potential knowledge of relevant facts. The objective is to determine who raised prices, and whether there was any illegal contact, communication or signaling among competitors before or during the time of the price increases.

The Commission must show more than parallel behavior among market participants to prove collusion. The fact that all companies raise prices at the same time is not sufficient

[16] Subpoenas and CIDs are two methods of requiring the submission of certain information needed for an investigation. The Commission has authority to issue both. There are certain administrative and procedural advantages to each type of compulsory authority. Subpoenas are generally preferable for document discovery or in-person testimony, while CIDs may be superior for obtaining interrogatory responses or information and for service on foreign entities. Naturally, the Commission seeks evidence from witnesses on a voluntary basis where appropriate or feasible.

evidence of collusion. The courts have held that some "plus factor" must be present to demonstrate that an agreement was reached. Behavior that would be unprofitable "but for" collusion may be evidence that such an agreement exists.

Beyond this general description of what the Commission is undertaking, we can make no further comment about the particulars of this on-going, non-public investigation. We must emphasize that an FTC antitrust investigation is not a quick fix. The Commission will provide an interim status report by the end of July, but it may take significantly longer than that to conduct the thorough investigation that this matter deserves. Our objective is to determine whether there has been any illegal conduct, and, if there has, to determine who was responsible and either bring the matter to court or initiate our own administrative proceeding. We need to develop solid documentary and testimonial evidence in order to be able to bring a case. Based on the FTC's extensive experience in conducting these kinds of investigations, we know this can be done only through a careful and fact-intensive analysis. We cannot say at this time when the investigation will be concluded.

We assure you that our investigation will be thorough, objective and as expeditious as possible. The FTC has an excellent staff of lawyers and economists with considerable experience in the oil industry who are working on this investigation, and we will pursue this matter vigorously.

Mr. BURTON. Mrs. Biggert, you are recognized for 10 minutes.

Mrs. BIGGERT. Thank you, Mr. Chairman. I guess we probably picked the worst day in the last month or something with this commotion. So we are really sorry to keep you waiting and that we don't really get to hear your testimony.

But first of all, I have a question for Mr. Pitofsky. The FTC has launched a formal investigation into the retail prices in Chicago and Milwaukee. And I am from Illinois, so I have a lot of concern about what is happening in the nonattainment area that I am in. So certainly the gasoline prices have surpassed the $2-per-gallon.

Am I correct in understanding that your investigation will focus on the allegations of collusion or price fixing involving the oil and gas products?

Mr. PITOFSKY. Yes.

Mrs. BIGGERT. And I also understand that the FTC's Bureau of Competition already has been conducting a long-term probe into price-fixing by California refiners.

Mr. PITOFSKY. We have looked at California gas prices, yes.

Mrs. BIGGERT. What events instigated that probe in California?

Mr. PITOFSKY. In California, it really grew out of our investigation of some mergers that had an impact on the West Coast market.

Second, we were aware of the fact that prices on the West Coast were higher at that time than in any other part of the country. That's no longer true, but that was true at that time. And then there were some——

Mrs. BIGGERT. Yes. I guess, we—excuse me. Go ahead.

Mr. PITOFSKY. And then there were some practices that were called to our attention that we thought deserved to be examined.

Mrs. BIGGERT. What is the status of the California investigation?

Mr. PITOFSKY. It is ongoing.

Mrs. BIGGERT. Are there differences between that investigation and the investigation that will be conducted in the Midwest?

Mr. PITOFSKY. I think so. The reason we are looking at the Midwest is because of a very substantial sharp spike in prices. That is a specific event that we are examining, and we will try to find out why it is happening.

In California, or not just California, but the West Coast, you have had a long-term elevated level of gasoline prices that, in many ways, is more complicated and more difficult to investigate.

Mrs. BIGGERT. How does your investigation then differ from the EPA or the DOE or groups like the Congressional Research Service?

Mr. PITOFSKY. I think there's a great deal of overlap in what we would examine, but we're doing it with compulsory process, subpoenas, and we are focusing on whether or not a possible explanation for this price spike is illegal behavior under the antitrust laws.

Mrs. BIGGERT. Are you able to share information obtained in your investigation with the EPA or with the DOE?

Mr. PITOFSKY. Yes, we will be able to share information.

Mrs. BIGGERT. And are they sharing information with you?

Mr. PITOFSKY. They certainly have been.

Mrs. BIGGERT. If there is evidence of price gouging or collusion or if that was happening, why would an industry raise such a dramatic amount rather than maybe saying 2 cents across the Nation, which might go a little bit less unnoticed than 50 cents a gallon in the Midwest, which has caused such a firestorm?

Mr. PITOFSKY. I don't know why anyone would do that.

Mrs. BIGGERT. I hope you find out.

Mr. PITOFSKY. And I hope we can find out promptly as well.

Mrs. BIGGERT. In your testimony, or in the record now that you put into the record, you state that one of the possible causes for high gas prices in Chicago-Milwaukee is that the ethanol-based RFG use in those cities is supposedly the most difficult to make.

Mr. PITOFSKY. People have said that. I don't know that that is true, but we will look at that question.

Mrs. BIGGERT. OK. So you haven't found that to be true or gotten that far yet.

Mr. PITOFSKY. We are very early in this investigation.

Mrs. BIGGERT. You said people have said that. What is the source of that information?

Mr. PITOFSKY. Mostly published reports from people who speak for the industry have talked about the difficulty of including this ingredient in the reformulated gasoline.

Mrs. BIGGERT. And then in St. Louis and Louisville, who also use ethanol in the RFG, from what I understand, the prices are not as high in those cities. How would you account for the difference?

Mr. PITOFSKY. Well, it's a very important aspect of any investigation to compare one area to another. I am not going to try to account for the difference today. What we are going to ask is for the companies to try to help us understand why it should be that prices are 30, 40, and 50 cents higher in Chicago and Milwaukee and not in these other places.

Mrs. BIGGERT. How long do you expect your investigation to take?

Mr. PITOFSKY. I don't know. What I have committed to is an interim report, a status report, before the end of July. I doubt very much that in that short period of time, we can come up with all of the answers to all of these questions. But we will be able to report on what we found to that point. And I think then we can perhaps make a commitment as to how long the investigation will take.

Mrs. BIGGERT. Well, so much of the concern in the Chicago-Milwaukee area is immediate. Will your investigation be able to address these problems and have then a long-lasting impact on the current price of gasoline?

Mr. PITOFSKY. Let me repeat what I have said to several delegations. Antitrust is not a quick fix. We don't have the authority to roll back prices. We don't have the authority to take steps that would immediately adjust these problems. We will investigate, we will try to do it in a thorough, fair and objective way. I don't think—well, you know, one consequence of the investigation is, perhaps coincidentally, prices have begun to come down. I am not saying that's the reason.

But as far as a final judgment as to why this is happening, which is what we're about, we're going to do it thoroughly, and carefully. I realize people want an answer quickly. But I think a rush to judgment on an issue as complicated as this would not be a good idea.

Mrs. BIGGERT. Thank you.

Ms. Browner, have you formally denied the Illinois and Wisconsin waivers from the RFG program?

Ms. BROWNER. We have not made any decision on the waiver requests. There are two different requests, as I am sure you are aware. Your Governor has requested that you go back to the phase I RFG Program. There is none of that currently being produced. Governor Thompson has asked to go to conventional gasoline. We have left all options on the table. As I shared with you in the Illinois delegation meeting, there are concerns at this point in time that you could cause disruptions in the conventional gas market.

And while we are seeing the wholesale price, very dramatic drop in wholesale price in Chicago and Milwaukee in the cleaner gasoline, I think the real question right now is. why is it not being immediately passed on to the consumers, and that is certainly the question that we think the oil companies should answer, and that is why we welcome the FTC investigation.

Mrs. BIGGERT. Twenty members of the Illinois delegation sent you a letter at the beginning of—I think it was June 6th, and we requested a response from you by June 27th, and that was yesterday.

Ms. BROWNER. OK.

Mrs. BIGGERT. And I have still not seen your response to the Illinois delegation. This was about the situation in Illinois. And I would like to know why the EPA formally has not responded to the——

Ms. BROWNER. We will certainly get you a response, and I apologize if we have been tardy. We will certainly get you a response. You are entitled to a response, absolutely.

Mrs. BIGGERT. And you have an answer for the questions that we have asked?

Ms. BROWNER. We will answer your questions to the best of our ability.

Mrs. BIGGERT. OK. Just to go back to the waivers and the tax credit, which I think is—I'm sorry—the credit came from taxes.

Ms. BROWNER. OK.

Mrs. BIGGERT. The role of ethanol in the phase II and work on the carbon monoxide credit, you know, the Illinois delegation did have meetings and has been concerned for the past year that the new regulations would severely impact the price of gasoline in Illinois. When did you start looking into this situation?

Ms. BROWNER. Well, the issue of the carbon monoxide credit or the RVP, the read-vapor pressure adjustment, is something that we—as I think you are well aware—have been working on for a while. The National Academy of Sciences has also looked at the issue. As far as your own State environmental agency has provided us with several proposals and thoughts on it. We have always indicated that we would make a proposal on a read-vapor pressure adjustment, RVP adjustment, once we have been able to take into account all of that information. Illinois' information did come in somewhat later in the process in the National Academy of Sciences, but here I think that the point that I would ask you to be aware of, within the next several days, certainly by early next week, we will issue that proposal. We will then begin a public comment period. No one has ever suggested that an adjustment in this pressure, given the constituencies of ethanol would have a price impact beyond a penny. It may not even be that much, but we certainly recognize that ethanol brings with it environmental benefit that does have a lower toxic, that has lower carbon monoxide, and therefore, that some amount of adjustment to the read-vapor pressure may be appropriate, and we do intend to issue a proposal in the next several days and take comment on that.

Mr. BURTON. Mrs. Biggert, can we come back to you?

Mrs. BIGGERT. Yes.

Mr. BURTON. We need to yield to Mr. LaTourette now for his 10 minutes.

Mrs. BIGGERT. Thank you.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Chairman Pitofsky, if I could start with you for a few minutes, there has been a good deal of discussion about how it is that this antitrust, anti-competitive pricing thing came to your attention. Do you recall who it is that first requested that you look into the issue of price gouging relative to the major oil companies in the United States and the Midwest?

Mr. PITOFSKY. It first came to our attention because we read the newspaper just like everybody else, and we see what is going on. My recollection is that the first request for an investigation came from Chairman Hyde.

Mr. LATOURETTE. And was that also Mr. Sensenbrenner, was he associated with that as well?

Mr. PITOFSKY. Yes, it was a joint request.

Mr. LATOURETTE. And that would have been maybe 3 weeks ago Friday more or less?

Mr. PITOFSKY. It would have been, yes, the 7th of this month, as I recall.

Mr. LATOURETTE. OK. Now, as you go down the path of collecting information and determining whether or not there is gouging or a violation of the antitrust laws, would you maybe just enlighten the committee in terms of what the difference is in terms of your understanding between price gouging and perhaps a company taking advantage of a supply and demand situation?

Mr. PITOFSKY. Yes, I would like to do that, because actually, we bypassed that issue several times during the day. Conspiracy, agreement, collusion, to fix prices or curtain output is illegal behavior. It is a violation of the antitrust laws, and it opens up companies to all sorts of fairly tough remedies. Price gouging, as to which there is really no precise definition of it in the law, but I take it to mean taking advantage, being opportunistic, perhaps overreaching on behalf of the seller. That may be very unattractive behavior, but I do not take that to be a violation of law. I do think, however, in a situation like this, that people who are paying these higher prices have a right to know whether or not there is either collusion or price gouging, and we will look into both.

Mr. LATOURETTE. I agree with you, and I made the observation— you weren't here during my opening remarks—you may find price gouging, but we couldn't figure out in Ohio how come our prices went up, and we don't have this RFG–2 requirement, and the speculation is that the people that are in the oil business could sell it for $2.20 in Chicago and $1.60 in Ohio, and they took it all to Chicago because they could make 60 cents more per gallon. And I guess that some people call it the American way, some people would call it something else I suppose.

Secretary Richardson, welcome to you. We had a briefing, the Ohio delegation, from the Energy Information Administration, which is part of your department, and I want to commend you on their work, and you should give them all a raise, because they really did a great job of bringing a number of us up to speed on what to many of us was a foreign issue.

But I would like to ask you and Administrator Browner a couple questions about two situations in the Midwest, St. Louis, and then the Chicago/Wisconsin situation. And it is my understanding—and Madam Administrator, I will start with you—that I think you have testified before that perhaps you don't have the ability to offer a waiver of the Clean Air Act, but you do have the ability to offer enforcement discretion on a limited basis.

Ms. BROWNER. No, actually, the rules that were adopted in 1993 as part of the Reformulated Gas Program, the negotiated rulemaking, does include provisions for a waiver. It lays out standards for a waiver.

Mr. LATOURETTE. It is my understanding that you didn't grant a waiver for St. Louis; you granted something called enforcement discretion relief though; is that right?

Ms. BROWNER. I am happy to explain what we did in St. Louis if you would like.

Mr. LATOURETTE. I would be happy to hear it.

Ms. BROWNER. The situation in St. Louis arose when they had, I think, three of their six tanks or terminals that supply the city, literally go empty. And in essence, what we did there was allow them to delay the start of the program, of the clean gas program, I think by 5 or 6 days. The mechanism we used, because it is, for that particular situation, being the best, was enforcement discretion. That was because the pipeline that serves St. Louis had had a problem in it. St. Louis gets about 70 percent of their fuel from that pipeline. Chicago, Milwaukee get something like 15 to 17 percent of their fuel from the pipeline. It is a very, very different situation. But we do have both enforcement discretion, and we do lay out in the rules a waiver provision.

Mr. LATOURETTE. That was my understanding, and in the St. Louis situation there was a pipeline difficulty with the Explorer Pipeline, one. But, two, I also understood that your agency relied on Secretary Richardson's agency to determine what gas stocks and inventories might be available in an area based upon what was going on with pipelines and other factors. Is that also accurate?

Ms. BROWNER. We looked both to the Department of Energy, we worked with the State. I think—did we have inspectors in the field? We do have inspectors that can visit these facilities. We may have used our own inspectors. We certainly have used them in the Chicago/Milwaukee situation. I would be happy to explain to you all of the resources we used in making that decision.

Mr. LATOURETTE. Whatever resources were used though, a decision was made that there was going to be a problem in St. Louis about April 1st, I guess, was the date that things were supposed to kick in, and for whatever reasons, due to low supply and pipeline problems, this enforcement discretion relief was granted on a short basis; is that fair?

Ms. BROWNER. That is correct. I think it was—again, it delayed the startup of the clean gasoline program by, I think—was it 5 days—6 days, while they could address the pipeline problems and other issues. We never had this situation in Chicago or Milwaukee. We didn't have tanks going dry the way we did in St. Louis.

Mr. LATOURETTE. Oh, that is correct, but what we did have in other parts of the Midwest, I think—and I am referring to a memorandum written to the Secretary, Secretary Richardson, on June 5th from Melanie Kenderdein, I guess, that talks about the situation that existed in terms of low inventories, and also the EIA, when they came to talk to us, I think said that they were at 15-year lows, the lowest since 1981. Is that your recollection, Mr. Secretary?

Mr. RICHARDSON. Yes, Congressman. We found that there could be physical shortages at a number of RFG terminals in St. Louis, and as you know, Congressman—and thank you for the compliment about the Energy Information Agency. They are sitting right here. They're all chuckling. I will consider giving them a raise.

But I will, for the record, state they're a statistical independent agency at the Department of Energy. They don't always predict what I want them to. What we do, Congressman, is we do supply assessments. We provide that to EPA. And did you want me to say anything more?

Mr. LATOURETTE. Well, that was my understanding, that you do give them supply assessments, and you were asked to give, or you gave a supply assessment for Chicago/Milwaukee as well, did you not?

Mr. RICHARDSON. Right, right. And what we found, Congressman, is that in the Midwest, crude oil prices, obviously remain high. That is a factor. There is higher demand in the Midwest than the national average, 3 percent compared to 1.6 percent. Inventories, gasoline inventories in the Midwest were low going into the summer driving season, about 15 percent lower than last year, and RFG–2 was introduced—this is ethanol, not the MTBE—was introduced into the Milwaukee/Chicago market. And then you had the pipeline problem, the Explorer Pipeline, in the Chicago/Milwaukee area, we estimated it affected about 6 million barrels.

What we then did, is because we had all these factors, and you still couldn't explain the 40-cent differential, that's when Administrator Browner and I, like several Members of Congress and yourself, sent a letter to the chairman here to look at the rationale why there is such a broad and large price differential.

Mr. LATOURETTE. All right. I think I am going back, before we ask Mr. Pitofsky to jump in, and I guess what I'm trying to get at, is I believe from what I've reviewed, and talking to the EIA, talking to the refiners, that there were some warning signs, that because the price was jacked up by the OPEC countries, because we had a pipeline problem—we also had a problem with the Wolverine

Pipeline later on—because of the tolerances where some refineries have now gone from 8 blends of gasoline to 16 to 18 blends of gasoline, that it was sort of ripe for a problem not only in St. Louis, but also in Chicago and Milwaukee. And I'm wondering why in the days leading up to June 1st, which sort of is the trigger date for the new requirements, that there wasn't the same consideration given to Chicago and Milwaukee as there was to Wisconsin? And because, again, your excellent folks at the EIA, who I hope do get the raise, indicated to us that the area—and I'm talking now about the area of Chicago and Milwaukee—is functioning with no room for error, and basically indicating that if one more bad thing happens, you're going to have the whole market thrown into chaos, and it does appear to me, at least, that the market was thrown into chaos.

I gave a speech in Cleveland, and you know, I'm not an EPA basher, and I said, you know, my information is that this RFG program maybe adds 5 to 8 cents—and you may disagree with that, Madam Administrator—and in the summer driving season, historically we've gone up 3½ cents, 4 cents a gallon because there's greater demand. So none of those things explain what happened. But what I think can partially be led to explain is that we had historically low inventories, we had some changes coming in, EPA changes, supply difficulties, and so forth and so on, and maybe Energy, maybe EPA, maybe the oil companies, maybe everybody could have done a better job than we did in the Midwest, and we've all contributed to the problem that has now jacked up the oil prices. And if anybody disagrees or agrees, I'd be more than happy to let you say so.

Mr. BURTON. The gentleman's 10 minutes has expired. If you care to comment on what he just said, that would be fine. No comments?

Mr. Ryan, you're recognized for 10 minutes.

Mr. RYAN. Thank you, Mr. Chairman. Glad we finally got to this point. Thank you for waiting.

I suppose the three of you have probably been here all day long, haven't you, going to different chairs? I appreciate you spending all the time with us today.

I, unfortunately, just arrived, so I was unable to hear your opening testimony, but——

Mr. PITOFSKY. You didn't miss a thing. We didn't have any.

Ms. BROWNER. We didn't do it.

Mr. RYAN. Oh, you didn't do one, OK. Well, then let me just go on——

Mr. BURTON. Submitted for the record.

Mr. RYAN. Well, Mr. Chairman, I would like unanimous consent to add my opening statement into the record as well.

Mr. BURTON. Without objection, so ordered.

[The prepared statement of Hon. Paul Ryan follows:]

For the Record
Paul Ryan

Mr. Chairman,

My district is in Southeastern Wisconsin. Half of the district lies in the EPA designated ozone non-attainment zone. Reformulated gasoline is the most important issue for my constituents, and has been for over a month and a half. The small business owners and families of Southeast Wisconsin want to know why they pay more for gasoline than any other region in the country. I commissioned a report from CRS – the non-partisan research branch of Congress – which has been widely cited today. Nowhere in this report is collusion and price-gouging listed as an underlying cause for high prices.

Likewise, I have an internal June 5, 2000, DOE document from a policy director to Deputy Secretary Glauthier. This memorandum summarized rapidly increasing gas prices in the Milwaukee area as a supply problem – "high consumer demand and low inventories." The DOE memo then gets more specific:

"The Milwaukee (and Chicago are) supply situation is further affected by:

- An RFG formulation specific to the area that is more difficult to produce;
- Higher regional demand;
- High regional refinery utilization rates;
- Limited alternative supply sources;
- Limited transportation links, and;
- Lower gasoline inventories relative to the rest of the country."

Again, nowhere in DOE's explanation for Wisconsin's gas prices is collusion or price-gouging mentioned.

Many of the Members who have been following this issue know that Wisconsin and Illinois use ethanol instead of MTBE, which makes the Phase II RFG blend relatively more expensive to the rest of the country. This is because refiners must make the vapor pressure lower, as well as, according to the DOE document, "remove a greater quantity of the higher volatility gasoline blendstocks than was removed for Phase I RFG." The effect is that "RFG II gasoline production processes will yield less gasoline overall than RFG I processes. To compensate for lower yields and performance losses, refineries can either increase crude inputs or rely on more sophisticated processing units, both of which may increase cost and are not at all refineries."

I'm not saying that oil refineries should not shoulder any of the responsibility, but this memo demonstrates that it is common knowledge within the Administration that, historically, supplies in summer run tight. It also seems apparent that there is ample knowledge within the agencies that the new formula requires more oil to produce the same amount of gasoline as the old one in order to meet the EPA's high ozone standards.

What seems odd to me is that given the unique regional constraints, the knowledge of short supply and the knowledge that RFG II would require more gas than before, the EPA stands by their estimates that gas prices were to only increase by 5 to 8 cents in Wisconsin. Clearly, there is an inconsistency between what is reality and what the EPA claims. Perhaps since 87 percent of the country's RFG is blended with MTBE instead of ethanol, the EPA didn't bother to calculate the true costs of the impact on the Milwaukee/Chicago area.

My second concern is that Southeastern Wisconsin is paying the price for other cities' pollution problems. It is my understanding that because of regional wind patterns, much of the ozone is blown into Wisconsin from places as far away as Texas. It seems to me in the case of ozone transport, Wisconsin receives a lot more than it gives. The Lake Michigan Air Directors Consortium roughly estimates that on bad days, as much as two-thirds of the ozone in the Gary-Chicago-Milwaukee area may come from outside the region from areas such as southern Illinois, Kentucky, Tennessee and Missouri.

Wisconsin is making strides at alleviating air pollution, but at some point, it cannot do anything more to clean its air unless other regions clean their air first. Making the residents of southeastern Wisconsin accountable for others' pollution is unreasonable. (I recognize that the physics of ozone transport is still new and vaguely understood.) My hope is that the EPA takes this into account when tightening the regulations around Milwaukee.

The cause of high gas prices seems up front to me – it's a problem of supply and demand and environmental regulation. I do not understand why the Adminstration's *recent* investigations have not turned up these same results even though preliminary DOE explanations squarely outline this fact. Enough delay, it's time to find an honest solution to this mess.

Thank you, Mr. Chairman.

Mr. RYAN. I represent southeastern Wisconsin. Half of the district I represent is in the RFG area, half of the district I represent is outside of the RFG area. Now, if you recall, Ms. Browner, we sent you, myself, Mr. Sensenbrenner, Senator Kohl, Senator Feingold, sent you a waiver request on May 23rd. On May 26th you responded, saying it would be denied.

Then, Secretary Richardson, we have a memo, which I believe you were just talking about, dated June 5th, where you went through—your agency went through and showed that there were severe supply shocks that were occurring. Basically you went through and outlined six factors that were basically a convergence of factors, culminating in the fact that we had supply shocks, we had a unique RFG blend, we had a Unocal patent, we had a lot of problems specifically with respect to the upper Midwest.

We then asked for another waiver from you, Ms. Browner, which we were denied again.

Mr. Sensenbrenner asked the CRS to study whether or not the RFG mandate itself was a part of the problem or why were we having these price increases? The report basically concurred with the DOE's analysis, a convergence of several factors. So I don't think one can point a finger at just one source. I don't think those of us in this aisle can point to the EPA and say it's your fault. I don't think the EPA can point to the oil producers and say it's their fault. I mean, that's what the FTC is about to figure out. And I think for any of us to say with certainty that it's because of price gouging is just inaccurate, and that's what—you know, Mr. Pitofsky, that's what your investigation will do, so I think it's foolhardy for a member of the administration or a politician to suggest they know that price gouging is occurring.

But there are some things we do know, and the things we do know, because of the DOE's report, because of the CRS's report, is that this RFG mandate in the upper Midwest, specifically in the Milwaukee and Chicago area, has contributed, by the CRS's estimate, 25 to 34 cents a gallon. Why, when you knew this, did we not receive a waiver? And if the answer is we didn't receive a waiver because there was a short supply of conventional gas in the area, the short supply of conventional gas in the area is because of the EPA's banning of conventional gas in the area. So our constituents are really caught between a rock and a hard place. They're looking for answer. I don't think putting it off to saying it's price gouging and the FTC will confirm this in 6 weeks, that's not good enough. We're in the middle of the summer months. You know, we do a lot of driving at this time. Our consumers in the Milwaukee area are paying something like $2.30 a gallon of gas. It's gone down recently, but what is the answer other than price gouging? And let me start with you, Mr. Richardson, and, Ms. Browner, if I could go to you then?

Mr. RICHARDSON. Well, I think the assessment that we made—and by the way, Melanie Kenderdein is right here—EPA and DOE have sent teams to the area. The Administrator and I felt that we needed people on the ground in your region and in the Congressman's region to get firsthand assessments. And basically they came back with a multiplicity of problems. You mentioned the supply issue. There is the pipeline problem. There is refinery problems, RFG coming into the market. There were other factors.

Another thing, Congressman that really is out there, is there is unusually high demand in the country, and it's the driving season, the economy is in good shape, everybody is out there spending money, and that's good. We also have, because of the international situation, regrettably, a lot of low stocks, low stocks of crude, low stocks of gasoline, both nationally and internationally.

So I think what the Administrator and I felt after we got our reports, is that nonetheless, despite all these factors, why is there such a high differential, why 40 cents, why 38 cents if it costs 3 to 4 cents for RFG–2. And so I think this compelled us to write Chairman Pitofsky to see—and the explanations we were getting from the oil companies were not adequate, and not, by the way, as eloquent as you two did, the three of you. It was, well, it was just OPEC or some other reason. So this is why we've asked for this probe.

Mr. RYAN. Well, Mr. Richardson, if I could mention, I believe, Mr. Pitofsky, the original FTC investigation was instigated by Chairman Henry Hyde and Jim Sensenbrenner on June 7th; is that correct?

Mr. PITOFSKY. It was the first or one of the first requests that we received.

Mr. RYAN. And then I believe the Wisconsin delegation followed up, where we met in Senator Kohl's office, before the two administration officials asked for that. But, Mr. Richardson, what I'm getting at is it sounds like you already knew these factors were out there. It sounds like you knew there was something unique in the upper Midwest, and yet you proceeded with this RFG mandate. And given that you knew these factors were out there, that you knew something unique was in the Midwest, we had a different blend, we used ethanol, we had these problems—we knew we had an Explorer Pipeline problem, we knew we had supply shocks, you still went ahead with the mandate. Then we find out we're paying 40 cents more a gallon of gas, and now we're pointing fingers and we're trying to get the FTC to give us an answer in 6 weeks. Meanwhile, Wisconsin and Illinois consumers pay an average of 40 cents more a gallon of gas for the summer months.

Couldn't we have not placed the mandate, given the information you had in your hands at the time, found out what was going on, then worked on this mandate?

Ms. Browner, let me ask you to——

Ms. BROWNER. I'm happy to answer the question. I think that it is important that there was broad support for the FTC investigation.

Mr. RYAN. I support it as well.

Ms. BROWNER. One of the reasons that EPA and DOE asked for it is that we did send our own investigators out into the field, and based on the answers they came back with, based on the evidence they came back with, we did not see an answer to the question, and thus, we felt the FTC investigation was warranted.

The second point I would like to make is that the issues that are presented particularly to Chicago or Milwaukee or both of them, while they certainly are issues in those areas, they are not necessarily unique to those areas, so they don't explain why you have a price spike in Chicago and Milwaukee. The example I'll give you is that ethanol is used in St. Louis. About 50 percent of the Louisville gasoline is an ethanol blend, and yet you don't see the same kind of high prices. If the problem is ethanol, if the problem is that putting ethanol into cleaner gasoline is costing money, then you should see a price differential in other areas that use it.

Second, if the problem is the Explorer Pipeline, then you should see a price problem in other areas serviced by the Explorer Pipeline. And I said this before you came in: St. Louis gets 70 percent of its product from Explorer. I think Milwaukee, Chicago——

Mr. RYAN. They received a waiver though, didn't they?

Ms. BROWNER. They were affected by the pipeline break. They had three tanks go dry. They requested a delay in the startup of the program. Congressman LaTourette and I discussed this previously. It was an enforcement discretion. There are waiver provisions.

But the point I would like to make is that all of the facts and all of the issues that we have all been looking at, the pipeline, the issue of is it more difficult to make ethanol-blended gasoline—we don't believe it is, but some people have put that on the table. When you take all of those issues together, nothing has changed with respect to any of those issues in the last month. In fact, nothing has changed with respect to any of those issues in the last several months. And yet, what you are suddenly seeing is a precipitous drop in wholesale prices. You cannot point to why wholesale prices are suddenly coming down, because none of—if those are the reasons, if it's because of the pipeline, if it's because ethanol is harder to use—I don't believe that—but if those are the reasons, then why suddenly, with no change in the recipe for ethanol, with no change in the pipeline capacity, do you see a drop in price? And that's what we're asking the FTC to look at.

Mr. RYAN. So you're suggesting that once Mr. Pitofsky got started, prices went down?

Ms. BROWNER. I certainly think it is fair to note that on the date that the FTC, which I think was the day after the administration's letter, which followed after our investigation and other letters, prices did drop. That is a fact. They did begin dropping, and we can show you——

Mr. RYAN. Isn't it true that the spot price started declining much sooner than that though? Didn't the spot price start going down, I think, June 7, and between June 7 and June 21 it went down about 40, 45 cents?

Ms. BROWNER. The price that we have been——

Mr. RYAN. Before the FTC?

Ms. BROWNER. The price that we have been watching is the price that is posted on OPIS, the Oil Price Information Service. That is a privately owned service that monitors the price of what the trucker pays when he or she pulls up to the tank farm to put the product in their truck and drive it to the pump. That is the price that is changing on a daily basis. That is the price where the vast majority of this product is moved around, and that is the wholesale price that we have been referencing that has dropped now on the order of 40 cents a gallon wholesale.

And it's not being passed onto the consumer, which I think is a question we all have. Why is the consumer not getting the benefit of this dramatic drop in wholesale prices? And why, with no change in any factor—and you and I may disagree on all the factors—but it is true there's been no change in any external factor—did you suddenly see this rapid decline in wholesale price. Those are questions we should all get an answer to.

Mr. BURTON. Excuse me. Mr. Ryan, our time has expired on this side. We have to yield to the minority for their 30 minutes, and if you can, we'll have you back.

Mr. RYAN. Second round?

Mr. BURTON. Yes, second around.

The minority, who is going to control your time on your side? Will you control it?

Mr. TIERNEY. I'll control it.

Mr. BURTON. Mr. Tierney, you're recognized for 30 minutes.

Mr. TIERNEY. Thank you. Thank you all for joining us today, and for lasting through the delays.

I want to cover some of this ground quickly, and then move on to some areas particular to my district, but if companies fail to keep their inventories up—and Mr. LaTourette suggested that the EPA and Department of Energy and the companies all might take some, or might have taken some participatory action on that, but to my knowledge, DOE doesn't have any authority to force a company to keep its inventories up. Does it, Mr. Secretary?

Mr. RICHARDSON. No, that's correct.

Mr. TIERNEY. And the EPA doesn't have any authority to do that.

Ms. BROWNER. No.

Mr. TIERNEY. So I don't know why we're here talking about why everybody has to share the blame. If there's enough oil out there, and they choose to keep their inventories down and then create more of a demand so they can jack their prices up, why should we share the blame with them? And you have a pipeline problem, if in fact there were one, one was a fire and one was a leak, Mr. Secretary, do you have any control over the pipelines?

Mr. RICHARDSON. No, it's the Secretary of Transportation, and we wouldn't——

Mr. TIERNEY. But he wouldn't have any control either.

Mr. RICHARDSON. Right.

Mr. TIERNEY. And neither the EPA. And so there they are, that's either bad operation or bad maintenance. And of course, it doesn't affect their bottom line, they're just going to pass their costs along and get it, but they'd like to share the blame with you.

And the last thing, I guess, is like if 2 cents to 8 cents is what the EPA regulations were going to put in for the gasoline on that situation, holding off on June 1st wasn't going to make a hell of an impact on that, was it?

Ms. BROWNER. If I might just say something, this recipe for cleaner gasoline was agreed to with the oil companies in 1993. They had 7 years notice of what would be required.

Mr. TIERNEY. But even if putting that aside, and assuming they're as bad there as they were with their inventories and with their pipeline maintenance, it was a 2 to 8-cent increase, and that was that.

Ms. BROWNER. Right.

Mr. TIERNEY. So then I think we're chasing around a lot of phantom people around here, and we ought to think of where this situation really lies as those prices go up and those situations get created.

Mr. Secretary, can I just ask you a couple of questions about home heating fuel? You know, we had experience last year in New England with a low supply and high demand for home heating fuels. And what's your anticipated forecast for this coming winter?

Mr. RICHARDSON. Well, we are concerned, Congressman, we are very concerned about the supply situation, and this is why I think it is so important, the leadership that many in this committee have shown, you and Congressman Sanders, for the Northeast heating oil reserve that we need, because what we need to establish is a reserve that doesn't deal with prices, that deals with emergency supply situations. What we are looking at is 2 million barrels, have it ready in the event, have a trigger similar to the Strategic Petroleum Reserve based on emergency supply situation.

We are concerned with the level of natural gas, with home heating oil. We are concerned that unless we prepare now, there may be some emergencies that we will not be ready for. And we don't want to repeat what happened last winter with the unusually cold January and some transportation problems that we had in your region, as you remember. The Coast Guard had to come in. We don't want to have the situation where the truckers and many others, the home heating oil operators, are in an emergency situation.

Mr. TIERNEY. Well, we know Mr. Sanders had a bill to set up that Petroleum Reserve, Strategic Petroleum Reserve for the Northeast area, and it lost by two votes. But, fortunately, and miraculously, I guess, there was a swivel of opinion on that, and the other night it was passed with some pretty good support. But we haven't funded it yet, and it is not on the President's desk. So I ask you, assuming that it hasn't moved at the speed we want it to move, do you have authority to do that unilaterally?

Mr. RICHARDSON. We need full authority—this is a whole issue involving the entire Strategic Petroleum Reserve. The House has passed, but it has languished still, the authorization for me to have authority with the Strategic Petroleum Reserve, my lawyers are telling me we need the full authority. So I would just urge as a national priority that every effort be made to pass that and to move it forward so we have that authority to use in an emergency.

Mr. TIERNEY. So you are saying basically without the legislative action, you are not going to have authority within your own position to take action?

Mr. RICHARDSON. Well, you know, you don't want to make a conclusion like that, but certainly we need the full authority, Congressman, for a variety of activities regarding the Strategic Petroleum Reserve. I was able—my lawyers said to me that I could use it—I used it last week—a swap. There was a dry dock problem in Louisiana, and we were able to exchange some Strategic Petroleum Reserve oil with Citgo and other companies, 500,000 barrels. This was an emergency. We had the authority to move ahead.

But it is just very murky, and I would urge you, whatever it takes, to get that authority fully passed. It should be bipartisan, but it is somehow held up. I think it is just part of the delays.

Mr. TIERNEY. I am going to ask you something that is the flip side. On the one hand, we have people in their homes who probably ought to know that they might be able to get a fixed-price contract with their deliverers. Is there anything that the Department is doing to give people that knowledge that that might be an option for them, to at least help some people cap what might be escalating prices?

Mr. RICHARDSON. Well, we think that these fixed prices protect consumers, and we have what are called consumer-friendly information that we disseminate to consumers that we do have. Through the Energy Information Administration, which has been praised roundly by this committee, we are able to make some of these forecasts, and through their public information system, their Web sites, they can forecast energy supplies that help consumers make good fuel purchase decisions.

Mr. TIERNEY. On the flip side of that, I have my dealers, my folks that go out and deliver, and their concern is that the companies are trying to lock them into some pretty significant fixed-price contracts, and their concern is that those prices might go down—they have two concerns: one is that there won't be anything for them to deliver, and the other is that if they set into a fixed price now and prices go down, they are going to have unreasonably high costs.

Can you give them any comfort on the first?

Mr. RICHARDSON. Well, I think your small home heating oil operators should contact us, because I think we'd be ready to work with them on how we can provide more consumer-friendly, small business-friendly information on fuel purchases, on heating oil supplies, or other factors that might be needed.

Mr. TIERNEY. Let's have them do that, and I thank you.

I am going to give 5 minutes to Mr. Sanders now.

Mr. SANDERS. Thank you, John.

Let me begin by thanking Administrator Carol Browner for your work on the environment. As we enter the 21st century, there is no reason why millions of people should suffer respiratory problems and other illnesses because of filthy air. There is no excuse for that. And I applaud you for the work that you are doing.

Secretary Richardson, thank you for the help that you are giving us on the home heating oil reserve. I think you share our feeling that we want to not see next year a huge spike in home heating oil. The reserve makes sense.

As John just mentioned, we had significant bipartisan support in the House the other night for it, but we are still going to need the estimated $10 million to get the funding to set up that reserve, and we would very much appreciate any help that the administration could give us to make sure that that happens.

Let me ask Mr. Pitofsky a question. I support the investigation of price gouging in the Middle West, but as you know, many of us in New England were asked last March to investigate the increases in home heating oil that we experienced. I think you received a letter from many, many Members of Congress on that issue, and as of now, we have not yet received a reply from the FTC.

Can you give me some assurance that we are going to be getting some response in the very near future?

Mr. PITOFSKY. Yes. The very near future.

Mr. SANDERS. OK. I appreciate that. That is a brief answer, and it is the answer I wanted to hear. Thank you.

Mr. Pitofsky, let me ask you another question, not talked about as much, I think, as it should. In the last number of years, we have seen significant mergers within the oil industry, as you know. Major oil companies are merging with other major oil companies. There are some people, including myself, who believe that that is going to result in less competition and the consumers getting less of a fair shake.

Is this something that the FTC is looking at? What impact on mergers and less competition in the industry having on driving prices up?

Mr. PITOFSKY. It is a very interesting question, and it deserves to be addressed.

As you may know, I and my colleagues are very concerned about the move toward concentration in the oil industry. In the last 4 years, we have reviewed four, what I think can fairly be described as mega-mergers. We have not let any of them go through without restructuring. On the last of these mergers, BP/ARCO, we went to court and required restructuring.

I am generally concerned about where we are going in this particular industry. However, as far as the Midwest was concerned, which is the focus of our present investigation, Midwest and West Coast, I took a look, and the fact of the matter is that I don't think any of these mergers involve firms that have much of an overlap in the Midwest. So there are plenty of explanations, but I don't think the merger wave is one of them.

Mr. SANDERS. OK. At some other point, I would like to pursue the issue of mergers in general with you.

Let me just ask perhaps you, Mr. Pitofsky, or anybody else on the panel who wants to respond: I am not a great fan of many aspects of globalization. I must be honest with you. It seems, though, very clear to me that OPEC, by definition, is a cartel whose goal is to limit production. I don't think there is any debate about that. If we had the head of OPEC here, that is what he would tell you the reason for existence of that organization is. Correct? That is not a great debate.

What I don't understand—and I know this is not necessarily your area as opposed to our trade people—why hasn't somebody gone to the World Trade Organization and said, excuse me, OPEC is violating every concept of free trade in terms of the production and distribution of oil? Does anyone want to comment on that? I mean, it seems so very obvious, and I am not a great fan of WTO. Does anyone want to comment on that; Bill; Carol?

Mr. RICHARDSON. Not really, Congressman.

Mr. SANDERS. Am I missing something, or is this an organization designed to limit free trade in a world which is supposedly moving toward free trade? Mr. Pitofsky, what am I missing here?

Mr. PITOFSKY. I don't know that you're missing anything. Let me break this down. As a matter of law, it is a cartel, except that it is being run by nation-states.

Mr. SANDERS. Right.

Mr. PITOFSKY. And, therefore, as a matter of law, it would be difficult, if not impossible, to get at it.

As a matter of negotiation and diplomacy, you are asking why don't we challenge OPEC in some other way, but it is not part of the role of an agency like mine to address that. It is really a State Department issue.

Mr. SANDERS. Well, I think it is a USTR issue, probably, and I share the concern of many Americans that we went to war defending Kuwait and Saudi Arabia, and I think we deserve a little bit fairer shake.

I yield back the balance of my time.

[The prepared statement of Hon. Bernard Sanders follows:]

STATEMENT BY REP. BERNARD SANDERS AT THE GOVERNMENT REFORM COMMITTEE HEARING ON OIL PRICES

Mr. Chairman, thank you for holding this important hearing, and I would especially like to thank Energy Secretary Richardson, FTC Chairman Pitofsky and EPA Administrator Browner for being with us today.

Mr. Chairman, last winter my constituents in Vermont were forced to pay astronomical prices for home heating oil. The price for home heating oil was as high as $2.25 a gallon in some parts of the Northeast and were the highest they have ever been in history. In short, we experienced a home heating oil crisis in the Northeast last winter.

This crisis quickly spread to small business truckers as they were forced to pay over $2.25 a gallon for diesel fuel in some areas. Since diesel fuel and home heating oil are virtually identical products, diesel fuel was used as a substitute for home heating oil causing a severe shortage in diesel fuel. As a result, some small business truckers simply went bankrupt, and the rest of them were barely able to keep their heads above water.

Now, the crisis has hit the Midwest, where consumers are paying $2.99 a gallon for gas in some parts of the region. Many of us in the Northeast predicted that this crisis would spread like wildfire and urged the Clinton Administration to release crude oil from the Strategic Petroleum Reserve to lower prices and leverage OPEC to increase production. At this point, the Administration has failed to act on this request.

Mr. Chairman, I would like to make five points that I believe are urgently needed to provide both a short and long term solution to this crisis.

First, to ensure that we are adequately prepared for next winter, Congress should provide funding for the establishment of a Northeast home heating oil reserve. Last night, the House approved an amendment to authorize a Northeast home heating oil reserve during consideration of the Fiscal Year 2001 Energy and Water Appropriations bill. This is the same language that the House approved by an overwhelming vote of 417 to 8 last April. While that news is encouraging, what Congress really needs to do is to provide funding for such a reserve. Less than two weeks ago, I offered an amendment to provide $10 million for the establishment of a Northeast home heating oil reserve to the Fiscal Year 2001 Interior Appropriations bill. Unfortunately, that amendment failed by a razor thin margin of 193-195.

I was pleased to have the Clinton Administration's support for this amendment, and I would urge Secretary Richardson to recommend that the President veto the Interior Appropriations bill if it does not include funding for a Northeast home heating oil reserve.

Mr. Chairman, why do we need a home heating oil reserve? It is simple. Due to the low supply of gasoline and diesel fuel, if we don't adequately prepare for next winter, we will have a home heating oil disaster on our hands. According to Bill O'Grady, oil analyst at A.G. Edwards & Sons, "If we have a cold winter early, we could end up seeing in heating oil what we're seeing in gas prices – in spades."

Mr. Chairman, we must not let that happen.

We must make certain that the huge increase in home heating oil prices that we experienced last winter never happens again. Most economic experts agree that an influx of home heating oil into the market would drive prices down.

Secondly, as I stated earlier, the Administration needs to immediately release crude oil from the Strategic Petroleum Reserve. In January of 1991, in the midst of the Gulf War crisis, President Bush announced that he was releasing a small amount of oil from SPRO, and the effect was immediate. The next day, the price of crude oil dropped by $10 a barrel and the Energy Department later acknowledged that Bush's action was a significant factor in that price reduction.

In other words, the OPEC producers and others got the message that less expensive oil was coming onto the market and they responded accordingly. In my view, it is likely that that will happen again if the Administration would announce that it will release crude oil from SPRO.

Third, the Federal Trade Commission (FTC) must continue to aggressively investigate the apparent price gouging by the oil industry. During the first quarter of 2000, oil industry profits soar by nearly 500 percent at the same time that the price of home heating oil, diesel fuel and gasoline skyrocketed. This is outrageous.

While I'm pleased that the FTC is pursuing the allegations of price gouging by the oil industry in terms of gasoline prices in the Midwest, I believe that they should just as aggressively pursue the price gouging that occurred last winter in terms of heating oil prices in the Northeast.

Last March, several of us in the Northeast asked the Administration to investigate the sharp increases in the cost of home heating oil. Four months later the

FTC has still not completed their review of these serious charges. I would ask the FTC to promptly conclude its investigation. This situation must be resolved quickly – the winter heating season is right around the corner.

Fourth, Congress and the FTC must launch a full-scale investigation regarding the impact that oil company mergers have had on increasing prices, and demand a competitive environment that will bring prices down. In recent years, mergers between Exxon and Mobil, and between British Petroleum, Amoco and Arco have meant less price competition, less oil production and ultimately higher prices. Overall, these mergers have reduced the eight major oil firms to four in just five years. With less competition, these conglomerates are now better able to use anti-consumer practices such as "zoning" whereby companies map out areas and charge consumers the highest possible price based on an area's income level. This is simply unacceptable and must be put to an end immediately.

Finally, I believe that the United States should immediately file a case in the World Trade Organization against OPEC for illegally restricting oil exports. OPEC has obviously limited its production of oil to drive prices higher and reap more profits – and the President clearly needs to press this violation of free trade with the WTO. Only a few years ago, Americans lost their lives defending the billionaire rulers in Kuwait and Saudi Arabia. Now these same leaders are holding the United States hostage through skyrocketing prices. If we do not act now, there is no telling what kind of impact these high oil prices will have on our economy.

Mr. Chairman, it will not be easy to accomplish these goals, but it is the right thing to do, and it is something that we must do to provide a solution to this crisis. I thank the Chairman.

Mr. TIERNEY. Thank you. I yield 5 minutes to Mr Kanjorski.

Mr. KANJORSKI. Thank you very much. I know all of you seem to be unwilling to postulate why the price is what it is, but let me ask you some simple questions to start with.

Mr. Secretary, do you directly impact on the price of a gallon of gasoline sold in the Midwest?

Mr. RICHARDSON. No.

Mr. KANJORSKI. You don't set the price?

Mr. RICHARDSON. No. No, we don't, Congressman.

Mr. KANJORSKI. It seems to me we are talking about 40, 50, 60, 70, 80 cents here, and we have been talking during the day the question of supply and demand.

Just some things I may be conscious of, the world market for a price of a barrel of oil was about $32 a barrel in February. It is $31 or $32 a barrel today. The processing plants, to my knowledge, refineries, etc., have not made any investments in that last 6-month period for a recapture of capital. There is no further investment there.

What explains the fact that in February, with relatively the same supply, or a little less, and with a little higher demand today, the actual or real cost of gasoline as opposed to the price of gasoline, what explains that differential? Who made the determination of what to charge?

Mr. RICHARDSON. Congressman, if you recall—you were right about your February statistic. In March, OPEC met and, as you recall, we worked with OPEC to have their production increase.

What then happened was oil went from 34 to 23 in a short period, but then it started coming back up. The reason is very simple: Demand has outstripped supply, and demand growth, the second quarter, worldwide demand growth has increased by 2.1 percent, which is a record, almost unprecedented demand growth. And this is international, and a lot of it has been fueled by us.

But since that time, Congressman, February, there are 3.5 million more barrels per day out there in the international market. But you still have a low stock problem. You still have unprecedented demand. And that is also accounting for low gasoline stocks.

Mr. KANJORSKI. But the real reality is that it doesn't cost any more today to make a gallon of gasoline to put into a tank in the Midwest than it did probably in February. So somebody sets a differential price there, and the price, it seems to me, is supply and demand and what you can get for it. It is a form of rationing. You are going to push the price up until people stop buying at a certain price so that you can provide the demand out there. Isn't that the concept of price?

Mr. RICHARDSON. Yes, that's accurate.

Mr. KANJORSKI. So these people are wondering, you know, who charged more. The oil companies could have maintained the same income level they were making in February or March by keeping the gasoline the same price in the Midwest as it was selling in February or March.

There was a selection to set a higher price, whether it was for purposes of discouraging purchases and demand, or for whatever reason. But, nevertheless, does anybody there really believe that they are not going to show an inordinate amount of profit with that 40, 50, or 60 percent increase?

And what I am really wondering about is why are we so fancily stepping around the issue. The Government doesn't set the price. Let's tell the American people. That is what my friends on the other side of the aisle have been arguing about for 20 years. They want a supply and-demand free market. Well, they have got it. If they want to charge $3 a gallon in the Midwest, there is nothing we can really do about it, or $4, whatever the consumers will pay. And I think we should send that message to the American people. It is not what Ms. Browner in EPA—2 to 8 cents, that didn't do a damn thing. It is not the fact that you didn't get them to give us another billion—or a million barrels a day in the negotiations. The fact of the matter is a private organization organized for profit, saw an opportunity to charge a higher price and make a greater profit.

We had earlier testimony from a trucker today that in February and March he had that price with diesel fuel. Diesel fuel in New England was selling for $3 a gallon. It was just absolutely unreasonable. It would go up at the rate of 40, 50 cents a day. And his price went up 125 percent.

Now, the question is—you know, I think we should send the message. It hasn't changed since the diesel fuel increase. It is not changing now. The fact of the matter is what we do have to watch is what you were saying, Mr. Pitofsky. If we don't get competition out there and if we have people who control or monopolize markets, they can literally set the price for energy at any price they want. And I think the second thing we have to worry about is in other energy fields, such as electricity, as we deregulated electricity in this country, the electrical companies will be able to set the price of supply and demand at any price they wish, and the American people have to pay it. Is that correct?

Mr. PITOFSKY. Yes, it is—the price will respond to competitive pressures, and if you have a monopoly or something approaching a monopoly, then the sellers can set the price anywhere they want.

But, you know, in the Midwest, where we are looking at this tremendous price spike, there are seven independent refineries that are operating, and two or three outside the area that ship into the area. So you would have expected that competition would not allow price to spike up that way, especially because you can't attribute a price spike in the Middle West to OPEC. OPEC is as guilty of raising prices on the East Coast and the West Coast as in the Middle West. That's what's tricky and that's what's challenging about this investigation.

Mr. KANJORSKI. Thank you very much. I yield back.

Mr. TIERNEY. Ms. Schakowsky, 5 minutes.

Ms. SCHAKOWSKY. Thank you.

First, I would like to thank all three of you for being so available to us in Chicago when we have had hearings and your top staff have been wonderful. We really appreciate your answering all of our questions. A special thank you also to Administrator Browner. I want to make it clear that people in Chicago are quite literally breathing easier because of the clean air standards, and I think that in all of this, we have to keep that clearly in mind.

I wanted to ask Secretary Richardson if he would react to a bill that I am going to introduce that I hope will help us head off some future problems. It would require the Department of Energy to not only monitor petroleum inventories and refinery production nationally and regionally, which I believe you do, but when production rates or supplies indicate that a shortage and subsequent price spike may occur, the Department of Energy would have the responsibility and the authority to sound the alarm and notify Congress and to offer suggestions for appropriate ways that Congress could respond.

I wanted to ask you what you think of that.

Mr. RICHARDSON. Congresswoman, it sounds like a good bill. We support it. I think it makes sense.

The Energy Information Agency, which we have some representatives here, which is a statistical independent agency, does a lot of that tracking. But I think we need to have better tracking of domestic and international petroleum inventories.

One of the big problems we have right now is low stocks, and what has happened in the international and national community is oil data—if we could just have one oil data statistics that we all believe in, oil companies and governments, we'd be a lot better off.

There are a lot of different data there, so I would be interested in working with you to find ways that we can do this, tracking distillates, tracking inventories. So I think the bureaucratic answer would be that we will work with you. I will say that we will support your bill in principle if we work together.

I would ask, though—and since there is quite a bit of support for the Energy Information Administration—which is independent, by the way. They don't report what I tell them to. I wish they would sometimes. But they have some funding problems in the conference right now, so any help you could give us to give them the budget that they need—they do excellent work. They work all night. They are all these academic statistical types that crank these things up. But I think if we can strengthen them, but also incorporate your bill, I think we would have something that would be valuable for the country and for the international community.

So I like your bill and in principle we can support it.

Ms. SCHAKOWSKY. I appreciate that. I look forward to working with you on both issues, the appropriate funding and the language of this.

I wanted to give the Administrator an opportunity to, I think, correct some misunderstanding—I see Representative isn't here. Oh, are you there? I am sorry.

Mr. RYAN [presiding]. It is Chairman Ryan.

Ms. SCHAKOWSKY. Excuse me, Chairman Ryan. [Laughter.]

The CRS report that I think you were looking at that attributed 25 cents to the RFG that we were using——

Mr. RYAN. The unique RFG situation.

Ms. SCHAKOWSKY [continuing]. I believe was updated, and I wondered if you could explain that.

Ms. BROWNER. Yes. We have seen—I want to make sure we have all our facts right here. Mr. Chairman, Congressman Ryan, as I understand it, you are referring to a June 16th memorandum from CRS that didn't look at the production cost, what it actually cost the refiner to make RFG, but simply looked at the consumer price—which is important—looked at the consumer price in both Milwaukee and Chicago, and it found exactly what we found, which is that the RFG in those two cities was selling 40 to 50 cents more than the RFG ethanol fuels in other cities. I mean, that is all they did. They went out and looked at current consumer price issues. They didn't go to the refiners and say: How much does it actually cost to make cleaner gasoline? Is there any cost differential if you make that cleaner gasoline with ethanol?

The CRS report that is being released today actually looks at the cost for the refiner of making the cleaner gasoline either with ethanol or one of the other additives, and it is very, very much in keeping with what EPA itself said in 1993 when we reached this agreement for cleaner gasoline, which is it would be approximately 3 to 7 cents, for the non-ethanol-blended cleaner gasoline 4 to 8 cents, and I'll actually read from the report. This is a quote from the CRS report of today saying, "The RFG program by itself has caused only limited price increases on the order of 2 to 8 cents per gallon," which is precisely what we predicted.

And I think, Chairman Ryan, not to dispute what CRS said previously, but they were looking at a different type of number. They were simply looking at how much was an ethanol blend selling for in, I don't know, Louisville or St. Louis versus how much was it selling for in Chicago and Milwaukee, and those are very different issues than how much does it actually cost you to make ethanol-blended cleaner gasoline.

Thank you.

Mr. TIERNEY. Thank you.

Mr. Ford, 5 minutes.

Mr. FORD. I know the witnesses have been here some time. I appreciate them staying. I wanted to personally say to both Ms. Browner and Secretary Richardson—I might add, Chairman Pitofsky, my cousin, who is in the room, was a student of yours, I believe, at Georgetown and he commented—you wouldn't remember him for anything, but I said, hey, I am on the panel, he may at least pretend like he remembered you. [Laughter.]

He is sitting there in the back, but I would love for him to have an opportunity to meet you. But I want to thank the three of you for your patience today and certainly say to Secretary Richardson you have a full plate at this point, and I am one Member that appreciates your leadership and your persistence. And I am quite confident that if you say you are going to resolve the issues, all the matters that are on your plate now at the Department of Energy, I am willing to wait and see and willing to give you the benefit of the doubt.

I say to Ms. Browner thank you for clarifying some of these issues for us with regard—it is amazing. Before you got here, I listened to some of my colleagues on the other side, and all of us now are experts on how ethanol mixes with all of this stuff. I don't profess to be one, but in the last few days, the amount of wisdom, scientific wisdom that somehow has befallen my colleagues on that side of the aisle is nothing short of remarkable. So I thank you for clarifying some of these issues for us, and I don't look forward to seeing you before this committee again dealing with this issue. I hope we let you get back to work and get these doggone gas prices lowered for all of us across the country.

Again, thank you for coming, and always excited to see Chairman Ryan in the chair.

With that I yield back to Mrs. Maloney.

Mr. TIERNEY. Thank you.

Mrs. MALONEY. Thank you.

I would like to particularly welcome Secretary Richardson. Good to see you again, one of my former colleagues. Do you agree—as a former Member of Congress, I would like to see how you rate Congress. Do you agree that two essential components of a coherent energy strategy are diversification of energy sources and the reduction in the use of inefficient energy? And how would you rate Congress' consideration of these two goals so far?

Mr. RICHARDSON. Well, the answer on the first is yes, and I think, Congresswoman, the key here is—what has been outlined is a number of problems that we have as a country. We need a diversified energy policy that is a balance.

And let me just say that in administration we've have 7 years of unprecedented economic growth, but at the same time, in Ms. Browner's area, sulphur emissions have declined considerably. So I think it shows that as a Nation we have balanced properly.

What we need is a number of initiatives that we have proposed that the Congress hopefully will pass. We need tax credits for energy efficiency. We need the Strategic Petroleum Reserve reauthorized. We need funding for alternative sources of energy—solar, wind, biomass. We need tax credits for energy efficiency. We need renewable energy. We need the Northeast reserve. We need a number of, I think, other measures that have been brought up and that are still languishing. The Congress has to legislate and appropriate many of the initiatives that we feel are needed.

So I think the main message here is that we need to work together to get soon many of these measures enacted, because, otherwise, we won't have this diversified energy supply. Otherwise, we will not be able to keep addressing some of the problems that have come up. You can't just blame one entity or one movement. We have a multiplicity of factors that have to be dealt with.

Mrs. MALONEY. I would like to ask anyone on the panel to comment on the Unocal lawsuit.

Some people have alleged that it may have had some impact on the raising of prices. Would you give us an overview if you believe that is true or not, and if not, why?

Ms. BROWNER. I would be happy to share with you what the oil industry, oil companies, have told us that they are managing with the Unocal patent that they are able to work around it. We specifically asked them—Bob Perciaseppe and George Lawrence, who are here from my office, who participated in our investigations and the meetings we had with the oil companies—this question, and the sense that was conveyed to us is that it was not an issue.

I would certainly hope that it would be part of Chairman Pitofsky's investigation.

Mr. PITOFSKY. We will take a look at it.

If the threat of paying royalties to Unocal has had an effect here, it would have been a limited and modest effect, I believe.

Mrs. MALONEY. Could I just in a general sense say, what has changed in the last recent history that could have caused these prices to go up? Is there any change that you see? I would like to ask any of the panelists to comment on that.

Ms. BROWNER. I would actually suggest it is—and then I will defer to my colleague, but there is another way, maybe, to think about it, with all due respect, which is what has changed that caused them to come down. Nothing. Nothing caused them——

Mrs. MALONEY. Well, what caused it to go up, and what caused it to come down? I would like to ask all three panelists if you have any insight on this, what caused it to go up and what caused it to come down.

Ms. BROWNER. I think, unfortunately, everything we went out and looked at could not find a factor or a group of factors that you could directly tie a 40-cent-per-gallon wholesale price increase. We could not find something, and that is why we wrote to the FTC.

Mr. PITOFSKY. And I think our role in life is not to try to guess or speculate, as attractive as that activity is, but to try to get an answer to the question that you raised.

Mr. RICHARDSON. Congresswoman, I would just say in general what has been in the last 20 years: No. 1, the return of OPEC as a major entity; second, dramatically increased demand. However, domestic oil production and domestic refinery capacity has not kept up with that demand. So that is what is characteristic, I would say, of the last 20 years, and as the world becomes more globalized, you have got basically producer and consumer countries recognizing that what is best for all is not a high price of oil, but a stable stability in oil markets, less volatility, and this is the point that we have been making, that if we let the market, the international market, dictate these prices and not artificially set prices, that we will have that stability. What has been happening is there have been production cuts. There have been other types of international disruptions. I think if we just let the market be the dominant factor, not have these other entities that have been playing in this field—this is why we have had these international dislocations.

It is like the international community is in the same boat. You have got the producer and consuming countries. The United States is a producer and consuming country.

Mrs. MALONEY. Well, my time is up. Thank you very much.

Mr. TIERNEY. I yield back the balance of my time.

Mr. BURTON. OK. Well, you had about 30-some seconds left. That is fine. That is amazing.

Well, I will take 5 minutes now, since I have not asked any questions. One thing I would like to start off with is we have a 500-year estimated natural gas supply, and automobiles run cleaner. The environment is better protected if you use natural gas.

I have been told that you can buy some kind of a device to hook onto your house where you can actually back your car up to it and fill it up with natural gas overnight and have a gas supply, and the cost would be somewhere around a third to half of the current gasoline cost.

All I would like to say to you, all three of you, is that I wish this administration would look into that. I think that would be a real service to the country if we could start moving toward a supply that is almost limitless right now, that is clean-burning, that is going to help the environment, and is going to cost less than half of what the current gas that you are buying at the pump costs.

Once you started doing that, you could fill up at your house, and if you did not have natural gas, once the gas companies and the oil service stations around the country saw that that was a growing thing, they would start supplying it. I think it would help the whole economy and help with the environment as well.

So I wish you would look into that.

Ms. Browner.

Ms. BROWNER. I just want to say that we are very, very big supporters of that. In fact, the EPA fleet includes a number of compressed natural gas vehicles, and——

Mr. BURTON. Well, I understand that, and I——

Ms. BROWNER. You can buy it at gas stations now. That is a great thing.

Mr. BURTON. I applaud you for that. Probably 60, 70 percent of the homes in this country have natural gas piped in. If we could encourage the use of this, encourage people to buy cars and the manufacturers to manufacture them, to have that, I think it will be a real service for the country and the environment.

Mr. RICHARDSON. I will be very brief.

I am delighted you are interested in this. We have at the Department of Energy a program, Compressed Natural Gas, that deals with engines, that deals with vehicles, that deals with on-board fuel storage, infrastructure, and we need some support to get that more off the ground. We have started it, but the administrator, I know, is very committed to this.

I think you have a—do you ride in a natural gas now?

Ms. BROWNER. Yes, we have it. Yes.

The problem with home use is they are going to need compressors. It is compressed natural gas.

Mr. BURTON. I understand.

Ms. BROWNER. That is what we have to figure out together.

Mr. BURTON. I understand. Congressman Kucinich and I and I think Congressman Kanjorski has consented to start the wheels rolling toward looking into this. I am sure the oil companies will view that with a jaundiced eye, but that is something we want to look into.

I would like to ask you, Secretary Richardson, in February 1999, did you have a meeting in Saudi Arabia with Mr. Yamani, the oil minister, over there?

Mr. RICHARDSON. No.

Mr. BURTON. You did not?

Mr. RICHARDSON. No.

Mr. BURTON. Did you meet with anybody in Saudi Arabia in 1999 about oil?

Mr. RICHARDSON. Yes. You will recall, Congressman, Yamani used to be an energy minister. He is not now. He used to be.

Mr. BURTON. With whom did you meet in 1999?

Mr. RICHARDSON. Well, I met with the Crown Prince of Saudi Arabia. I met with the energy minister, the foreign minister.

Mr. BURTON. Did you talk with them at all about the price of oil?

Mr. RICHARDSON. No, but I know what you are going to ask.

Mr. BURTON. I know it is funny, but they always talk about that.

Mr. RICHARDSON. There was a false report that I had advocated production cuts. I did not even talk to Yamani at the time, Congressman, and you know, if anything, I have been an advocate for production increases to the consternation of many of these OPEC countries.

What I was there for at the time in February 1999 was Saudi Arabia had said they were ready to talk to American companies about upstream investment, and I went there to pursue this.

Mr. BURTON. Mr. Secretary, with all due respect, I have only got 5 minutes, and I do not want to go into—I mean, what I want to find out is did you talk to anybody about production of oil from the OPEC countries or Saudi Arabia——

Mr. RICHARDSON. No.

Mr. BURTON [continuing]. Or anybody.

Mr. RICHARDSON. No. In that visit, no.

Mr. BURTON. Or any visit.

Mr. RICHARDSON. Oh, yes. Of course.

Mr. BURTON. When did you talk to them?

Mr. RICHARDSON. Well, I—just this year, I went to several of—in fact, almost every OPEC country advocating production increases.

Mr. BURTON. Let me ask you. Did you at any time during the last 2 years talk to anybody about oil production cuts?

Mr. RICHARDSON. No.

Mr. BURTON. Anybody?

Mr. RICHARDSON. No. That was a false report that I——

Mr. BURTON. You did not talk to any country or any oil ministers?

Mr. RICHARDSON. None whatsoever.

Mr. BURTON. So the report that was in the paper was totally wrong.

Mr. RICHARDSON. Yes, it was wrong. I have not even met Yamani.

Mr. TIERNEY. I am shocked, Mr. Chairman, that the papers would be wrong.

Mr. BURTON. I am just checking. I am just checking. He is under oath. If that is what he says, then we will live with it.

Mr. TIERNEY. Put the journalist under oath. That would be amusing.

Mr. BURTON. There it is. That is what we ought to do. Unfortunately, the first amendment would not allow us to do that.

Let me go into another issue, then, and that is the situation that we had at Los Alamos.

I am running out of time. I will catch this the next round. Who has time on your side? Do you have any questions on your side? We will go to Mrs. Chenoweth. She did not participate.

Mrs. Chenoweth, you have been waiting a long time.

Mrs. CHENOWETH-HAGE. Thank you, Mr. Chairman.

Mr. Chairman, in December 1999, the Idaho Attorney General's Office issued a report on gasoline prices.

Actually, Idaho was one of the first to feel the increase in prices, and the only possible reason that I could wish what we had early on, on the Midwestern States, was that we finally got everybody's attention. We are so small out in Idaho. We could not get the attention, but I would like to ask unanimous consent to insert this report into the record.

Mr. BURTON. Without objection.

[The information referred to follows:]

REPORT OF THE ATTORNEY GENERAL'S ADVISORY COMMITTEE ON GASOLINE PRICING

December 15, 1999

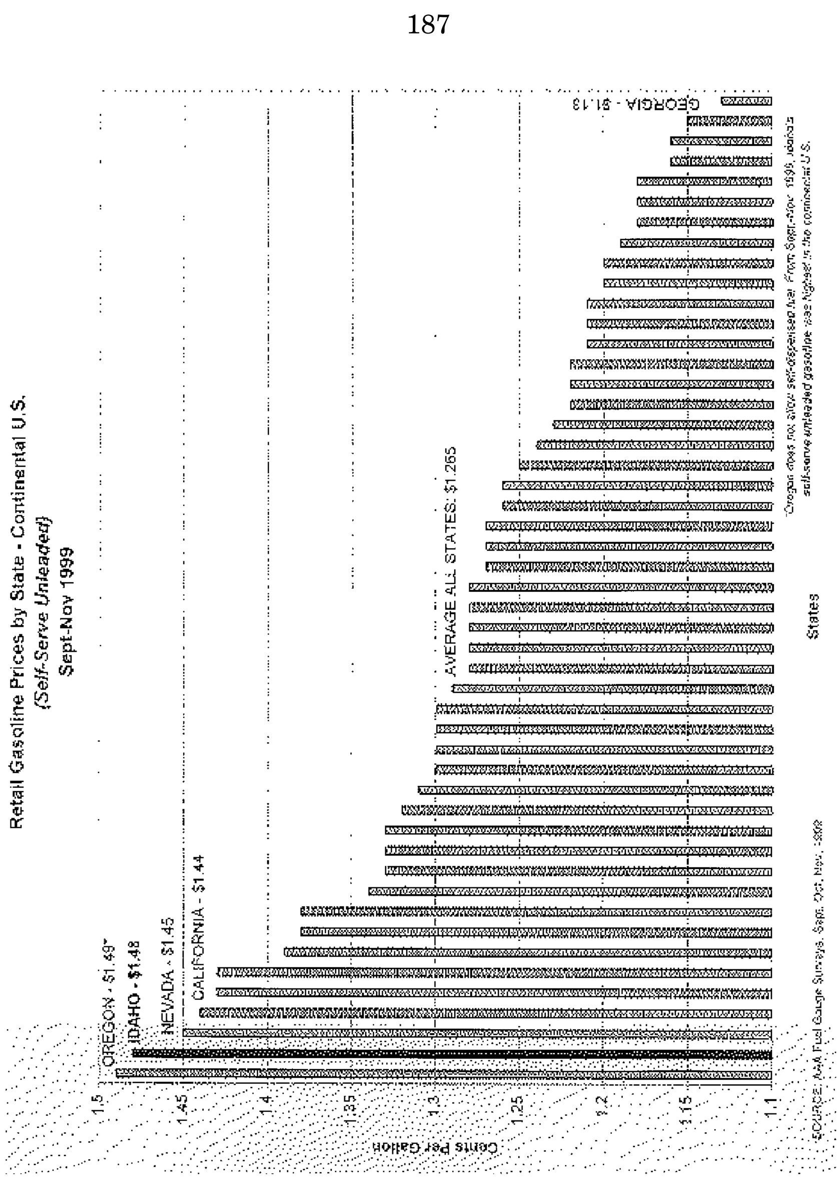
On September 23, 1999, Idaho Attorney General Alan G. Lance appointed a advisory committee to study the high gasoline prices that persisted in the State of Idah throughout the summer months. The charge of the Committee was to determine the caus of the high prices and to make recommendations as to what actions might be effective t remedy them. Committee members included Jim Jones, a Boise lawyer and forme Attorney General, Dave Carlson, Executive Director of AAA Oregon-Idaho, Nor Carpenter, Executive Director of the Better Business Bureau, Dave Bivens, Commissioner of the Ada County Highway District, Rick Waitley of the Food Produce of Idaho, Dr. Greg Nelson of the Idaho Farm Bureau, Brent Kerbs, a gasoline distribut from Burley, and T. Erik Oaas, former Micron Electronics CFO and private citiz representative. The Attorney General's office was represented by Brett DeLange, le Deputy Attorney General for Consumer Affairs.

The Committee met on October 6, October 26, November 8, November 29, a December 15 to consider information solicited and obtained from a variety of sourc The Committee received substantial input from Chevron, as well as input from Sincl and TOSCO. Other oil companies provided limited input. The Committee received a considered input from private citizens as well as from sources pursued by individual Committee members.

The Committee members were not compensated, having agreed to contribute their time. The information upon which the findings and recommendations of the Committee are based is certainly not comprehensive in light of the volunteer nature of the Committee and the limited budgetary resources involved. However, the findings and recommendations are based on solid information and do not extend beyond what can be supported by the available evidence and reasonable inferences based on the evidence.

FINDINGS OF THE COMMITTEE

1. **Gasoline Prices--Retail.** Commencing in March of 1999, Idaho experienced a sustained period of gasoline and diesel prices that were on average higher than almost any other geographic location in the country. This occurred both with regard to rack prices (prices paid to suppliers/refiners by distributors/wholesalers) and retail prices. The prices for locations supplied by the Salt Lake refiners were generally slightly higher than those locations in northern Idaho supplied by Washington and Montana refiners. Idaho consumers do not have to be reminded that pump prices remained around \$1.49/gallon for much of the summer and early fall. During the three-month period from September through November of 1999, Idahoans paid the highest self-serve prices for unleaded regular in the continental United States, as shown in the chart below. The Idaho average price was 21.5 cents above the national average.


Retail Gasoline Prices by State - Continental U.S.
(Self-Serve Unleaded)
Sept-Nov 1999
OREGON - $1.49*
IDAHO - $1.48
NEVADA - $1.45
CALIFORNIA - $1.44
AVERAGE ALL STATES: $1.265
GEORGIA - $1.13
1.5
1.45
1.4
1.35
1.3
1.25
1.2
1.15
1.1
Cents Per Gallon
States
*Oregon does not allow self-dispensed fuel. From Sept-Nov 1999, Idaho's self-serve unleaded gasoline was highest in the continental U.S.

2. **Gasoline Prices -- Wholesale**. The rack or wholesale prices of gasoline and diesel supplied to Idaho also began their sustained climb in March of 1999 and remained at high levels throughout the summer and early fall. The average wholesale price in Boise during the early part of February was around 48 cents per gallon for regular unleaded, doubling to around 96 cents per gallon in early September. A chart showing the weekly rack price for gasoline in selected Idaho markets, as well as selected regional markets, is attached as Exhibit 1. A chart showing the same data for diesel is attached as Exhibit 2. The prices charged by the suppliers/refiners at the various terminals serving Idaho are generally within a few cents of each other at each location. A pricing sheet, showing the prices charged by the various "competitors" at the Boise, Spokane, and Pocatello terminals for August 30, 1999, is attached as Exhibit 3.

3. **Recent Price Relief**. Idaho generally experiences a substantial lowering of gasoline prices after the peak summer months when tourist travel declines and farming operations cease. Such price relief did not occur in 1999. Rather, prices stayed high into the early fall even though the demand for gasoline moderated. In recent weeks the rack/wholesale price has declined by about 15 cents per gallon from the summer highs. This decline has been reflected by retail prices in some areas but not in others.

4. **Dealer Margins**. Margins for wholesalers and retailers in Idaho were not out of line during the spring, summer and early fall. With the high rack prices, wholesaler and retailers had little leeway to add a significant margin. There did not appear to be a great deal of profitability at wholesale or retail during most of the year.

With lessening in the rack prices in the last several weeks, some dealers have maintained higher prices to make up profits or recoup losses, while others have passed on their reduced costs to consumers. With the disparity of prices from community to community and within communities, there is not an appearance of price-fixing at the retail level at this time. Some retailers are charging what the market will bear, while others are giving consumers a break.

5. **Crude Oil Costs**. A substantial component of the doubling in the rack prices charged by the suppliers/refiners appears to be the increased crude oil price. Although the supply of crude oil that is refined for Idaho usage does not generally come from OPEC countries, domestic producers of crude oil take advantage of the OPEC-driven price increases and share in the increased profitability with respect to their crude oil stocks. According to one oil company witness, Idaho is held hostage to the higher crude oil price from Intermountain sources. Because of their isolated location, Salt Lake refineries are not the recipients of cheaper crude oil from Gulf Coast sources. The increase in crude oil prices, however, does not account for the doubling of the rack price since March. Substantial increases also occurred with regard to the refiner's prices. It is interesting to note that crude oil prices have increased to a year high in recent weeks, at the same time that the prices charged to wholesalers by suppliers/refiners have decreased, which appears to verify the inflated level of the refiners' summer margins.

6. **Supplier's/Refiner's Prices**. The refiners' cost and margin (exclusive of crude oil costs) more than doubled during the course of the year. This includes the cost of

refining the crude oil into finished products, as well as the refiners' profits. Although the Committee made repeated attempts to obtain information as to the extent of the refiners' margin increases, the pat response was that the refiners had no means of determining their costs related to production of gasoline and therefore could not determine their profit margin. Thus, the costs and margin are rolled into one figure in the available data. The average of this component for 1999 was significantly higher than the 1998 average. Data from other states indicates that this component generally increases when demand is high because the refiners are inclined, like others, to charge what the traffic will bear. With five refiners in Salt Lake City and two Sinclair refineries in Wyoming providing finished product to the Salt Lake market, there are seven refineries that contribute to the supply in the Salt Lake area and up through the Chevron pipeline into Southern Idaho. The rack prices charged by the refiners are generally within a few cents of one another at each terminal. The prices appear to move in tandem. Exhibit 4 compares the Spokane rack price for regular unleaded with the cost of crude oil. The chart assumes that costs of transportation (which are an unknown) remained relatively stable and, if so, the chart demonstrates the substantial increase in the refiners' cost and margin from a low of about 15 cents per gallon at the end of February to a high of almost 40 cents per gallon during early August. Exhibit 5 shows the various components going into the price of a gallon of gasoline sold in the Boise market from January of 1998 to September of 1999. The vertical bars show federal and state taxes, which remained constant at 44.3 cents per gallon during the entire period. The chart shows the crude oil cost per gallon going from 31.2 cents in January of 1999 to 56.6 cents in September. The refiners' cost and margin increased from 13.1 cents per gallon in January to a high of 38.6 cents per gallon in August. Does it cost more than triple the amount to refine a barrel of oil in August than it does in January? It is not likely.

7. **Idaho's Location**. Idaho suffers from geographic isolation. There is only one pipeline that supplies the southern part of the state -- the Chevron pipeline out of Salt Lake City. Exhibit 6 demonstrates the large number of pipelines in the east where the prices are much lower, and the few pipelines in the west where prices are high. Oil company representatives state that the Chevron pipeline operates at capacity (approximately 32,000 barrels per day) during much of the year, particularly during the summer peak season. Generally, transportation by truck or other means is not feasible from a cost standpoint, although from time to time there is such a disparity between the rack price in Boise and out-of-state racks that a jobber can obtain cheaper product by trucking it in. The northern Idaho supply benefits from more available supply but with problems encountered from the closure of the Yellowstone pipeline from the Billings refineries in Montana, the supply has suffered restrictions and higher prices. Exhibit 7 demonstrates the pipelines serving Spokane and Northern Idaho.

8. **Taxes**. As mentioned above, taxes play a significant part in the pump price of gasoline. The federal tax on gasoline is 18.3 cents per gallon. Up until October 1, 1999, Idaho charged an additional 26 cents per gallon. As of October 1, 1999, the state

suspended the 1 cent per gallon Petroleum Products Transfer Fee, reducing the state tax to 25 cents per gallon. Exhibit 8 shows the tax rates of the various states. With its current 25 cent tax, Idaho would be in seventh place (between West Virginia and Utah). Product provided to Idaho through the State of Washington is subject to Washington's Hazardous Substance Tax of 0.7% of the wholesale value of the product. There is no mechanism for obtaining a refund or rebate of that tax so Idaho consumers have no choice but to pay this additional amount at the pump.

9. **Industry Mergers and Acquisitions**. Increased concentration of the oil industry at the local, regional, and national levels appears to have lessened competition both at the supplier and retail levels. For example, the Federal Trade Commission recently indicated that it was planning to approve a merger between Exxon and Mobil to create one of the world's largest energy companies. Such mergers and acquisitions, which are becoming commonplace at the national level and which are also occurring at the regional and local level, appear to be having substantial anti-competitive effects. The fewer competitors selling a product, the less likely that competitive pressures will keep consumer prices in check. For example, one of the previous competitors in the Southern Idaho area, Circle K, has been acquired by another company. Circle K often priced its product below other competitors in the marketplace, thereby producing substantial benefits to consumers. Attached as Exhibits 10 and 11 are charts prepared with data gathered by AAA Idaho in its fuel gauge surveys. These are not intended to be scientific charts but are essentially based on surveys made of selected retail outlets in the Boise area

for the purpose of demonstrating the general effect of Circle K's pricing practices in the marketplace. With the acquisition of this competitor, there may not be as much price competition in the future. Any proposed mergers or acquisitions should be carefully scrutinized to determine the potential effects on competition.

RECOMMENDATIONS

A. **Investigation of the Salt Lake Refiners**. There are enough indications of possible price fixing by the Salt Lake suppliers/refiners that it would be worthwhile to conduct an in-depth investigation. It is recommended that the Attorney General call upon the Justice Department and/or Federal Trade Commission to conduct an investigation of the rack pricing practices of Salt Lake City suppliers to determine whether tandem pricing is based solely on independent pricing decisions or whether collusion may be involved. With the number of refineries contributing to the supply, the sustained high prices, and the almost identical movement of prices charged by suppliers, collusion can't be ruled out. One thing that is certain is that the oil companies have been making very substantial profits. As indicated in the newspaper article attached as Exhibit 12, Exxon, Chevron and ARCO have done extremely well this year. It may be that the high prices are just the result of price gouging, as opposed to collusion, but in either event it is not to the credit of the oil companies to take advantage of Idaho consumers. The cartoon attached as Exhibit 13 makes the point as to the effect of these pricing practices on consumers.

B. **Review State Laws**. We would recommend that the State review and update its anti-trust laws. This would include granting the Attorney General investigative powers such as are available under the Idaho Consumer Protection Act. At present, the Attorney General does not have the ability to make investigative demands on persons or entities suspected of price fixing or other anti-trust violations. Consideration should also be given to allowing the Attorney General to use the grand jury procedure for calling witnesses and developing evidence. Without more effective evidence gathering procedures, it is difficult, if not impossible, to make a case. In addition, the Legislature should consider funding the Attorney General's office for anti-trust capability. This does not currently exist. The anti-trust person or persons could monitor and act upon proposed mergers and acquisitions that may affect consumers in Idaho. Also, an anti-trust person would be in a position to cooperate with other states in facilitating the investigation of potential price fixing, such as could be found to exist in the Salt Lake market.

C. **More Merger Scrutiny**. The State of Idaho should join with other western states in urging the Federal Trade Commission and Justice Department to give more careful scrutiny to all pending or future oil company mergers and acquisitions. The federal authorities need to do a better job of evaluating the negative consequences to this region as a result of the lessening of competition from mergers and acquisitions.

D. **Support Efforts to Increase the Supply.** The State of Idaho should support efforts to increase pipeline capacity into the State of Idaho, as well as increased capacity for the transport of crude oil to refineries that supply finished product to Idaho. It isn't hard to see from Exhibit 6, that Idaho is underserved with pipeline capacity. As indicated in Exhibit 7, the northern part of the state fares somewhat better, but there are still supply problems. Measures to increase the pipeline capacity are essential. This would include:

1. Support of the Aspen Products Pipeline proposed by a joint venture of Williams and Equilon (Texaco and Shell), which would give the Salt Lake area and Southern Idaho access to low-cost Gulf Coast gasoline. See, Exhibits 14 and 15. This has the potential for providing the market an additional 40,000 - 42,000 barrels per day of refined petroleum products. It is reported that Sinclair has been opposing this project, partly because it has its own project, the Pioneer pipeline which would increase the flow of its products from its Sinclair, Wyoming, refinery to Central Utah. While the Sinclair project would have some benefits, they simply could not match those of the Aspen project. Sinclair and other oil companies should call a halt to efforts to hinder the Aspen project because it appears that both projects are worth pursuing for the benefit of area consumers.

2. Support of Chevron's tentative plans to reverse the flow of the Chevron pipeline between Boise and Pasco. This year approximately 6,000 barrels per day of gasoline were shipped west beyond Boise through the Chevron pipeline. If the pipeline were reversed from Pasco, this 6,000 barrels per day would theoretically be available in Boise, as well as a pipeline capacity of 12,000 barrels per days from Pasco. This could increase the available supply by around 50%.

3. Support proposals similar to the cross-Cascade pipeline proposal from the west coast to Pasco (which has been shelved) or increased barge traffic to Pasco to increase supplies to northern Idaho (and southern Idaho in the event of a reversal of the flow in the Chevron pipeline).

E. Washington Tax. The Legislature and State Tax Commission should consider a means of eliminating or getting Idaho wholesalers a refund of the .7% Washington State Hazardous Substance Waste Tax on gasoline that is sold in Idaho.

1999 Gas Price Data

	Idaho Average Wholesale Price (regular unleaded)				Surrounding States Average Wholesale Price (regular unleaded)			
Date	Boise	Pocatello	Burley	Spokane	Denver	Salt Lake	Portland	Average Barrel Price
12/30/98	42.16	40.82	40.54	NO DATA	NO DATA			11.6350
01/07/99	43.92	42.65	42.76		38.11	39.07	41.52	12.6010
01/14/99	46.14	44.48	45.17		38.05	41.37	40.61	12.7120
01/21/99	47.73	46.76	47.04		36.64	43.20	39.27	12.2162
01/28/99	48.31	47.34	47.57		37.88	44.38	37.79	12.4310
02/04/99	NO DATA				40.31	44.80	38.15	12.2750
02/11/99	48.31	47.28	47.51		38.38	45.59	37.67	11.7900
02/18/99	48.85	47.33	48.07		37.15	46.35	38.62	12.6112
02/25/99	49.42	47.41	48.51		38.27	46.92	41.71	12.4140
03/04/99	50.88	47.50	49.54		41.05	48.45	49.06	12.8460
03/11/99	54.13	50.73	52.88		45.89	51.99	55.19	14.0720
03/18/99	57.40	53.23	55.73		50.58	55.65	57.40	14.7750
03/25/99	64.55	55.98	62.91		54.39	62.49	69.70	15.5400
04/01/99	69.20	59.23	68.00		59.16	67.77	84.83	16.4700
04/08/99	71.15	61.50	69.91		57.92	70.82	88.40	16.4450
04/15/99	73.40	65.34	72.03		56.86	72.86	73.88	16.6970
04/22/99	74.28	67.94	72.78		57.34	74.10	66.34	17.8600
04/29/99	74.28	70.53	72.78		57.82	74.26	65.82	18.1310
05/06/99	74.83	71.66	73.16		59.22	74.78	71.04	18.6050
05/13/99	75.85	72.35	74.22		56.70	75.91	68.51	17.9930
05/20/99	76.10	72.44	74.34		56.37	76.12	66.93	17.2900
05/27/99	74.50	72.35	72.38		56.06	74.20	66.31	17.1720
06/03/99	73.11	72.35	70.33		55.54	72.81	70.03	16.6775
06/10/99	72.66	71.85	69.85		57.29	69.95	76.03	17.8380
06/17/99	73.17	71.94	71.13		58.14	69.58	86.02	18.1770
06/24/99	73.34	72.39	72.19		59.58	70.66	84.04	18.1850
07/01/99	74.40	72.91	73.43		61.59	71.45	83.64	18.8840
07/08/99	75.65	74.23	74.59		63.43	73.14	85.94	19.7280
07/15/99	78.65	76.02	77.87		65.70	75.79	90.95	20.1050
07/22/99	83.10	81.32	81.81		68.77	78.72	90.63	20.0490
07/29/99	84.86	84.42	NO DATA	88.02	72.15	78.85	90.66	20.5230
08/05/99	88.13	87.79		89.13	74.62	81.44	93.69	20.4690
08/12/99	90.70	90.36		87.64	77.79	84.17	88.57	21.3860
08/19/99	93.50	93.25		87.40	77.80	86.68	84.77	21.6640
08/26/99	95.30	95.13		86.77	78.22	88.80	81.80	21.2110
09/02/99	96.15	96.58		86.04	79.46	89.43	79.91	21.7860
09/09/99	96.15	96.85		85.99	79.65	89.47	78.34	22.8837
09/16/99	95.35	96.71		85.56	79.74	89.51	77.15	24.1560
09/23/99	93.65	95.78		85.41	78.39	89.11	76.95	24.3890

Data Source: *Oil Price Information Service (OPIS)*

EXHIBIT 1

	Idaho Avg. Wholesale Price (regular unleaded)			Surrounding States Avg. Wholesale Price (regular unleaded)					
Date	Boise	Pocatello	Spokane	Pasco	Billings	Denver	Salt Lake	Portland	Avg. Barrel Price
09/30/99	91.75	95.15	86.19	83.50	NO DATA				NO DATA
10/07/99	90.91	94.38	87.05	84.55					
10/14/99	87.18	92.86	87.05	82.85					22.6100
10/21/99	85.35	92.11	85.79	81.15					23.4500
10/28/99	85.05	84.01	92.07	79.73					21.7500

	Idaho Avg. Wholesale Price (Lo Sul)			Surrounding States Avg. Wholesale Price (Lo Sul)					
Date	Boise	Pocatello	Spokane	Pasco	Billings	Denver	Salt Lake	Portland	Avg. Barrel Price
12/30/98	43.65	39.60	42.78						11.6350
01/07/99	43.44	39.76	41.44						12.6010
01/14/99	44.05	40.16	41.23						12.7120
01/21/99	43.76	40.02	41.03						12.2162
01/28/99	44.64	40.39	40.83						12.4310
02/04/99	NO DATA		42.38						12.2750
02/11/99	45.77	41.71	43.90						11.7900
02/18/99	46.27	41.94	44.65						12.6112
02/25/99	46.65	42.56	44.71						12.4140
03/04/99	47.46	42.94	45.87						12.8460
03/11/99	50.33	45.76	51.28						14.0720
03/18/99	53.26	48.30	55.56						14.7750
03/25/99	56.50	51.83	60.63						15.5400
04/01/99	61.46	58.11	68.16						16.4700
04/08/99	65.04	62.49	73.22						16.4450
04/15/99	66.51	64.29	70.13						16.6970
04/22/99	66.74	65.91	62.78						17.8600
04/29/99	64.07		59.33						18.1310
05/06/99	61.34	64.41	62.13						18.6050
05/13/99	60.74	63.88	63.31						17.9930
05/20/99	60.10	63.15	63.61						17.2900
05/27/99	59.15	62.06	63.35						17.1720
06/03/99	59.03	61.87	63.83						16.6775
06/10/99	59.51	62.25	67.74						17.8380
06/17/99	62.28	62.72	74.61						18.1770
06/24/99	66.23	63.91	75.92						18.1850
07/01/99	69.46	64.91	75.99						18.8840
07/08/99	71.41	66.66	76.03						19.7280
07/15/99	72.46	67.89	74.16						20.1050
07/22/99	72.84	68.89	71.12						20.0490
07/29/99	72.09	69.48	69.15						20.5230
08/05/99	72.78	71.14	71.74						20.4690
08/12/99	75.63	74.04	74.06						21.3860
08/19/99	77.02	76.29	76.02						21.6640
08/26/99	77.78	77.69	76.18						21.2110
09/02/99	77.43	78.23	75.48						21.7860
09/09/99	76.70	77.80	73.86						22.8837
09/16/99	75.27	77.30	71.96						24.1560
09/23/99	72.21	75.36	71.20						24.3890

Data Source: *Oil Price Information Service (OPIS)*

EXHIBIT 2

	Idaho Avg. Wholesale Price (Lo Sul)			Surrounding States Avg. Wholesale Price (Lo Sul)					
Date	Boise	Pocatello	Spokane	Pasco	Billings	Denver	Salt Lake	Portland	Avg. Barrel Price
09/30/99	72.55	74.90	73.88						NO DATA
10/07/99	72.68	75.16	75.80						
10/14/99	71.88	75.15	76.83						22.6100
10/21/99	71.38	75.17	77.63						23.4500
10/28/99	71.44	75.38	76.75						21.7500
11/04/99	71.63	75.66	76.46						23.0000
11/11/99	74.63	78.11	78.76						24.9100
11/18/99	77.07	78.82	79.97						26.5600

Source: Oil Price Information Service (OPIS)

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Oil Price Information Service

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Prices confirmed through August 26, 1999
BOISE, ID
OPIS CLEAR GROSS GASOLINE PRICES (9.0 RVP)

	Terms	Unl	Reg/Mid	Pre Unl
Amoco	1-10	95.50b	99.00m	105.00
Amoco	1-10	95.50u	99.00m	105.00
Chevron	1-10	96.00b	99.50m	105.50
Conoco	1-10	94.50b	98.50m	104.25
Flying J	N-10	94.00u	97.50m	103.50
Inland	1-10	96.00u	-- --	105.50
Phillips	1-10	95.50b	99.25m	105.00
Phillips	N-10	95.00u	98.75m	104.50
Sinclair	1-10	95.50b	99.00m	105.00
Texaco	1-10	95.50b	99.00m	105.00
RANGE -LOW		94.00	97.50m	103.50
-HIGH		96.00	99.50m	105.50
AVERAGE		95.30	98.83m	104.83
BRND AVG		95.42	99.04m	104.96
UNBRND AVG		95.13	98.42m	104.63

Prices confirmed through August 26, 1999
BOISE, ID
OPIS GROSS DISTILLATE PRICES

	Terms	Lo Sul No2	Hi Sul No2	Lo Sul Red No2	Lo Sul No1	Hi Sul No1	Lo Sul Red No1
Amoco	u 1-10	78.30	75.75	78.30	81.30	-- --	81.30
Chevron	b 1-10	76.30	74.30	-- --	79.30	-- --	-- --
Conoco	b 1-10	77.90	-- --	-- --	84.15	-- --	-- --
Phillips	b 1-10	79.15	76.00	79.55	85.15	-- --	85.50
Sinclair	b 1-10	79.10	-- --	79.35	85.10	-- --	85.35
Texaco	b N-15	75.95	74.30	-- --	81.95	-- --	-- --
RANGE -LOW		75.95	74.30	78.30	79.30	-- --	81.30
-HIGH		79.15	76.00	79.55	85.15	-- --	85.50
AVERAGE		77.78	75.09	79.07	82.83	-- --	84.05
BRND AVG		77.68	74.87	79.45	83.13	-- --	85.43
UNBRND AVG		78.30	75.75	78.30	81.30	-- --	81.30

Prices confirmed through August 26, 1999
BOISE, ID
OPIS SUB-OCTANE GROSS PRICES

	Terms	Unl	Reg/Mid	Pre Unl
Phillips	1-10	93.51b	-- --	-- --
RANGE -LOW		93.51	-- --	-- --
-HIGH		93.51	-- --	-- --
AVERAGE		93.51	-- --	-- --
BRND AVG		93.51	-- --	-- --
UNBRND AVG		-- --	-- --	-- --

EXHIBIT 3

Prices confirmed through August 26, 1999
SPOKANE, WA
OPIS CLEAR GROSS GASOLINE PRICES (9.0 RVP)

	Terms	Unl	Reg/Mid	Pre Unl
Chevron	N-10	86.20b	90.70m	97.20
Conoco	1-10	86.50b	91.25m	97.75
CountryEn	N-Rpt	85.00b	90.00m	97.00
Exxon	N-10	87.70b	92.20m	98.80
Flying J	N-10	87.00u	91.50m	98.00
Shell	N-10	86.70b	91.40m	96.70
Texaco	N-10	86.70b	91.40m	96.20
Tosco	1-10	88.10b	92.60m	99.10
Tosco	N-10	87.00u	91.50m	97.00
RANGE -LOW		85.00	90.00m	96.20
-HIGH		88.10	92.60m	99.10
AVERAGE		86.77	91.39m	97.53
BRND AVG		86.70	91.36m	97.54
UNBRND AVG		87.00	91.50m	97.50

Excludes WA Haz. Sub. Tax

Prices confirmed through August 26, 1999
SPOKANE, WA
OPIS GROSS DISTILLATE PRICES

	Terms	Lo Sul No2	Hi Sul No2	Lo Sul Red No2	Lo Sul No1	Hi Sul No1	Lo Sul Red No1
Chevron	b N-10	75.00	-- --	-- --	85.00	-- --	-- --
Conoco	b 1-10	76.55	-- --	73.40	86.05	-- --	83.65
CountryEn	b N-Rpt	75.50	-- --	75.85	84.50	-- --	-- --
Exxon	b N-10	77.40	-- --	74.90	87.90	-- --	85.40
Flying J	u N-10	77.75	-- --	75.50	88.25	-- --	-- --
Texaco	b N-15	75.25	73.75	-- --	83.25	-- --	-- --
Tosco	b 1-10	76.75	-- --	-- --	84.50	-- --	-- --
Tosco	u N-10	75.25	74.50	75.25	83.50	-- --	84.00
RANGE -LOW		75.00	73.75	73.40	83.25	-- --	83.65
-HIGH		77.75	74.50	75.85	88.25	-- --	85.40
AVERAGE		76.18	74.13	74.98	85.37	-- --	84.35
BRND AVG		76.08	73.75	74.72	85.20	-- --	84.53
UNBRND AVG		76.50	74.50	75.38	85.88	-- --	84.00

Excludes WA Haz. Sub. Tax

Prices confirmed through August 26, 1999
POCATELLO, ID
OPIS CLEAR GROSS GASOLINE PRICES (9.0 RVP)

	Terms	Unl	Reg/Mid	Pre Unl
Amoco	1-10	95.80b	99.30m	105.80
Amoco	1-10	95.80u	99.30m	105.80
Chevron	1-10	95.80b	100.30m	105.80
CountryEn	N-Rpt	93.25b	98.00m	103.25
Exxon	1-10	96.10b	-- --	105.90
Flying J	N-10	94.00u	97.50m	103.50
Inland	N-10	95.00u	-- --	104.50
Phillips	1-10	95.30b	98.80m	104.80
Phillips	N-10	94.80u	98.30m	104.30
Sinclair	1-10	95.30b	98.80m	104.80
Texaco	1-10	95.30b	99.30m	105.30
RANGE -LOW		93.25	97.50m	103.25
-HIGH		96.10	100.30m	105.90
AVERAGE		95.13	98.84m	104.89
BRND AVG		95.26	99.08m	105.09
UNBRND AVG		94.90	98.37m	104.53

Thu Aug 26 18:56:05 EDT 1999 UCG Page 3

Prices confirmed through August 26, 1999

POCATELLO, ID

OPIS GROSS DISTILLATE PRICES

	Terms	Lo Sul No2	Hi Sul No2	Lo Sul Red No2	Lo Sul No1	Hi Sul No1	Lo Sul Red No1
Amoco	u 1-10	78.05	74.05	-- --	83.05	-- --	-- --
Chevron	b 1-10	77.60	73.40	-- --	82.40	-- --	-- --
CountryEn	b N-Rpt	77.00	73.75	77.35	82.00	-- --	82.35
Flying J	u N-10	78.00	-- --	-- --	84.00	-- --	-- --
Phillips	b 1-10	78.70	75.30	79.10	84.70	-- --	85.05
Sinclair	b 1-10	78.55	-- --	74.30	84.55	-- --	81.30
Texaco	b N-15	75.90	75.40	-- --	81.90	-- --	-- --
RANGE -LOW		75.90	73.40	74.30	81.90	-- --	81.30
-HIGH		78.70	75.40	79.10	84.70	-- --	85.05
AVERAGE		77.69	74.38	76.92	83.23	-- --	82.90
BRND AVG		77.55	74.48	76.92	83.11	-- --	82.90
UNBRND AVG		78.03	74.05	-- --	83.53	-- --	-- --

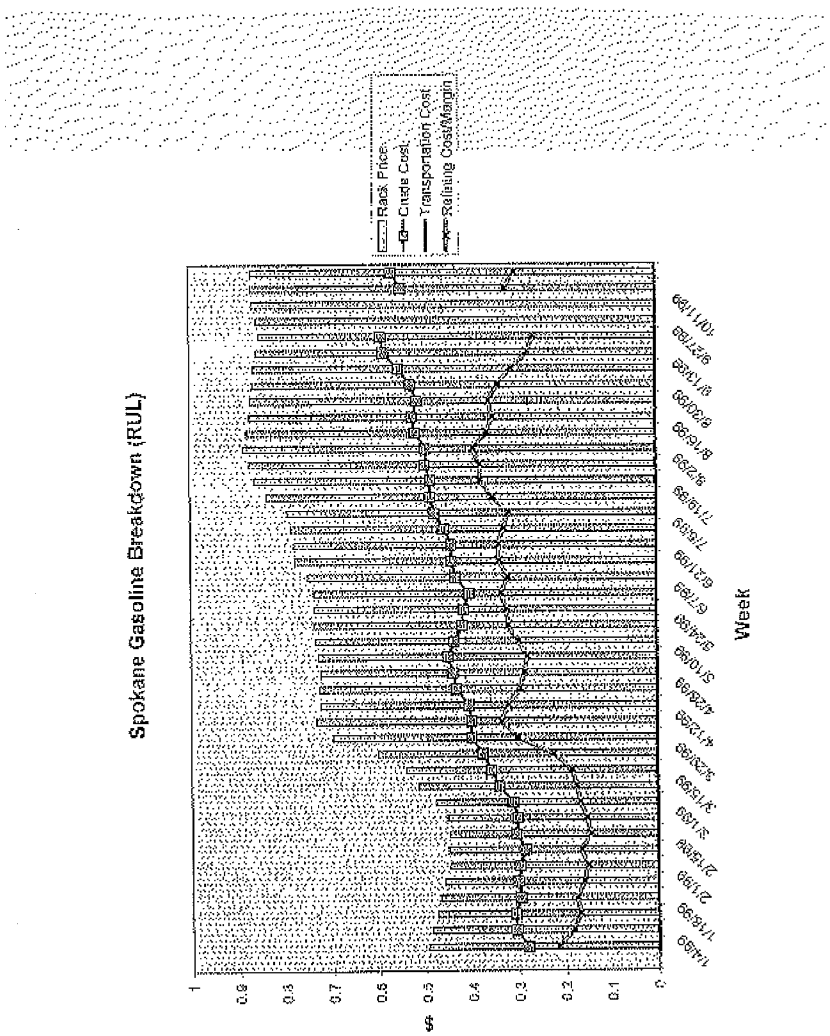
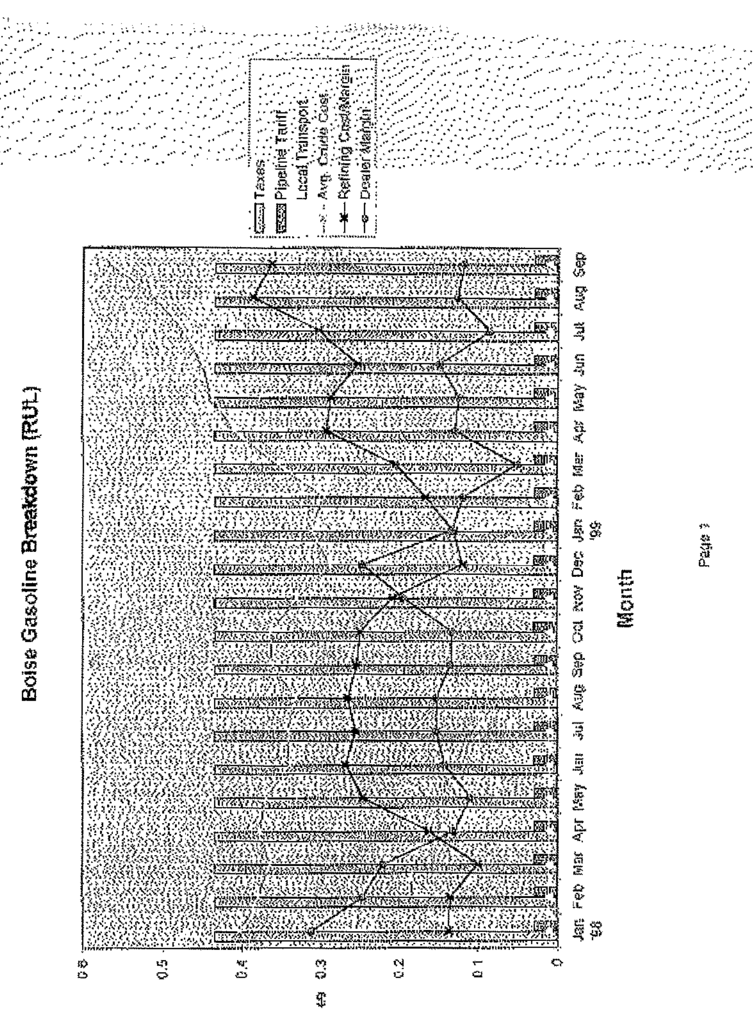

Spokane Gasoline Breakdown (RUL)
Rack Price
Crude Cost
Transportation Cost
Refining Cost/Margin
$
Week

EXHIBIT 4

Chart6



Page 1

EXHIBIT 5

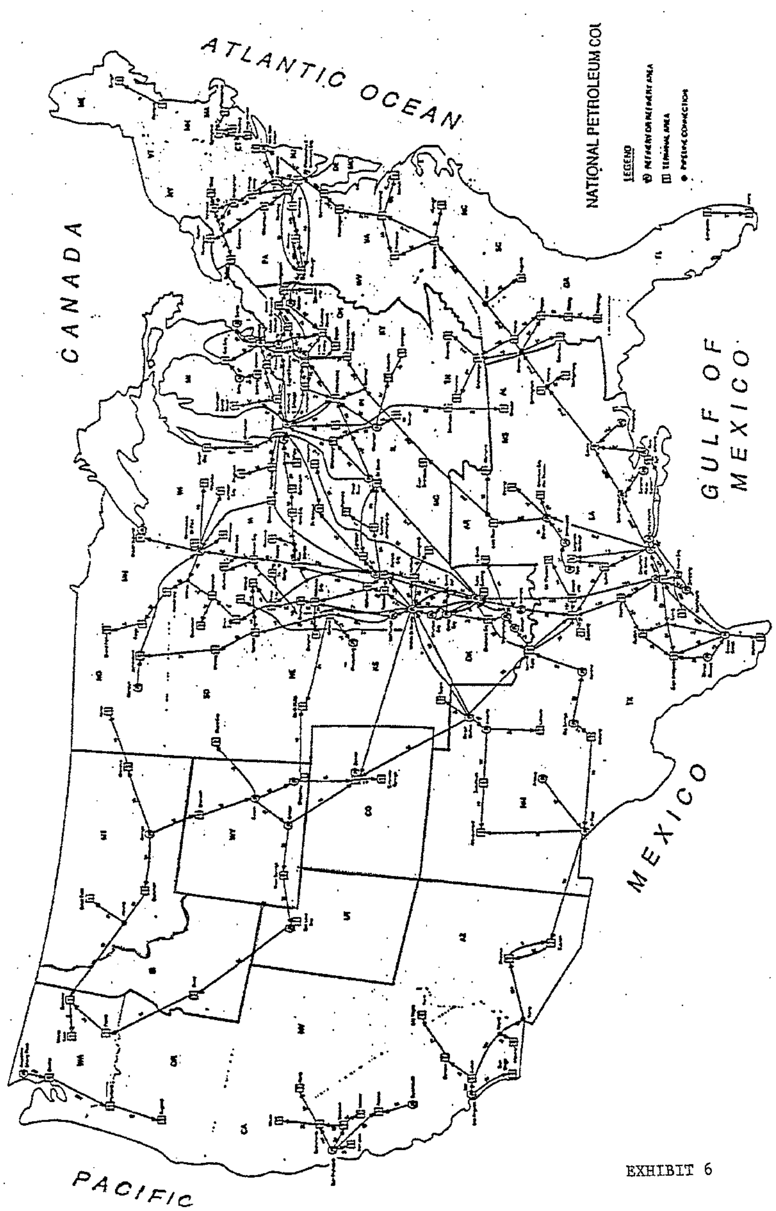
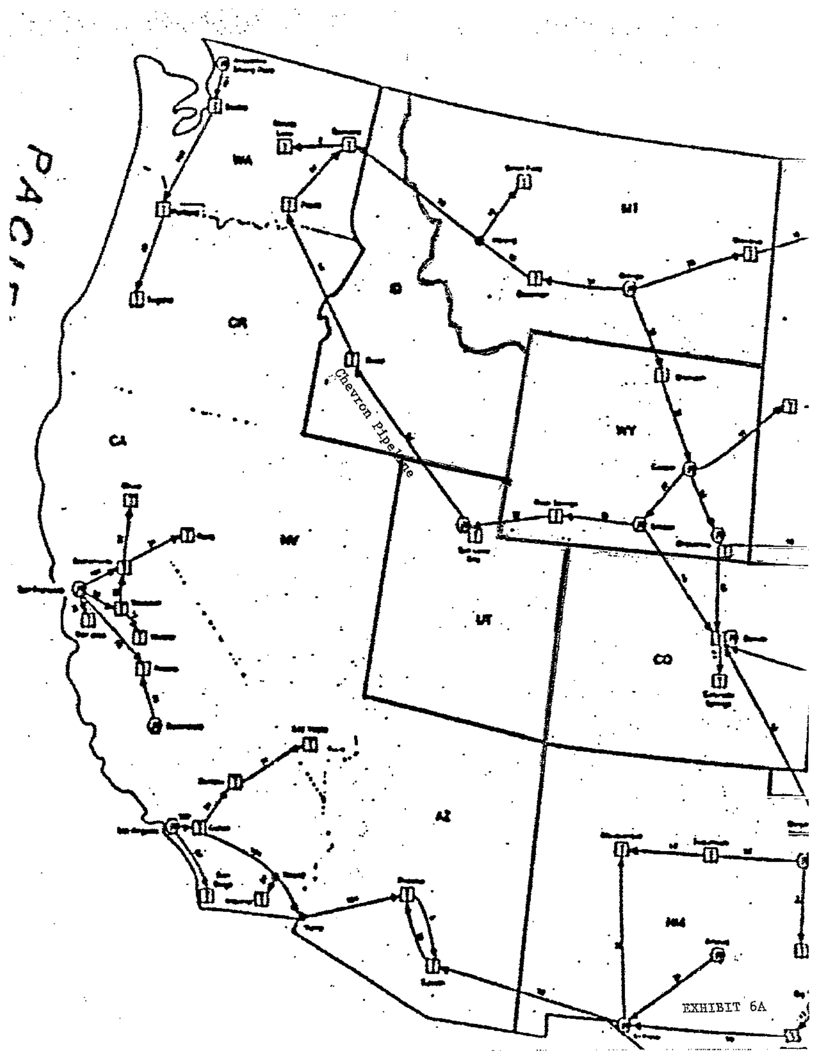
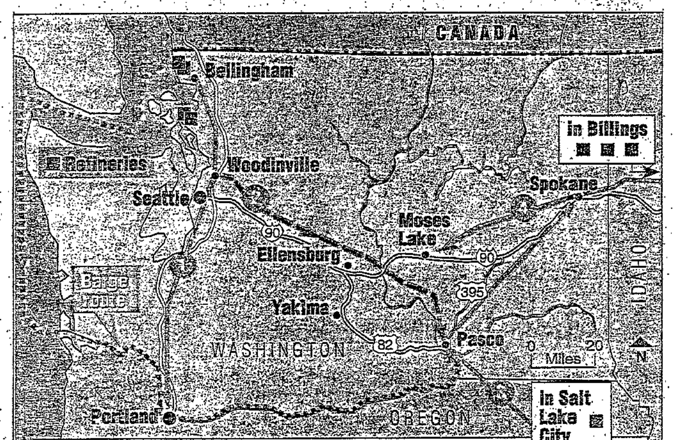

ATLANTIC OCEAN
CANADA
NATIONAL PETROLEUM COU
LEGEND
GULF OF MEXICO
MEXICO
PACIFIC

EXHIBIT 6


WA
ID
MT
WY
CA
NV
UT
CO
AZ
NM
Chevron Pipeline
EXHIBIT 6A

he gas lane

sources give area a competitive edge at the pump



Gas pipelines in Washington

1. **Olympic Pipe Line:** Co-owned by ARCO, Equilon (Texaco and Shell) and GATX. Operated by Equilon.
2. **Cross-Cascade:** Application to build this pipeline was withdrawn June 24.
3. **Yellowstone Pipeline:** New path of this pipeline from Billings still under review. Current pipeline has a major gap in Montana.
4. **Chevron:** Moves small amounts of gasoline from Salt Lake City, as well as larger quantities from Puget Sound area by way of Pasco.

SOURCES: Aspen Environmental Group and Olympic Pipe Line Co.

Staff graphic

Spokesman Review 10-31-99

EXHIBIT 7

Motor Fuel Excise Tax Rates as of January 1, 1999 (sorted *alphabetically* by state)	
State	Tax
Alabama	18.00
Alaska	8.00
Arizona	18.00
Arkansas	18.70
California[1]	18.00
Colorado	22.00
Connecticut	32.00
Delaware	23.00
District of Columbia	20.00
Florida[1]	13.10
Georgia	7.50
Hawaii[1]	16.00
Idaho	26.00
Illinois[1]	19.30
Indiana	15.00
Iowa	20.00
Kansas	18.00
Kentucky	16.40
Louisiana	20.00
Maine	19.00
Maryland	23.50
Massachusetts	21.00
Michigan	19.00
Minnesota	20.00
Mississippi	18.40
Missouri	17.05
Montana	27.00
Nebraska	24.40
Nevada[1]	24.00
New Hampshire	18.70
New Jersey	10.50
New Mexico	18.00
New York	8.00
North Carolina	21.60
North Dakota	20.00
Ohio	22.00
Oklahoma	17.00
Oregon[1]	24.00
Pennsylvania	30.77
Rhode Island	29.00
South Carolina	16.00
South Dakota[1]	21.00
Tennessee[1]	21.00
Texas	20.00
Utah	24.75
Vermont	20.00
Virginia[1]	17.50
Washington	23.00
West Virginia	25.35
Wisconsin[2]	25.40
Wyoming	14.00
Federal	18.30

Motor Fuel Excise Tax Rates as of January 1, 1999 (sorted *by amount of tax*)	
State	Tax
Connecticut	32.00
Pennsylvania	30.77
Rhode Island	29.00
Montana	27.00
Idaho	26.00
Wisconsin	25.40
West Virginia	25.35
Utah	24.75
Nebraska	24.40
Nevada	24.00
Oregon	24.00
Maryland	23.50
Delaware	23.00
Washington	23.00
Colorado	22.00
Ohio	22.00
North Carolina	21.60
Massachusetts	21.00
South Dakota	21.00
Tennessee	21.00
District of Columbia	20.00
Iowa	20.00
Louisiana	20.00
Minnesota	20.00
North Dakota	20.00
Texas	20.00
Vermont	20.00
Illinois	19.30
Maine	19.00
Michigan	19.00
Arkansas	18.70
New Hampshire	18.70
Mississippi	18.40
Federal	18.30
Alabama	18.00
Arizona	18.00
California	18.00
Kansas	18.00
New Mexico	18.00
Virginia	17.50
Missouri	17.05
Oklahoma	17.00
Kentucky	16.40
Hawaii	16.00
South Carolina	16.00
Indiana	15.00
Wyoming	14.00
Florida	13.10
New Jersey	10.50
Alaska	8.00
New York	8.00
Georgia	7.50

[1] Tax Rates do not include local option taxes. In AL, $.01 - $.03; CA, $.01; HI, $.08 - $.115; IL, $.05 in Chicago and $.06 in Cook County (gasoline only); NV, $.01 - $.10; OR, $.01 - $.02; SD and TN, $.01; and VA, 2%

[2] *Portion of the rate is adjustable based on maintenance costs, sales volume, or cost of fuel to state government.*

EXHIBIT 8

The Idaho Statesman Sunday, November 28, 1999

FTC expected to OK Exxon, Mobil merger

$81 billion deal includes selling 2,400 gas stations

By Ted Bridis
The Associated Press

WASHINGTON — The Federal Trade Commission is indicating to states that it intends to recommend approval of Exxon Corp.'s $81 billion acquisition of Mobil Corp., government sources said Saturday.

The merger would create one of the world's largest energy companies.

Some states, however, are not satisfied with a proposal worked out by the companies and the FTC that includes the sale of about 2,400 gas stations nationwide. It is unlikely those states could stop the deal, though officials could lobby FTC commissioners or ask a court to block it.

The centerpiece of the agreement between Exxon and Mobil — the nation's largest and second-largest oil producers, respectively — is the sale of about 2,400 gas stations, roughly 15 percent of the companies' retailers around the country.

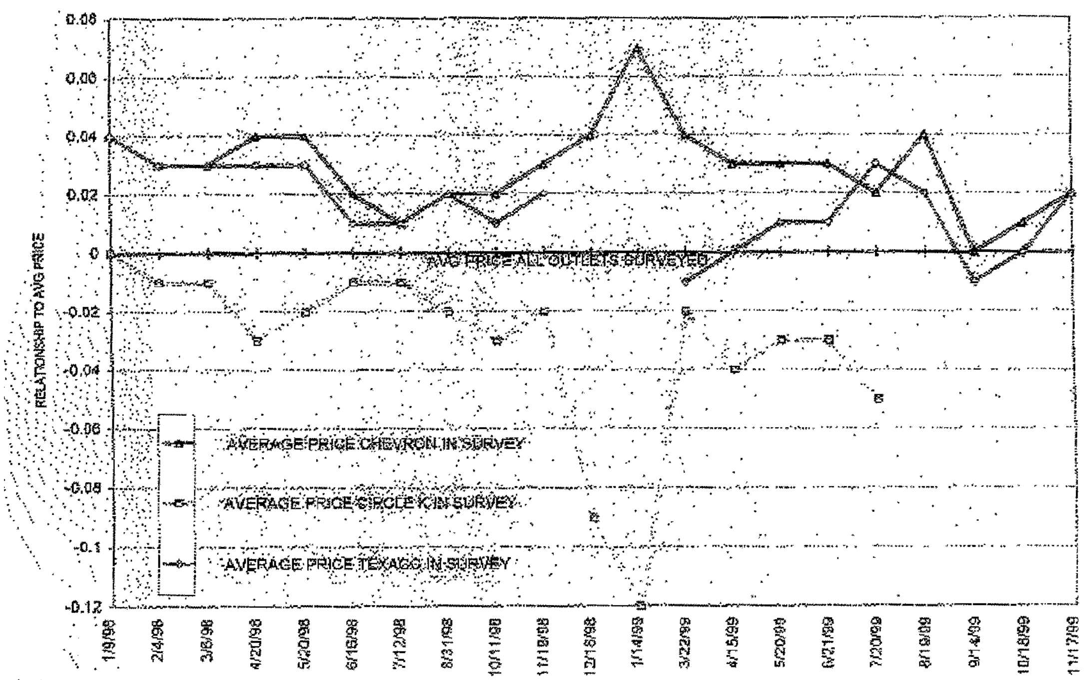
Exxon also would sell a refinery in Benicia, Calif., and the companies would sell substantial interests in several pipelines throughout the United States.

Some federal and state officials have raised antitrust questions about another oil merger, BP Amoco's proposed $29 billion purchase of Atlantic Richfield Co.

In that deal, executives from the companies are expected to reach a final agreement allaying antitrust and other concerns, officials said.

EXHIBIT 9

BOISE GAS PRICE SURVEY 1998-1999



Average prices derived from observational surveys of approximately 18 retail outlets each date shown. Breaks in Texaco graph indicate lack of data points. Circle K stores changed ownership/branding to Texaco approximately Oct 1, 1999. Graph does not show prices per se, only how retail stations priced gasoline in relationship to each other. Graph indicates trendline to higher prices with loss of Circle K in marketplace. SOURCE: AAA IDAHO Fuel Gauge Survey.

EXHIBIT 10

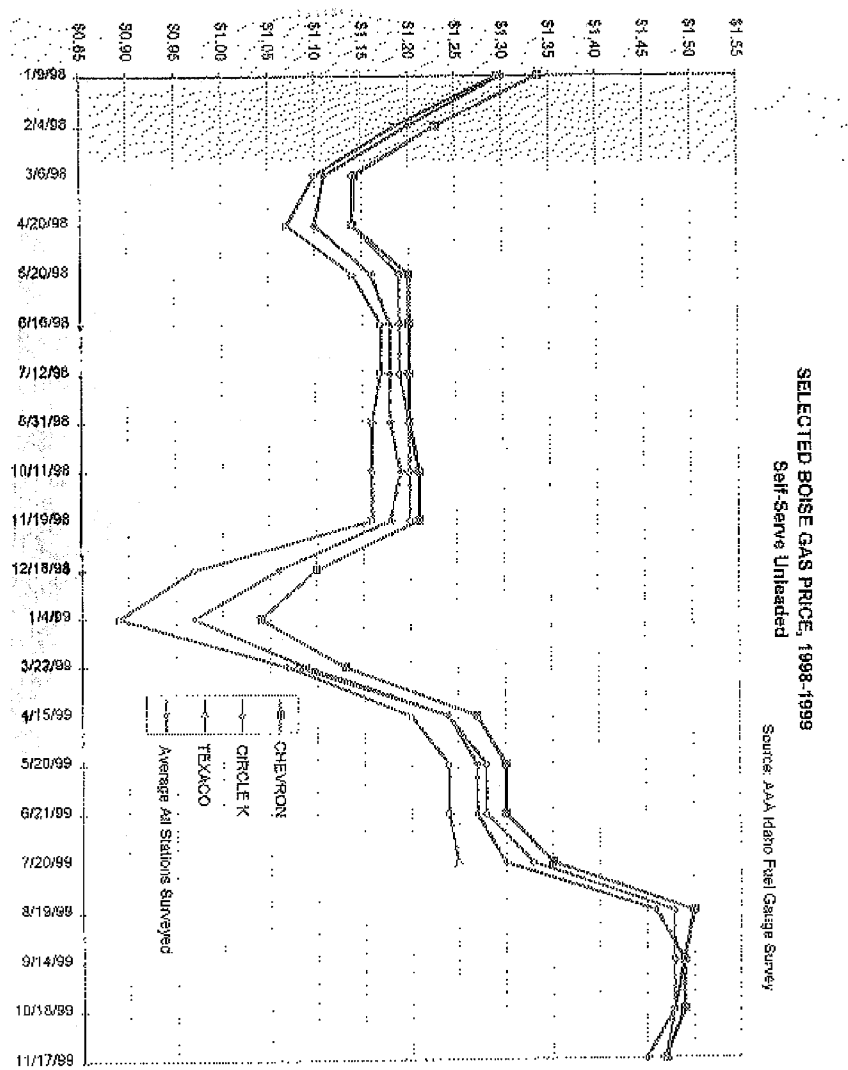

SELECTED BOISE GAS PRICE, 1998-1999
Self-Serve Unleaded
Source: AAA Idaho Fuel Gauge Survey
CHEVRON
CIRCLE K
TEXACO
Average All Stations Surveyed
$0.85
$0.90
$0.95
$1.00
$1.05
$1.10
$1.15
$1.20
$1.25
$1.30
$1.35
$1.40
$1.45
$1.50
$1.55
1/9/98
2/4/98
3/6/98
4/20/98
5/20/98
6/16/98
7/12/98
8/31/98
10/11/98
11/19/98
12/18/98
1/4/99
3/22/99
4/15/99
5/20/99
6/21/99
7/20/99
8/19/99
9/14/99
10/18/99
11/17/99

EXHIBIT 11

The Times-News

Tuesday, October 26, 1999

Exxon, Chevron, Arco beat forecasts

Texaco, Mobil fall below expectations

Bridge News

OKLAHOMA CITY – Exxon Corp., Chevron Corp. and Arco, boosted by higher crude oil prices, came in ahead of Wall Street expectations as the top five U.S. oil firms reported third-quarter results.

Yet Mobil Corp. and Texaco Inc. came in just short of views, largely due to disappointing refining and marketing operations. All five reported sharply higher profits than a year ago.

Exxon Monday reported third-quarter net income of $1.5 billion, or 61 cents per diluted share, up from $1.4 billion, or 58 cents per share in the year-ago period. The higher results were ahead of Wall Street estimates of 59 cents per share. Sales in the quarter rose to $33.07 billion from $28.5 billion a year ago.

Analysts said the nation's largest oil company, which has been sidetracked by numerous delays of its $81.2 billion merger with Mobil Corp., should send positive shock waves throughout the oil sector.

"This is a big day, and a big week for U.S. (oil) majors," said Tyler Dann, international oil analyst at Banc of America Securities.

Last week, many analysts predicted Exxon's third-quarter results would be weaker than its U.S.-based rivals. However, Lee Raymond, Exxon's chairman and

Please see **OIL**, Page C5

Oil

Continued from C3

CEO, said crude oil prices, which were up about $8 a barrel, resulted in the 7 percent improvement in profits.

"Upstream earnings more than doubled compared to last year's third quarter and represented the highest third quarter upstream results in 15 years," Raymond said.

Soon after Exxon reported its rousing results, Chevron announced it had beat Wall Street expectations by nearly 6 percent.

Chevron Monday announced third-quarter net income, before special items, of $1.07 per share, or $702 million, up 82 percent from 59 cents per share, or $386 million earned in last year's quarter and 6 cents better than Wall Street.

However, Mobil and Texaco, although they came in below analysts' views, were well ahead of second quarter and nearly doubled last year's profits. Mobil missed Wall Street expectations of 89 cents per share, according to First Call, citing unscheduled downtime in its U.S. operations and pressure on international downstream margins.

Mobil reported third quarter 1999 estimated operating earnings of 87 cents per share, or $705 million, compared with 63 cents per share or $509 million in 1998.

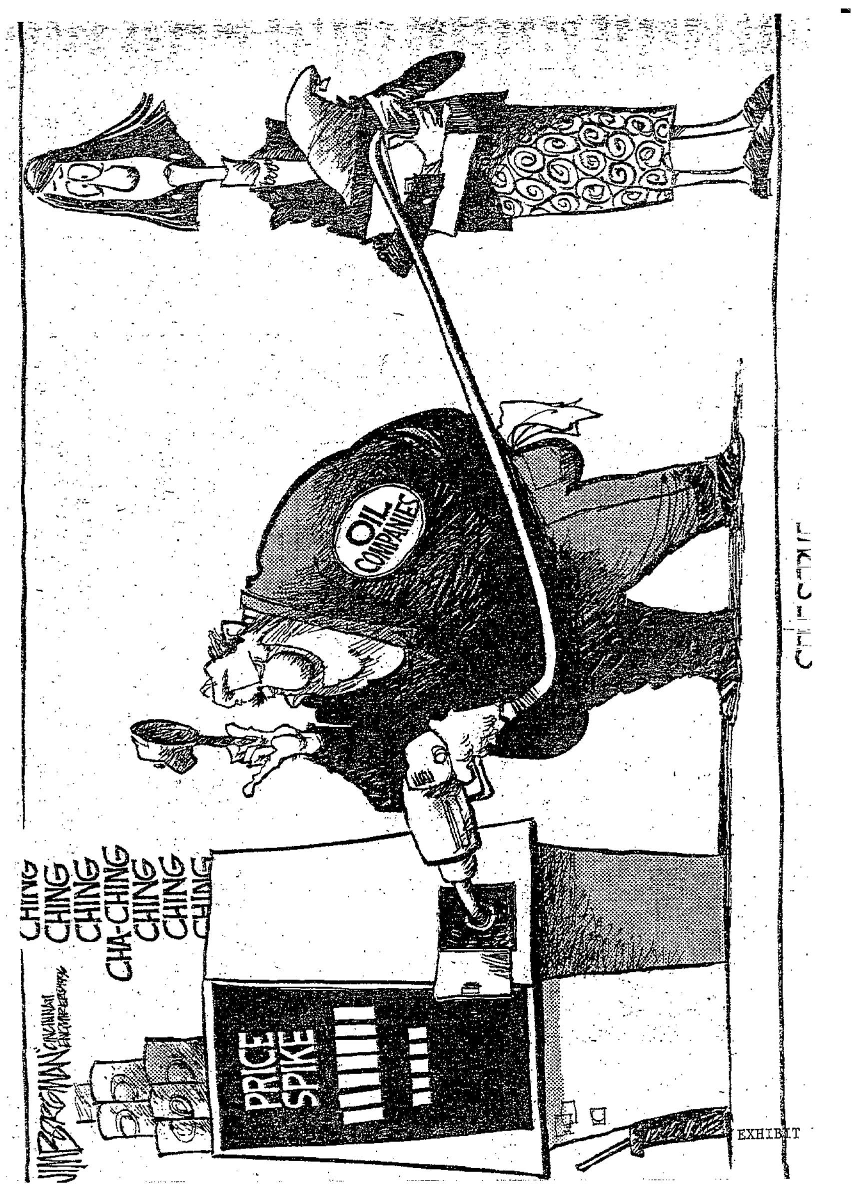
Peter Bijur, chairman and CEO of the White Plains, N.Y.-based Texaco, said its downstream operations were burdened by higher crude costs which could not be fully recovered in product prices.

Texaco reported Monday third-quarter 1999 income before special items of 83 cents per share, or $453 million, compared with 37 cents, or $208 million a year ago. Meanwhile, Atlantic Richfield Co. (Arco), which is expected to complete its $30 billion merger with BP Amoco by the end of the year, beat Wall Street expectations by a whopping 20 percent.

The Los Angeles-based oil firm reported third-quarter earnings of $1.55 per share, or $511 million, compared with net income of 22 cents per share in the same quarter last year. Analysts surveyed by First Call had expected Arco to reported third quarter earnings of $1.23 per share.

"Stronger commodity prices made the headlines this quarter," said Arco CEO Mike Bowlin.

EXHIBIT 12


CHING
CHING
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CHA-CHING
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CHING
PRICE SPIKE
OIL COMPANIES
EXHIBIT

The Salt Lake Tribune

BUSINESS

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SUNDAY

ARLES JAFFE, E-3 ■ RHONDA ABRAMS, E-4 ■ HUMBERTO CRUZ, E-5 ■ WEEKLY PLANNER, E-5

MAY 16, 1999

Oil Giants See Gold in Growing Utah

Local refineries could lose big in race to supply Intermountain region

BY GUY BOULTON
THE SALT LAKE TRIBUNE

Ignore the prices posted in large numbers at nearly every convenience store and gasoline station in the state.

A corporate chess game of sorts just getting under way may matter more. Its outcome could influence what you pay for gasoline every time you fill up your car or truck.

Depending on how this plays out, it could lower prices at the pump. But it also could force one or more of the state's refineries out of business. And it could drive down the price of crude oil produced in Utah and the region.

"People are watching this very closely," said Thomas Brill, an economist with the state Office of Energy and Resource Planning.

The game centers on who will supply the additional gasoline and other fuels needed to meet the state's proposed either building, expanding or reconfiguring pipelines to increase the supply of gasoline and other fuels in Utah and southern Idaho. Completing all three projects would flood the market with gasoline, diesel fuel and jet fuel. For that reason, most observers doubt all three will be completed.

The game, in other words, probably includes some posturing.

"Everybody's playing chicken," said Phil Adams, president of Flying J Inc., which owns a refinery in Woods Cross.

No one disputes that Utah will need more gasoline in the future. Demand increased an estimated 37 percent this decade. That trend is expected to continue, albeit at a slower rate.

The question is who will meet that demand. And one proposal in particular has the potential to permanently change the market.

Aspen Products Pipeline LLC, a

build a pipeline that could bring gasoline and other fuels from the Texas Gulf Coast to Salt Lake City.

Getting gasoline and other fuels to Utah and southern Idaho is not easy. Nearly all of the gasoline consumed in Utah — and much of gasoline consumed by southern Idaho — is produced by five Utah refineries and a refinery in Sinclair, Wyo.

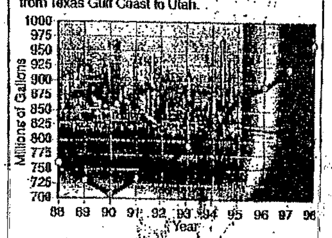
It makes for a relatively lucrative market. Prices for gasoline and other fuels are higher in Utah than many other parts of the country. The Aspen Products Pipeline could change that.

The refineries on the Texas Gulf Coast are massive — the smaller ones are bigger than all five of Utah's refineries combined. The economies of scale that come from their sheer size enables them to produce gasoline and other products at a lower cost. They also have access to less expensive imported oil.

As a result, refineries on the Texas

Utah Gasoline Consumption

The boom in Utah's population and its economy over the past decade has increased demand for gasoline and other petroleum products. The trend is expected to continue. Yet the state's existing refineries could have trouble meeting the projected increase in demand. That is one of th reasons Williams Cos. and Equilon Pipeline Co. LLC have formed a joint venture to build a products pipeline that could bring gasoline, diesel fuel and jet fuel from Texas Gulf Coast to Utah.



Source: Utah Office of Energy and Resource Planning

EXHIBIT 14

tribution terminals, would cost up to $150 million.

"Neither partner could have done this pipeline project alone," said Kelly Swan, a Williams spokesman.

The pipeline could move 65,000 barrels a day to Salt Lake City and could be expanded to 85,000 barrels. But it also will transport gasoline and other fuels to the Albuquerque and Grand Junction/Moab markets. Swan estimated that about half of the pipeline's products would go to Salt Lake City.

That still works out to nearly 1.4 million gallons of gasoline, diesel fuel and jet fuel a day.

The joint venture's market research indicates the demand in the Utah market is growing about 5 percent a year for gasoline and 10 percent a year for diesel fuel.

Others question those projections.

"We think that is grossly overestimated," said Maguire of Chevron.

Yet Aspen Products Pipeline is seemingly as determined as Chevron or Sinclair and Conoco to move forward.

"We think we have a place in the market and we can thrive there," Swan said. "Regardless of other plans by competitors, we are proceeding and staying on course."

Aspen Products Pipeline would not buy and sell gasoline and other fuels. Rather, it would make its money transporting petroleum products for other companies.

The fear among Utah refiners is Gulf Coast refineries will dump their excess products in the Utah market, driving one or more existing refineries out of business. That would cost the state high-paying jobs and tax revenue.

The additional competition also would come just as refineries face spending millions of dollars to meet stricter regulations on the sulfur content of gasoline and diesel fuel.

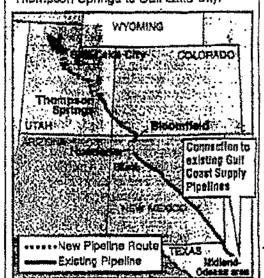
The closing of one or more refineries, in turn, would lessen demand for crude oil produced in Utah, potentially leading to lower prices.

"When you look at these kinds of situations, you have to look at the overall economic impact," said Andrew Van Chau, a spokesman for BP Amoco Corp.

BP Amoco owns a refinery that can handle 60,000 barrels of crude oil a day and that employs 220 people, excluding contractors.

Aspen Products Pipeline

A proposed pipeline to Salt Lake City from Texas could remake the market for gasoline and other fuels in Utah and southern Idaho. Aspen Products Pipeline LLC, a joint venture, plans to link part of a pipeline owned by Williams Cos. with a pipeline owned by Texaco Inc. and Shell Oil Co. The joint venture would convert the two segments to petroleum products and then build a 235-mile pipeline from Thompson Springs to Salt Lake City.



Source: Williams Energy Services Cos.

Steve Baker / The Salt Lake Tribune.

Consumers understandably may hope that all three projects are completed. The more supply, after all, the lower the price. But some perspective is needed here.

First, gasoline costs less than some bottled water. Remember, about 45 cents of the price at the pump is state and federal taxes. And, taking into account inflation, gasoline costs about the same as it did when the Beach Boys were singing paeans to T-birds and hot rods.

Second, the drop in prices could be short lived. If one or more refineries close, there will be that much less supply.

"The marketplace will find equilibrium," said Adams of Flying J.

Just how all this plays out is anybody's guess. But an intricate market, one with a delicate balance of supply and demand, is about to change.

Oil Wars: The Race Is On for Utah Market

■ Continued from E-1

Gulf Coast can sell gasoline for less money than Utah refineries. The price difference can offset the estimated 7 cents to 10 cents a gallon it would cost to transport gasoline and other fuels 1,500 miles.

The Aspen Products Pipeline also could give Texas Gulf Coast refineries another market for their excess supplies. And it would link the isolated Utah market to the national market.

"That's what this issue is really about — we've never been connected to the Texas Gulf Coast before," Brill said.

Not surprisingly, refineries that supply the Utah and Idaho markets are not thrilled about the proposed pipeline.

"It's a competitive issue," said Walt Maguire, a spokesman for Chevron Corp. "We would prefer that a products pipeline not be built."

Chevron owns a refinery in North Salt Lake that can process about 47,000 barrels of crude oil a day. (A barrel is 42 gallons.) The refinery employs about 250 people, excluding contractors.

The company has its own proposal.

Chevron operates a products pipeline that runs from Salt Lake City to Pasco, Wash., passing Pocatello and Boise, Idaho and Spokane, Wash., along the way. Chevron has proposed reversing the pipeline from Pasco to Boise, enabling it to supply that market from other sources.

That would free up nearly 800,000 more gallons a day of gasoline, diesel fuel and jet fuel to sell in Utah.

Chevron plans to complete the project by June 2000, Maguire said. And it believes its proposal can meet Utah's projected needs for the next 10 years.

There's also a third proposal.

Sinclair Oil Corp., which operates a refinery in Sinclair, Wyo., and Conoco Inc. plan to build a new pipeline from Sinclair to Salt Lake City that could move 70,000 barrels of petroleum products a day in its first phase.

The pipeline would replace an existing one owned by the two oil companies. That

Michael J. Miller/The Salt Lake T

If oil from the Texas Gulf Coast is piped to the Wasatch Front, U refineries like Amoco's Beck Street facility in Salt Lake City could clo

pipeline was expanded in 1997 and can move 48,000 barrels of gasoline and other fuels a day.

In addition, Sinclair plans to increase the refinery's capacity by 11,000 barrels a day in a project estimated to cost more than $50 million. The refinery now processes an average of 54,000 barrels of oil a day. The project is expected to be completed in early 2000.

The proposed pipeline also could move gasoline and other fuels from Kansas, Oklahoma and even the Texas Gulf Coast.

Either Chevron's or Sinclair's proposal probably could meet Utah's projected growth.

"Everybody has taken a shot at trying to solve the problem so you don't have to build a pipeline up here," said Bill Fink, president of Inland Refining Inc., which operates a refinery in Woods Cross that can handle 10,000 barrels of oil a day.

Inland itself proposed resurrecting and expanding a closed refinery in Roosevelt last year. That project has since been shelved.

What is clear is the existing players would like to keep the market to themselves.

Last year, Utahns consumed an average of about 2.6 million gallons of line a day. Think of American Stores 24-story headquarters in downtown Lake City being filled and drained e 37 days or so.

Aspen Products Pipeline would l piece of that market.

The joint venture consists of a u Williams Cos. and Equilon Pipeline LLC. Williams, based in Tulsa, Okl the parent company of Northwest line. Equilon is a joint venture of Sh and Texaco's Western and Midwe refining and marketing businesses.

The proposed pipeline would link of a pipeline owned by Williams wi pipeline owned by Equilon.

William's segment runs from Th son Springs, northwest of Moab Bloomfield in northwest New Me The pipeline moves propane, butane other so-called natural gas liquids.

Equilon's segment runs from Texas to Bloomfield. It is used to crude oil.

The new joint venture would con the two segments to petroleum prod and then build a 235-mile pipeline f Thompson Springs to Salt Lake City. entire project, including building two

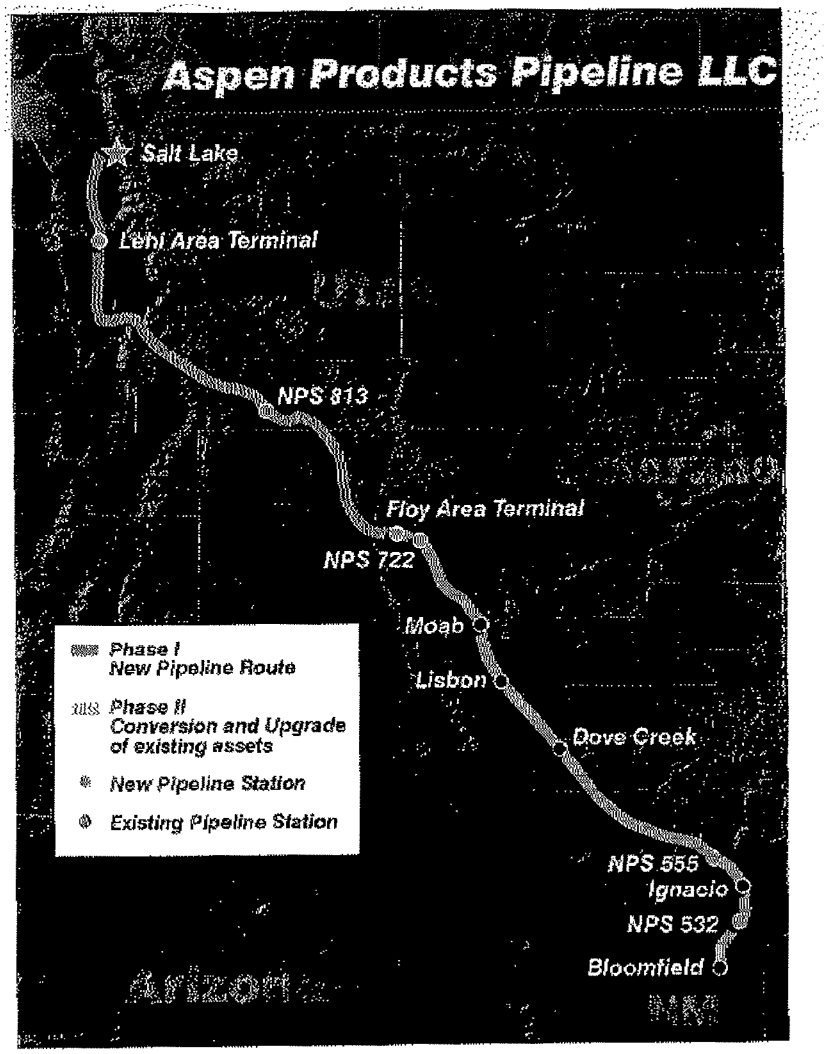

Aspen Products Pipeline LLC
Salt Lake
Lehi Area Terminal
NPS 813
Floy Area Terminal
NPS 722
Moab
Lisbon
Dove Creek
NPS 555
Ignacio
NPS 532
Bloomfield
Arizona
NM
Phase I
New Pipeline Route
Phase II
Conversion and Upgrade
of existing assets
New Pipeline Station
Existing Pipeline Station

EXHIBIT 15

past year and closed Monday above $27 a barrel in trading on financial markets, compared with a 12-year low of just under $11 last December.

"The best inflation news is behind us," said Cynthia M. Latta, DRI-McGraw Hill's principal U.S. economist. She noted that low energy prices have insulated the U.S. economy from oth-

last week that so far this year, prices of gasoline and home heating oil have increased at a 30.9 percent annual pace. Gerald D. Cohen, an economist at Merrill Lynch & Co., noted that airline fares jumped by 5.3 percent last month, but he added that fare prices are volatile and had fallen sharply in the previous two months.

products.

Oil experts said Monday that Iraq's decision to cut off supply comes at a time when oil-producing countries are enjoying increased leverage. Global demand for oil is increasing now that several Asian economies are rebounding from last year's crisis and production cutbacks orchestrated by

diminish demand, but more recently indicated a willingness to keep the cutbacks in place until June.

"What better time to squeeze the market than when inventories have been drawn down and OPEC is creating all kinds of uncertainty?" said Philip K. Verleger Jr., an oil industry consultant.

Nothing illegal about California's high gas prices, official says

By Jordan Lite
The Associated Press

SAN FRANCISCO — Californians paid $1.3 billion more for gasoline this year than they would have if they lived in states where there's a competitive market for oil, state Attorney General Bill Lockyer said Monday.

But oil companies aren't breaking the law with their pricing practices, Lockyer said. Instead, the inflated prices that forced residents in some California communities to pay upwards of $2 a gallon in April when Lockyer started his probe are the result of inadequate competition, California's stiff clean air laws and the state's slightly higher gasoline taxes.

"We don't have any evidence that they've done anything criminal or violated anything civil," Lockyer said. But, he said, "the supply is manipulated in a way that produces the highest possible prices, and that is business, that is the American way.

"We can't make an antitrust case about these practices yet," he added. "Whether there is collusion or not or zone pricing mechanisms ... is still worthy of investigation."

A similar investigation is under way in Idaho, where former attorney general Jim Jones is leading a gas-price task force appointed by Attorney General Al Lance.

[...] leaded fuel in Idaho is as high as any in the nation, Jones said as his task force winds down its probe on Idaho prices.

Jones hopes to submit a report to Lance sometime in December. So far, the Idaho investigation has focused on how a limited distribution system out of Salt Lake City has restricted gasoline supplies in Idaho and helped boost prices.

Californians typically spend more at the pump than motorists everywhere but Hawaii and Nevada, which gets most of its gasoline from California. Motorists in California paid an average of $1.32 a gallon between January and August, compared to a high of $1.54 in Hawaii and a low of 89 a gallon cents in Georgia, the report found.

Proposed mergers between BP Amoco PLC and Atlantic Richfield Co., and between Mobil Corp. and Exxon Corp. could further stifle competition, especially because 90 percent of California's refining capacity and the retail gasoline market is controlled by six oil companies, Lockyer said. In Texas, the top six oil companies control only 58 percent of the market, he said.

Both consumer advocates and oil companies called the report a victory.

"The preliminary report's findings [...]

The Associated Press

California Attorney General Bill Lockyer answers questions following a news conference in Sacramento, Calif., concerning the results of a probe into skyrocketing gas prices his office released on Monday. Californians paid $1.3 billion more for gasoline this year than they would have if they lived in states where there's a competitive market for oil.

[...] clared Dennis DeCota, executive director of the California Service Station and Automotive Repair Association.

Chevron Corp. spokesman Fred Gorell said the company was pleased Lockyer had found no evidence of wrongdoing. "We believe that other ongoing governmental investigations will come to the same conclusions," he said.

The attorney general said he plans to form a group of consumers, economists and oil industry experts to come up with a plan to lower prices.

He said he will lobby the Legislature to pass laws that would force companies to increase their inventories; facilitate imports from outside [...] tankers of crude oil; and free retailers from restrictions on where they can buy their products.

Lockyer also said he will "carefully scrutinize the pending mergers of Exxon-Mobil and BP-Arco to see what we can do to restore more healthy competition." The state must review any merger or acquisition to protect against "the erosion of competition in an already concentrated and vertically integrated gasoline market," he said.

Nationally, the average price of a gallon of gas is $1.3287, according to Friday's latest Lundberg Survey, a review of pump prices at 10,000 gas stations nationwide.

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EXHIBIT 16

Mrs. CHENOWETH-HAGE. Thank you.

Mr. Richardson, it is nice to see you again. After these last few weeks, I think probably the Resources Committee looks like angel food cake, doesn't it?

Mr. RICHARDSON. Yes, it does.

Mrs. CHENOWETH-HAGE. I will not ask you to answer that, but it was good to work with you then.

Mr. Richardson, I understand that the cost of ethanol delivered to Chicago is 70 cents a gallon, and the cost for gasoline is $1.30 in Chicago. I just had my staff check on that.

So how is it that when you blend 70-cent ethanol delivered to Chicago, $1.30 gasoline delivered to Chicago, that we get $2.30-a-gallon blended?

Ms. Browner.

Ms. BROWNER. I am not sure I followed the numbers you were using. I will tell you——

Mrs. CHENOWETH-HAGE. The price.

Ms. BROWNER [continuing]. That today the wholesale price for the cleaner gasoline with ethanol and conventional gasoline in surrounding Chicago areas, the wholesale price is the same. It is $1.17 a gallon wholesale for the ethanol-blended cleaner gasoline and $1.17 a gallon wholesale for what we refer to as conventional gasoline. The prices are the same.

There has been a price differential, and that is why I think all of us agree the FTC needs to conduct an investigation of price differential that has not been explained, and then specifically the question is why is it that the ethanol-blended gasoline in Chicago and Milwaukee is significantly higher than the ethanol-blended gasoline in all the other parts of the country.

Mrs. CHENOWETH-HAGE. And that is your testimony?

Ms. BROWNER. That is a question which we have investigated, and we have not found an answer to that we think is acceptable. Therefore, we have asked the Federal Trade Commission to look at whether or not there may be inappropriate pricing activities on the part of the oil company—companies, I should say.

Mrs. CHENOWETH-HAGE. Ms. Browner, do you believe that by opening up more drilling in Alaska, we could better control the cost of oil nationwide?

Ms. BROWNER. I do not believe that the answer to our energy prices—and I agree we all need to be about dealing with those issues across the board, not because of cleaner gasoline, but because of all of the issues that the Secretary has testified. I do not believe the answer is opening up pristine areas of Alaska. I think there are other solutions.

Mrs. CHENOWETH-HAGE. So then is it your testimony that we are already at near maximum production here in the United States, so we are dependent on foreign companies subsidizing us and producing more oil would not help us?

Ms. BROWNER. I am happy to share with you my personal opinion. In my professional job, I am not responsible for the decisions in terms of oil production. That is not something that falls within EPA's responsibility.

Now, I do accept responsibility for that portion of the gasoline programs that are designed to reduce air pollution in the dirtiest cities for the proposals that we have put forward to take sulfur out of diesel fuel and to reduce fine particles which yet another scientific study has found contributes to respiratory illness, premature death.

I am happy to speak to the EPA responsibility for cleaner gasoline and less air pollution.

Mrs. CHENOWETH-HAGE. I think, just very briefly, I would like to ask Mr. Richardson with regards to an administration energy policy.

I do remember in 1975 and 1976 when Jimmy Carter was our President. We really engaged in a really sound energy policy. We instituted and made a reality, the strategic petroleum reserves. We had a policy that encouraged the production of electricity, like Mr. Kanjorski early on mentioned that we may be facing an electricity shortage very soon.

Carter instituted the Public Utility Regulatory Policy Act, which opened up the whole market system to the plethora of ideas for energy. The Supreme Court ruled on his policy in a case entitled *Mississippi* v. *FERC* and *AEP* v. *FERC,* and in both of those Supreme Court decisions, the Supreme Court ruled that it is within the public interest and it is our national policy to become energy-independent. Those decisions, of course, were in 1982, both of them—1982 and 1983. Since then, we have become more dependent on the unstable OPEC nations.

Mr. Richardson, I know you have kind of inherited this job, but I keep being asked why can't we see an energy policy.

I remember living through the Carter energy policy, and it really was sound and it responded right away to the crisis. So, Mr. Richardson.

Mr. RICHARDSON. Congresswoman, thank you for asking the question so constructively.

I think something that we need to do that is fundamental is to boost our domestic production, and we have—the administration recently submitted—I know in your part of the country and mine it is important—a tax credit package for marginal wells, for G&G expensing, for delayed rentals, tax credits for some of these independents that everyone thinks they are making loads of money, but you know just as I do that they were hurt bad when oil was at $10 a barrel.

We also have about $4 billion out there in tax cuts for energy efficiency. This Congress has already passed $128 billion in tax cuts, but we have yet to deal with these tax cuts for energy efficiency. We need more investment in domestic production, alternative sources of energy, domestic sources, energy renewables, as I said, energy efficiency.

This program that we have for more fuel-efficient vehicles—I know Congressman Burton is interested in this—with Detroit where we worked to create more fuel-efficient engines for cars, sedans, and trucks by a date certain, distributed power generation.

You mentioned electricity. You know, as westerners, I am worked about the Southwest, the Pacific Northwest. In California, especially right now, there could be some serious power outages. We need to revamp and modernize our electricity grid.

You mentioned the strategic petroleum reserve. It is not fully reauthorized. We need to do that.

So I think there are a number of steps that we need to take together to be able to say that we are dealing with energy self-sufficiency, that we are not overly dependent on imported oil, and this has happened through a number of administrations. It keeps moving up. I think we need to move it in the other direction.

Mrs. CHENOWETH-HAGE. Thank you, Mr. Richardson.

Thank you, Mr. Chairman.

In closing, I would just like to say I would really appreciate seeing a decentralization of production.

Thank you very much.

Mr. BURTON. Thank you, Mr. Chenoweth.

Mr. Tierney.

Mr. TIERNEY. Thank you.

Mr. BURTON. Should I yield to you?

Mr. TIERNEY. If I were truly partisan, which I do not want to go down that path here today, we would talk about the next 12 years after Mr. Carter who established the policy and where it went and in what direction in terms of energy, but I do not think we have to go there because I think history reflects what happened in the downward spiral that we went for 12 years succeeding the Carter administration on that.

I think the other thing is since 1994, I do not remember anything in the so-called Contract on America dealing with these very serious issues, if they really were that important, but this Congress has to take some responsibility for giving the administration the tools, in giving your respective Departments the tools to move this country in the right direction, and I think some people in the country have——

Mr. BURTON. I am glad you did not go down that path.

Mr. TIERNEY. I am glad I did not, too. [Laughter.]

I think that Congress has to take some—and the people of this country have to take some responsibility about conserving fuel and looking at the way we consume.

With that, I will yield the balance of my time to Mr. Sanders.

Mr. SANDERS. Let me agree, as I very, very rarely do, with the chairman. We do not agree on much.

He gave the example of natural gas not being fully utilized. Let me just throw in something else. We have millions of Americans driving cars today. They get 20, 22 miles a gallon, which my guess is this is not a hell of a lot different than we had 20 years ago.

We are looking at an explosion of technology in every conceivable area. They just mapped our gene code and so forth. Why is it that there has not been revolutionary breakthroughs in terms of energy efficiency in this country?

Mr. RICHARDSON. Well, Congressman, we are close to it. We have a number of investments in fuel cell vehicles, in hybrid vehicles. We work with Detroit on this partnership for new generation of vehicles which, by the way, the funding was cut last week in the house, which we needed back, because what we are doing is saying—working with Detroit to develop those 40-mile-per-gallon, 80-mile-per-gallon fuel-efficient engines in sedans and SUVs.

So what we are saying to the American people is you can have the SUVs, and we can make them more fuel-efficient.

Mr. SANDERS. Mr. Secretary, I myself do not know that we need taxpayer money to help Detroit develop these things. The technology is—I have to believe that the technology is close to at hand. Ms. Browner.

Ms. BROWNER. I think you are right. Actually, starting last month, you were able to buy here in the Northeast, the Mid-Atlantic States, the hybrid cars.

Mr. SANDERS. Right.

Ms. BROWNER. They bring with is a tremendous opportunity for fuel efficiency, for much lower tail-pipe emissions, less air pollution.

Mr. SANDERS. Right.

Ms. BROWNER. We are seeing these.

I think the work the administration has done is incredibly important because it almost leap-frogs that.

I would just say from our perspective at EPA, in addition to the work we do on the fuel side with the automotive industry with DOE, we also have a very aggressive program on simply reducing energy use, on energy efficiency. Every time you use a computer and that computer goes to sleep, the screen goes to sleep when you walk away, that is an EPA industry invention to save electricity.

We just reached an agreement with buildings like the World Trade Center, the Sears Tower, the Nasdaq, huge, huge buildings where we were able to show them that it was cost-effective to reduce their energies, if they put in a better heating and cooling systems, if they changed their windows, if they changed their lighting systems.

What happened is the technology for energy efficiency has advanced dramatically, and yet, we have found it all very, very difficult to get the public to understand the opportunities that exist for these efficiencies.

One of the things that Congress certainly can do, and many of you have done this, is support these outreach programs where we actually go out and show the business community that they can do their part for less pollution, less energy use, and save money, incredibly successful.

Mr. SANDERS. I agree with you. Let me just ask you this. In your judgment, has the automobile industry been as aggressive as they might? I think the car that you are referring to is, what, a Toyota?

Ms. BROWNER. There are several of them coming out. Toyota and Honda are the first two to market.

Mr. SANDERS. Has our automobile industry been as aggressive as they might in your judgment?

Ms. BROWNER. I think that for a variety of reasons, the investments necessary to get to the next generation, the 80-, 90-mile-per-gallon cars, was not, unfortunately, made early enough, and that is why I do think Government participation, which this administration has been leading, is very, very important in these programs.

We do a lot of the research in our own EPA labs that lead to these kind of cars. I think we would all agree we would like to have seen it happen more quickly than it has happened, but we are on the verge of having these vehicles.

Mr. SANDERS. When I was mayor of Burlington, we pushed light bulbs that were much more energy efficient. Has this country done as good a job in that respect? There are light bulbs out there that are very——

Ms. BROWNER. Yes. Unfortunately, we are not getting as much conversion to these energy-efficient light bulbs.

It is hard. It is very hard because you go to the store and there is the 67-cent light bulb that will run out in a couple of weeks if you use it all the time, a couple of months perhaps. Then there is the $5 or $6 light bulb which will burn for 5 or 6 years. Convincing people to make that kind of an investment has been something of a struggle, and it is something that we are trying to do at EPA, but we all need to work on doing. There are real energy efficiencies, savings, to be had. The technology is there. It is getting people to use it.

Mr. SANDERS. My last question, because I think you have raised an important point, does EPA or another Government agency have money for outreach efforts to try to explain to the public about the advantages of moving in that direction?

Ms. BROWNER. We do get some money. The Congress has not been willing to fully fund the administration's request for our energy efficiency programs; for example, EPA's Energy Star program which is some of the programs I have been talking about. I think each and every year, the request is probably cut on the order of 30, 40, maybe as much as 50 percent in some years, and I think right now in the appropriations process, we are looking at a similar lack of funding.

We think these programs are hugely, hugely successful. They do take a modest investment of Government resources, but the returns, less pollution, less dependence on foreign oil, good technology. It is a win-win.

Mr. SANDERS. The technology is there.

Ms. BROWNER. Yes.

Mr. SANDERS. It is a shame that it has not been utilized.

Ms. BROWNER. The energy-efficiency technologies are there. American companies have led the way to create them, and what we need to do is create the consumer demand and educate the consumer on why it is in his or her interest to use it.

Mr. SANDERS. Thank you.

Mr. BURTON. The gentleman's time has expired.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. I just have what I hope are three short questions to clean up where I was before. I saw the administrator's stomach growling.

Ms. BROWNER. Sorry.

Mr. LATOURETTE. So I will try to be as quick as I can.

At the end of my 10 minutes the last time, I think I was making the observation that perhaps there were things that everybody could have done better now that we have the 20/20 hindsight to look back at what happened in the Midwest, and the ever non-partisan/bipartisan Mr. Tierney then suggested since you did not answer my question either yes or no that perhaps there was no responsibility on the part of either of the agencies that you proudly represent.

I do not know how that goes in Massachusetts, but in Ohio, they would like an answer, I guess. So I would ask you again, and this time, if the chairman will not give the option of saying yes or no, knowing what we do today, is there anything, Madam Administrator or Mr. Secretary, as you look at what happened in the Midwest that your agency could have done better than it did? And if it is no, that is fine with me, but if it is yes, I would like to know what it is.

Ms. BROWNER. Congressman LaTourette, we were monitoring this situation back in the spring, and the reason we were doing that was because a new cleaner gasoline program was coming online. We had been working with the oil industry for 7 years. We had written the recipe 7 years ago. We did send people out into the field to visit the tanks. We got questions.

I will honestly tell you that we were looking at everything, and we could not see any individual thing that would lead to this situation.

I will also tell you since the situation occurred, we have not been able to point to any individual thing or any string of things. I wish there was a different answer. I wish this had not happened. I wish that we had seen something in the field that would have allowed us to correct this in advance.

We went to the oil companies repeatedly. We asked were they going to experiment problems. They did not anticipate problems. The tanks, the terminals were required to have the cleaner gasoline on May 1st. They had it on May 1st. Everything was moving along, and then, suddenly, in just two cities, boom, the price went up.

Mr. LATOURETTE. The only thing that did not fit with what I had been told is I had thought that the folks that are going to be on the next panel notified the EPA in June 1999, that they expected this kind of problem. Is that your recollection?

Ms. BROWNER. My recollection of what we were told—I did not meet with them. Other people in the agency met with them, but they obviously shared it with me—is that generally supplies were tight. They were tight in the conventional gas market. They were tight in what is referred to as RBOB, which is the blend that ethanol is added to, but that they were adequate; that you did not have situations of terminals going dry. You did not have the situation of a pipeline being dry. You did have a pipeline that in March had come down for a few days, but it was back up at 90-percent capacity.

You had trucks moving the product in. So all of the factors we looked at and what we understood from the Department of Energy—and I do not think we misunderstood something—is that yes, the situation was tight, but that it was adequate. The fact of the matter is for June, what we have been told and what we ourselves have seen, is that you actually have an increase in the amount of gasoline product in the Chicago-Milwaukee area compared to last June. You actually have—what is it—650,000 more barrels in that market.

Now, as the Secretary said, you have more demand, but everything we were looking at indicated that a smooth transition was certainly in the offing, and there should be no reasons for price spikes.

Mr. LATOURETTE. So the short answer to my question was no.

Ms. BROWNER. I wish it were different.

Mr. LATOURETTE. Mr. Secretary, anything you can think of that maybe Energy could have done better?

Mr. RICHARDSON. Congressman, I feel very satisfied that our team collected data. They were impartial. We work well together as agencies, and we responded effectively. I give you credit for asking for this FTC effort, also.

Mr. LATOURETTE. Thank you.

The yellow light is on, and I will take your answer as no, too. Somebody asked earlier about why when the wholesale price came down, you cannot understand why it is not at the pump. Again, the guys that I think deserve the raise gave me the observation that once the region begins to recover, there is going to be some delay before the wholesale price improvements are seen at the retail level, and I assume you agree with that, one.

Two, my dad said I need to ask you this question, Mr. Secretary. In Desert Storm, we went over and defended Kuwait's oil fields. We sent young men and women over there to basically protect their property. We were told again by your agency that they have excess capacity.

Why the heck, since we now can travel the world through your eyes—why the heck isn't this country repaying its debt to the United States of America for what we did for them during Desert Storm and helping us out of this situation?

Mr. RICHARDSON. Congressman, right now, Kuwait does not have excess capacity. They are a major producer.

By the way, they have just had a serious explosion there that may affect some of their production. We hope that is not the case.

I will say to you this, Congressman. When we went to Kuwait and Saudi Arabia and said it is important for the international community, for the United States, that they increase production, they did.

Mr. LATOURETTE. Not enough to—I mean, you deserve a great credit, with the chairman's indulgence. You deserve a great credit because even though we are short, we are getting more oil out of there than we ever did before because the demand is higher. So you deserve credit for doing that, but the fact of the matter is they have not increased it enough to make the difference that we need not only in this country, but in the world. Isn't that right? And they could do it. If Kuwait could do it, Saudi Arabia could do it, could they not?

Mr. RICHARDSON. Saudi Arabia right now, Congressman, is the country with the most potential for increased capacity, but I will say Kuwait right now does not. It is not there.

The Saudis, who have taken a leadership role in increasing production, have the capacity to increase, but within OPEC, they have taken the leadership position.

Mr. LATOURETTE. Thank you very much.

Mr. BURTON. Mr. Kanjorski.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Several months ago at a meeting at the White House, Mr. Secretary, I think you were there, and after an hour or two, several of us and the President were talking about fuel cells and nanotechnology. I do not know if that jogs your mind, but we came up with the recognition that, one, fuel cell work in this country is being directed back to the petroleum industry as a fuel source as opposed to going to hydrogen, and I think that could be a very serious mistake in terms of the volume of material that would be available for energy production, not only in this country, but in the world.

Second, some of the movement in nanotechnology could really affect the composite industry and the manufacture of new vehicles and all sorts of new processes, and the President that night asked us to try and put together a summit, if you may recall.

Mr. RICHARDSON. Yes.

Mr. KANJORSKI. I do not think we have done anything on it. So I am taking this opportunity to say, look, I am waiting for your call, or do you want me to call you?

Mr. RICHARDSON. You are right. No, I think you should call me. I have been a little busy lately.

Mr. KANJORSKI. Right.

Mr. RICHARDSON. You are right. I remember that commitment for White House Summit on energy, on fuels. You are right.

Mr. KANJORSKI. Shall we get together in the next week?

Mr. RICHARDSON. Yes.

Mr. KANJORSKI. Because I have been dealing with a lot of the national laboratories, and I do find something—I mean, I know the difficulty you had with some of them recently, but I understand why you had that difficulty. They do not seem to be in any way coordinated together in any respect.

I am running across laboratories that are working on fuel cells and spending an awful lot of time and money, and another laboratory in the same system has solved the problem and they do not seem to be cross-pollenizing the ideas that they have and the breakthroughs that they have.

So that, if we could in some way in the executive branch and on the congressional branch bring some of these people in for a couple of days, I think we could move the process along significantly.

I think we talked about it that night reducing it from 5 to 3 years to get to the hybrid car.

Mr. RICHARDSON. We should do that, Congressman.

Ms. BROWNER. And we would obviously like to participate. I think we can be helpful.

Mr. KANJORSKI. Very good.

Mr. BURTON. Are you finished, Mr. Kanjorski?

Mr. KANJORSKI. Yes, Mr. Chairman.

Mr. BURTON. OK. Mr. Ryan.

Mr. RYAN. Thank you, Mr. Chairman.

Ms. Browner, let me just say I appreciate and admire your commitment to your convictions. I know we may disagree on some things, but I appreciate all three of you spending the time you have. I know you are doing this in various committees. I know it is getting late, but I would like to revisit the RFG issue. I know that the conversation has gone beyond that.

I, too, read the CRS report that you cited, which you accurately said 2 to 8 cents specifically to the production of this RFG, and I cannot contest that, but three sentences earlier in this report, it says that the unique RFG situation in Milwaukee and Chicago could contribute to 25 to 34 cents on a gallon of case.

So, yes, you can say 2 to 8 cents on this particular blend and production, but what the CRS report says, possibly 25 to 34 cents. I am not asking for a comment. I am just making a clarification.

I just want to ask you, briefly, do you rely on data and information from the DOE and specifically the EIA?

Ms. BROWNER. Yes, we do.

Mr. RYAN. You do in promulgating the regulations?

Ms. BROWNER. Absolutely, absolutely. In fact, they were very important to us in the work we did in 1993.

Mr. RYAN. Right.

Ms. BROWNER. Then, more recently, the work we did which will not take effect for several years, but to remove sulfur from the conventional gasoline, yes.

Mr. RYAN. Secretary Richardson, it is adequate to say that Ms. Kenderdine, who is sitting behind you, was the author of the memo here, the Acting Director of Office of Policy?

Mr. RICHARDSON. Yes.

Mr. RYAN. I assume you rely on her and her memoranda for the information.

Mr. RICHARDSON. Yes, I do.

Mr. RYAN. I would like to ask unanimous consent, Mr. Chairman, to include Melanie Kenderdine's memo dated June 5, 2000.

Mr. BURTON. Without objection.

[The information referred to follows:]

June 5, 2000

MEMORANDUM FOR THE SECRETARY

THROUGH: Deputy Secretary Glauthier

FROM: Melanie Kenderdine,
Acting Director
Office of Policy

SUBJECT: Reassessment of Milwaukee Reformulated Gasoline Supply

Summary

Based on data from the Energy Information Administration, and other information gathered last week from refiners, terminals and marketers serving the Milwaukee area, the Department of Energy (DOE) concludes that reformulated gasoline (RFG) supplies for Milwaukee are very tight, but that sufficient supply is available to meet overall demand at this time. This does not mean that supply is available to all marketers at all locations. Also, supply is sufficiently tight that any disruption in the distribution system could contribute to Phase II RFG shortages. This is likely to remain the case in the near term (next two weeks) and over the summer.

The Milwaukee RFG situation should be viewed in the context of an overall U.S. gasoline market, in which high consumer demand and low inventories have caused higher prices for all gasoline types, relative to crude oil prices. The Milwaukee (and Chicago area) supply situation is further affected by:

- an RFG formulation specific to the area that is more difficult to produce;
- higher regional demand;
- high regional refinery utilization rates;
- limited alternative supply sources;
- limited transportation links, and;
- lower gasoline inventories relative to the rest of the country.

These supply issues will affect price but the degree to which they contribute to price spikes is unknown. Also, the latter four conditions affect the supply of conventional gasoline as well.

The first opportunity for any relief from this tight market situation will most likely be due to reduced seasonal demand in the fall, when there will be a change-back to less stringent RFG performance specifications. DOE notes that there are no pending waiver requests under consideration by the Environmental Protection Agency (EPA); however, the lack of any significant inventory cushion in the Milwaukee area and the possibility of longer-than-expected pipeline outages are reasons to continue to closely monitor the situation throughout the summer.

The Reformulated Gasoline Program

To promote cleaner motor vehicles and cleaner fuels, the 1990 Clean Air Act Amendments established the RFG program. In 1995, this program introduced to the market new, cleaner fuels that had to meet more stringent emissions performance requirements. The Act required that RFG contain at least 2 percent oxygen by weight. The addition of oxygenates causes gasoline to burn cleaner and more efficiently, thereby reducing toxic air pollutants. The two oxygenates used by the refining industry to produce RFG are methyl tertiary butyl ether (MTBE) and ethanol.

The RFG program has produced substantial environmental benefits. Phase I of the RFG program (1995-1999) reduced overall toxics by an average of 27 percent. Phase II, beginning this year, has more stringent standards that will reduce smog pollutants by 41,000 tons per year in RFG areas, including volatile organic compounds (VOCs) by 27 percent, and oxides of nitrogen emissions (NOX) by seven percent.

The Phase I RFG *price* differential over conventional gasoline was on average two to four cents per gallon, although the final price differential was most likely low because several metropolitan areas opted out just prior to the program going into effect, leaving many refiners with an oversupply of RFG. EPA estimates the *cost of Phase II RFG (RFG II) compared to Phase I RFG* as one cent per gallon; DOE estimates are closer to two to three cents. All things being equal, the difference in cost between conventional gasoline and RFG II gasoline could be expected to be between three to seven cents. Cost, however, is not necessarily an indication of price.

Phase II RFG in Milwaukee and Chicago

The second phase of the RFG program began on January 1, 2000, with implementation of new wintertime specifications. The changeover to more stringent summer RFG II specifications was required at terminals on May 1, 2000 and at retail stations on June 1, 2000.

Phase II RFG requires lower NOx and VOC emissions than Phase I RFG. These lower emissions are achieved mainly by reductions in the volatility (Reid Vapor Pressure (RVP)) and sulfur content of the gasoline.

To reduce RVP for Phase II RFG production and, particularly for RFG II blended with ethanol, refiners must remove a greater quantity of the higher volatility gasoline blendstocks than was removed for Phase I RFG. The amount of ethanol added to make RFG II is the same as the amount added to RFG I (maximum levels under RFG specifications is 10 percent.) Consequently, RFG II gasoline production processes will yield less gasoline overall than RFG I processes. To compensate for lower yields and performance losses, refineries can either increase crude inputs or rely on more sophisticated processing units, both of which may increase cost and are not available at all refineries. In addition, sulfur reductions require either the more selective use of available gasoline blendstocks, or investments in hydrotreating processes.

- *RFG Formulation in Milwaukee Area is More Difficult to Produce.*

As noted above, the Clean Air Act Amendments require the use of oxygenates in gasoline and the oxygenate of choice for Milwaukee and Chicago is ethanol. The State of Illinois offers significant tax incentives for ethanol use. In Milwaukee, there was public opposition to MTBE use, and a public preference for ethanol as the oxygenate of choice.

Refinery gasoline streams for blending with ethanol must have lower RVP than gasoline streams for blending with MTBE. Because more high volatility components must be removed from blendstocks for ethanol-based RFG, refinery production of Phase II RFG for the Milwaukee/Chicago region is more difficult and more expensive than for those areas which use MTBE as the oxygenate of choice.

Most finished RFG is produced on-site at the terminals, where ethanol and appropriate blending components are concurrently loaded into tank trucks prior to distribution. This is unlike MTBE, which is added at the refinery level and shipped through pipelines.

Milwaukee RFG Demand and Supply

The Milwaukee RFG market is part of the PADD II supply/demand area. PADD II RFG demand in 1999 (for Chicago, Milwaukee, St. Louis, Covington, and Louisville) ranged from 310 to 400 TBD.

About three-quarters of this product is refined or blended with components produced in PADD II. The remainder of PADD II supply is provided by refineries in the Gulf Coast, either as finished RFG or as components for blending in the Midwest.

Supply in the Milwaukee/Chicago area is extremely sensitive to the refinery capability in PADD II. The largest and most capable refineries in the United States are located on the Gulf Coast and West Coast. PADD II refineries on the other hand, generally have higher sulfur crude oil inputs and are not as large or flexible as Gulf and West Coast refineries.

- *Demand for RFG in the Region is Higher than Last Year*

In 1999, Milwaukee area sales of RFG averaged 45-50 TBD (see Figure 1). Sales in the first two months of 2000 were about 2-3 percent higher than in the comparable period in 1999, slightly stronger than the national demand increase of 1.6 percent over last year.

- *High Regional Refinery Utilization Rates*

Gasoline demand normally increases in the summer. Greater utilization of existing refinery capacity is the normal response to this increase in demand. With refineries in the upper Midwest operating at very high utilization rates (99 percent), this possibility is limited. Further, nationwide refinery utilization rates are approaching 95 percent so product might not be available for import from other locations should further problems arise in the Milwaukee/Chicago area.

- *Chicago/Milwaukee has Limited Alternative Sources of Supply*

Nationwide, RFG represents about one-third of annual overall gasoline demand. MTBE is the oxygenate of choice for approximately 87 percent of the nation's RFG; the remainder is ethanol.

The "ethanol-only" oxygenate in the Milwaukee/Chicago area limits alternative sources of RFG supply. Manufacturers of RFG containing MTBE cannot divert supplies to the mid-western market without significant local opposition.

Also, Milwaukee has no local refineries. It receives RFG supply from the Chicago area through the West Shore Pipeline and from the Minneapolis area through the Koch Pipeline. Refiner-shippers that customarily provide RFG blending components for Milwaukee include British Petroleum (BP), Citgo, Exxon Mobil, Koch, Marathon-Ashland, and Premcor (Clark).

The major Milwaukee terminals are owned by BP, Citgo, Equilon, Koch, Marathon-Ashland, and U.S. Oil. However, smaller companies provide business and trucking links between the terminal owner-operators and branded and unbranded retail outlets. Finished RFG for the Milwaukee area is produced at terminals by blending ethanol and the appropriate gasoline blending components as product is loaded into tank trucks.

- *Region has Limited Transportation Links*

The West Shore Pipeline carries the majority (in normal conditions, over 60%) of Milwaukee's supply from refineries in the Illinois and northern Indiana region, as well as some shipments from the Gulf Coast. Starting June 2, the West Shore Pipeline has shut portions of its line for 8-10 days to conduct tests for possible leaks. This will stop current pipeline deliveries of all West Shore petroleum products for this period, and means that the area will have to rely on inventories in the area and product delivered by the Koch Pipeline. If necessary, RFG can be delivered by truck from terminals in the Chicago area but this is option is limited by the availability of trucks and drivers and competition with the Chicago market for RFG II; this mode of product transport would likely increase the incremental costs of RFG II.

- *Lower Gasoline Inventories in Area*

Specific inventory data for the Milwaukee area terminals are business confidential information. However, it is useful to look at inventory data for PADD II. Assessments of available inventories for PADD II should consider blending component data as well as finished RFG data. When finished RFG and blending component data are combined, PADD II inventories were approximately 15 percent below year-ago levels, compared to a 7-8 percent reduction at the national level. PADD II inventories may have fallen more than national inventories because of special difficulties in making RFG for Phase II, higher consumption rates, or the impact of the Explorer Pipeline difficulties.

Assessments

Current Situation: Based on contacts with all the refiners and major terminals serving the Milwaukee area, RFG supplies appear to be tight but adequate to serve immediate supply needs (Figure 2). Terminals have received significant shipments of RFG off the West Shore Pipeline in the past few days, prior to the pipeline's closure. Larger than usual volumes of RFG are arriving from the Koch (Pine Bend, Minn.) refinery via a different pipeline at regular intervals.

This does not mean that all marketers will be able to get all grades of product, in the desired amounts, at all times. Regular customers -- branded or unbranded -- may be put on allocation but are still first in the queue. Spot market buyers, including many independent marketers and convenience store operators, may not find product available at their regular terminals before new product arrives. Spot market buyers, on the hand, are the most vulnerable in these situations because they have no long-term contract commitments and could be forced to incur -- and forced to pass on -- higher costs, as they move from terminal to terminal looking for product.

Near-term Situation. Significant uncertainty exists in the supply situation for the next two weeks and supply will likely remain very tight. If no problems arise, supplies could improve slightly if the West Shore pipeline comes back up as expected, or possibly, as the short-term market dislocation from the introduction of the new RFG II product diminishes. Any problems could cause shortages however -- there is little margin for error.

All major terminals indicate that they either now have, or will negotiate for, enough RFG to cover the expected West Shore pipeline closure for the anticipated closure period. What remains unclear is what will happen to Phase II RFG supply if the West Shore pipeline closure extends beyond that period. While Koch has indicated it will be able to continue to supply RFG, its volume would be inadequate, by itself, to meet Milwaukee's RFG II needs. RFG could be trucked from the Chicago area terminals (an uncommon, but feasible alternative) at some additional incremental cost, for a limited period of time and in limited volumes (Figure 3).

If problems occur in the resumption of pipeline shipments, conventional gasoline and other petroleum product supplies would be affected as well. However, conventional gasoline is a more widespread, fungible product which can be drawn from more sources. A review of RFG supply alternatives would have to consider the broader situation.

Longer Term Situation: Aside from possible problems in the pipeline links to Milwaukee, the key longer-term consideration is refinery capability for producing summer ethanol-blended Phase II RFG and significant uncertainties remain. For example, while there has been considerable discussion of the impact of the pending Unocal patent negotiations, it is unclear whether this issue will be resolved this summer or what the effect of its resolution would be on supply, both nationwide and in the Chicago/Milwaukee area.

Some refineries serving the Chicago/Milwaukee area may increase their output by a small amount through increasing crude runs, shifting production from conventional gasoline to RFG, or making limited equipment modifications. All of these opportunities are very limited and depend on crude oil and gasoline market conditions. The higher returns now available with RFG provide a strong incentive to increase refinery production and are, to a significant degree, responsible for the current re-balancing of the Milwaukee RFG market. The switch to winter RFG specifications in September and the typical reduction in driving and gasoline demand that occurs after Labor Day offer the prospect of relief.

There is also the potential for a deterioration of the supply situation in Milwaukee. As noted earlier, refinery utilization rates are at 99 percent and average rates nationwide are at 95 percent. There is little margin for error, given these utilization rates. Unexpected refinery outages, which occur more often at high utilization rates, are the greatest risk to maintaining supply/demand balance. However, such an event, would affect the availability of all petroleum products. Given the nature of the RFG specification in the Milwaukee/Chicago area, the limited number of alternative sources of supply, and the tightness in national, PADD II, and Milwaukee inventories, it is appropriate to closely monitor this situation throughout the summer.

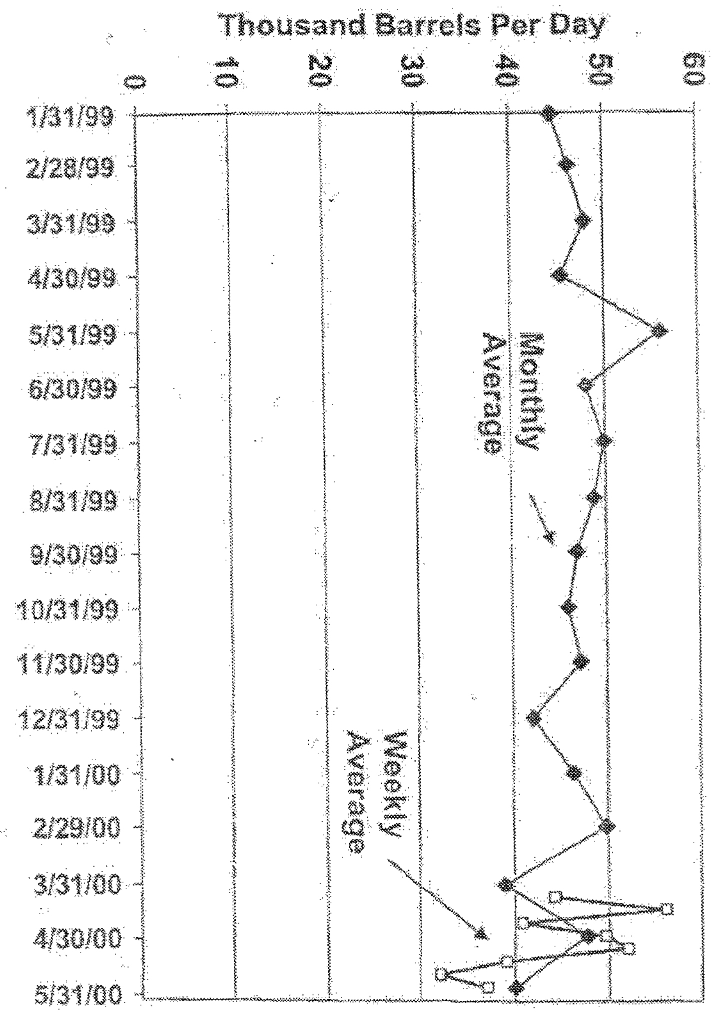

Figure 1. Milwaukee Terminal RFG Production

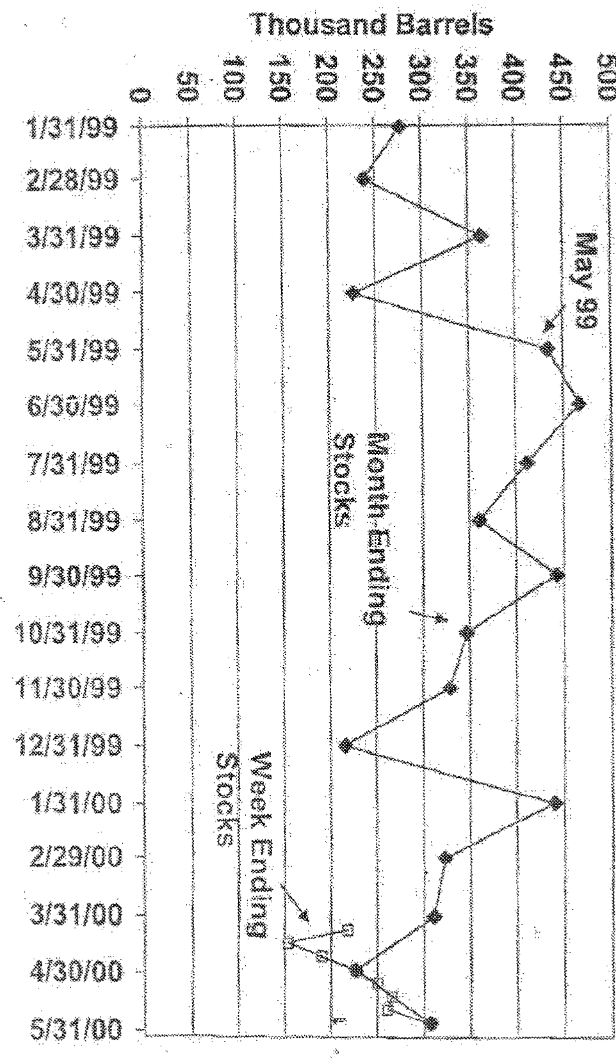

Figure 2. Milwaukee Terminal RFG and Blending Component Stocks

Mr. RYAN. In this memo—and we all seem to be saying—we do not know why these prices are going so high, we do not know what is happening in Milwaukee and Chicago. There is no explanation. We need to get the FTC to investigate price gouging, but I must say the answer may be underneath our noses. If the EPA relies on the DOE and the DOE relies on their own personnel to investigate the unique problems and we have a memorandum here which says that supply is short in Milwaukee and Chicago and that the Milwaukee and Chicago area supply situation is further affected by—and then it goes on to list six factors, six pretty unique factors, and it is a convergence of those six factors, not all just RFG, but other factors, supply factors, none of which have to do with price gouging, which may or may not be occurring. I await your report, Mr. Pitofsky, but this is June 5th.

We have had repeated denials for requests for waivers. However, the DOE, Ms. Kenderdine's memo, which I hope and assume was sent on to the EPA, shows you an explanation for the unique problem in the RFG situation in Milwaukee and in Chicago. The CRC report says there is a unique situation in Milwaukee and Chicago, could be contributed to 25 to 34 cents a gallon of gas. The point is you had the information. There was a unique problem in this area. The DOE—you have a memo yourself suggesting that this problem is occurring, and there is a convergence of factors.

Mr. Richardson, did you share this information with the EPA after Ms. Kenderdine wrote her memo?

Mr. RICHARDSON. Yes. The EPA and DOE on these Chicago/Milwaukee problems have had a totally joint effort.

Congressman, since Ms. Kenderdine is here, if you would like to hear from her, I do rely on her for this policy advice.

My point is what she gave to me and what we shared together is totally consistent with a policy that we have sought. The price differential still cannot be explained, and this is why we have gone to Chairman Pitofsky, but do you want to hear from her or you would rather not?

Mr. RYAN. I would be happy to. I do not know if we are going to have much time. I would be happy to do that, actually, if she could come up, but the point is she has identified six factors, and the convergence of these factors is a significant contributor to this phenomenon, this unique RFG situation. It seems to me that that could have played a much more significant role in the determination of whether or not we had a real problem in Milwaukee and Chicago and whether or not we should have addressed that with a waiver to find out what was actually happening before we continued to push on the RFG mandate to try and make sure that the supply shocks were answered, Unocal, whatever these problems were, were settled. Yet, these waivers were denied. So I would be happy to——

Mr. BURTON. Mr. Ryan, do you want her to testify?

Mr. RYAN. Yes. I would defer to the chairman.

Mr. BURTON. Do you swear to tell the whole truth, nothing but the truth, so help you God?

Ms. KENDERDINE. Yes, sir.

Mr. LATOURETTE. I would ask Ms. Kenderdine to get the raise first before she testifies. Get the raise.

Mr. RYAN. Let me just say I think it is a very thorough memo, and you should be commended for a very thorough memo. I would be happy to get your take. I am not trying to play "gotcha."

Ms. KENDERDINE. Would you put in a plug for the policy office budget as well?

Mr. RYAN. OK. The point is not to try and play "gotcha." I simply want to get the truth. I would simply want to find some answers to the questions before 6 weeks, when the FTC comes up to us with answers. I have got to assume there are some other answers in addition to possible gouging that is occurring.

Ms. KENDERDINE. Let me start off by saying that the Department of Energy does not look specifically at price. Our job is to do supply assessments, and that is what this document is. We work with EPA and the EIA policy office, our emergency office. It is a physical contacting of the people out there to assess supply, and so we do not look specifically at price. As you have noted, we have identified factors that may contribute to price.

What I would say—and we have talked about that a lot here today—is that the cost differential between RFG and conventional gasoline is 5 to 8 cents, and I think the point that you are making is that cost is not price. There is a whole distribution chain that is involved that adds to the price, and there were a convergence of factors in the Midwest. It is a transportation-constrained market.

On the East Coast, you have alternative means of getting your product. You are pipeline-limited in the Midwest. You can barge. You can truck. That is more expensive, OK? So cost is not price.

We cannot assess the price value of any of these factors because the differential was so large, the decision was made to refer it to the FTC.

Mr. RYAN. Would you characterize this market as a balkanized market, given all of these factors?

Ms. KENDERDINE. It is a unique market in that both Milwaukee and Chicago are ethanol RFG exclusively. "Balkanize" is not necessarily a word I would use.

I mean, California has a unique market as well.

Mr. RYAN. True.

Ms. KENDERDINE. It has its own unique gasoline blends. It is transportation-constrained as well. So there are several unique markets.

Mr. BURTON. The gentleman's time has expired.

Mr. RYAN. Thank you. I appreciate it.

I notice that Ms. Browner wanted to respond.

Ms. BROWNER. Yes, I do, if I might, Mr. Chairman, with leave of the Chair.

Mr. BURTON. Sure.

Ms. BROWNER. I am sure everybody knows this, but I do think it is worth remembering why Chicago and Milwaukee are in the cleaner gasoline program. That was a product of the 1990 amendments to the Clean Air Act, which is a very unique provision.

Two things happened in the 1990 amendments to the Clean Air Act which have really never been replicated in any other environmental statute. First, while EPA was required to work to develop the recipe, part of the recipe, Congress mandated an oxygenate, a 2-percent oxygenate. That was done by Congress. Illinois and Wisconsin made their own State decisions to limit that oxygenate to ethanol.

The second thing that happened in the 1990 amendments—and again, this was Congress, not EPA—is Congress said that those areas with the worst air pollution problems—and they used a definition—would be required to sell this cleaner gasoline, and Chicago and Milwaukee both fall within that definition.

I think it is important to note these things because what you have is a lot of advance warning, 10 years in some instances, 7 I think it is fair to say when the recipe got written, that these areas would have to go to this cleaner gasoline. Many, many areas in the country have gone to it. About a third of the gasoline now in the United States is this cleaner gasoline, and we are not seeing these kind of issues.

I am not an expert on energy transportation and pipelines or anything, and I would not want to pretend to be. That is not our jurisdiction.

It may well be, as you suggest, Mr. Ryan, that here you have a certain set of transportation limitations that may not exist in other parts of the country, but the point I want to make sure we all see is that the requirement for cleaner gasoline in these two cities is not related to transportation. That is a separate issue. That is an issue regardless of what gasoline you sell in these areas.

Some of the other issues that were raised in this memo, we certainly agree with, but they are not issues unique to cleaner gasoline. When we look at the price spike in cleaner gasoline in these two cities, we can find the exact same factors listed here in other cities, and yet, we do not get the price spoke.

Mr. RYAN. Or they are unique to these two cities.

I mean, I think you touched on——

Ms. BROWNER. The pipeline issue—no, St. Louis actually gets 70 percent of their fuel that comes off the Explorer pipeline. Only 12 to 17 percent of the Chicago/Milwaukee fuel comes off the Explorer pipeline. So you cannot say it is the Explorer pipeline when St. Louis ethanol blend is much, much cheaper than Chicago and Milwaukee. This is why we need this FTC investigation. Clearly, something is amiss. Something does not quite add up, and that is what their job is to figure it out for us.

Mr. RYAN. I see that my time has expired. I thank the chairman.

I think the ozone transport issue is a whole other issue I hope that 1 day we can get into——

Ms. BROWNER. We would love to.

Mr. RYAN [continuing]. Which we in Wisconsin feel like we are paying for somebody else's pollution, quite honestly speaking, and I hope that next time this comes around that the EPA will look at this on a regional basis as well, look at the regions that are being affected, look at the uniqueness of the situations in regions before moving through with these mandates.

I yield my time.

Ms. BROWNER. Congress put the cities in the statute, with all due respect, Mr. Chairman, not EPA. It was Congress. And we would be happy to work with you to rewrite that portion of the Clean Air Act. In fact, we had sent up legislative principles.

Mr. RYAN. Waivers——

Mr. BURTON. Mr. Ryan, your time has expired.

Mrs. Biggert.

Mrs. BIGGERT. Thank you, Mr. Chairman.

I think where we were when I last asked a question—I do not know how long ago it was, and I will be quick—we were talking about the carbon monoxide credit.

Ms. BROWNER. Yes.

Mrs. BIGGERT. In the letter that we are seeking an answer to, you were going to look at that.

Ms. BROWNER. Yes.

Mrs. BIGGERT. What you said, just as we ended, was that you would put this out for comment. Now, why can't we do this under a direct final rulemaking which would shorten the process as long as there is no one that objects to that?

Ms. BROWNER. Well, there will be people who would object. This is an issue with some amount of—how do I put this diplomatically—a range of views, shall I say. For example, your own State of Illinois has a particular point of view. It is outside the scope of what the National Academy of Sciences looked at. They did not accept it. They did not reject it, but it is outside the scope of what they actually looked at.

Therefore, I would simply say to you, for all of us who care about preserving the opportunities for ethanol, this administration has been at the forefront of ethanol as part of a clean fuels program. The best way to make this adjustment—and we believe an adjustment will be warranted—is to do it through the appropriate notice and comment rulemaking so that we can defend whatever final decision we make. This will not be without its opponents, and we want to do it in the way that allows us to make it based on a record with full comment, with full information, so that whatever ultimate decision we make, we can defend it.

Mrs. BIGGERT. We have been seeking that for quite a while now. In fact, I think that after the NAS put that out, it was a recommendation from the Illinois EPA that we proceed with that, and that has been a year now.

Ms. BROWNER. With all due respect, what the Illinois State EPA—it is not part of us. It is a separate entity. What they are recommending is not in keeping with what the National Academy of Sciences reported on to us. It is different. However, we believe that there is enough there that it should be part of what we take comment on, and much of the delay in getting this proposal out was an effort to accommodate your own State's thinking on this.

We had to go back and rewrite the document to take the Illinois thoughts and recommendations, if you will, and incorporate them. They did come to us late in the process. They came to us after the Academy had finished their work.

Mrs. BIGGERT. So how long will the rulemaking take?

Ms. BROWNER. We are going to use a shortened comment period. I am sure that will have its detractors. We are going to go to a 60-day. We normally do a 90. Occasionally, we do a 120. We will do a 60-day, depending on the volume of comments we receive, and we will be happy to report to you at the close of the 60-day, the volume of comments. In some instances, it can take several months.

I think the real trick here and in the commitment that we are trying to make to everybody is to make sure—remember, this is a summer fuels program. That is when smog is a problem. That is when air pollution is the worst. So what we need to do is make sure that any adjustment that we finally adopt is available to both the ethanol industry and the petroleum industry in time for its next summer's program. I think the summer programs are required to start on June 1st.

Mrs. BIGGERT. How many companies produce the phase-one RFG for the Chicago-Milwaukee area?

Ms. BROWNER. No one is making phase-one RFG anymore according to our inspections.

Mrs. BIGGERT. How many did produce that when it was——

Ms. BROWNER. There were seven refineries that serviced the Chicago area. I want to make sure that all of them in fact made phase one, and we may need to answer that for the record. We are not sure.

Eleven refineries are making the phase-two cleaner gasoline. Whether or not all of them made the phase one is a question I would like to answer for the record. There is reason to think it is probably the same group, but there may have been some adjustments.

Obviously, outside of the large Chicago area, you have refiners providing conventional gasoline.

Mrs. BIGGERT. So my figure of seven is not correct for phase one and then four for phase two?

Ms. BROWNER. I am sorry. Ask the question again. I apologize. They were trying to give me the answer while you were asking the question.

Mrs. BIGGERT. How many companies produced phase one, and how many now produce phase two in the Chicago-Milwaukee area?

Ms. BROWNER. I think there is——

Mrs. BIGGERT. Markets, I should say.

Ms. BROWNER. I may have made a mistake because I may have misunderstood your question.

There are the refiners in your area, and there are the refiners that service your area that come up, the pipelines that come over from other parts of that country. It is my understanding that the total number of refiners selling cleaner gasoline into the Chicago-Milwaukee area is seven.

In terms of how many refiners participated in the phase-one cleaner gasoline program, if I might answer that for the record, and we would be happy to give you lists and names and all of that.

Mrs. BIGGERT. Thank you.

Mr. Chairman, if I might just have 1 minute?

Mr. BURTON. Mrs. Biggert, for you, anything.

Mrs. BIGGERT. Thank you.

Secretary Richardson, we were talking about the auto industry and the public-private partnership. I was very disappointed when the PNGB funding was withdrawn from that program.

I think that when it was on the House floor that there were a very few Congressmen and women that really knew what that program did and how it really does fit into an energy policy. So I am hopeful that it will be put back in because I think it is a very important thing.

I think just for comment, we really need to have more of an active public awareness of what our policies are not only to the public, but also to what is going on here for those of us that serve on the Science Committee and are involved with the national laboratories. What is really a very important public and private policy needs to be addressed before we get to the final appropriations bill so that we are not making major errors in this area.

Mr. RICHARDSON. Congresswoman, I agree with you, and I know you have one of our national labs in your district.

Yes. The answer is more public awareness. This is an excellent program, and hopefully, that floor amendment will be reversed as we move through the process because this program is really working. I have seen it firsthand. It is exciting. Industry is committed to it. The Government is committed to it.

To Congressman Sanders, what this is, is a partnership. It is not, OK, you guys in the Government pay for it. It is a shared effort.

We want these vehicles eventually on the market. You can do all the research and technology, which we are doing, but eventually we want them in the market. You have got to show a financial commitment, and this is what we are doing with Detroit. We really hope this program is restored.

I agree with Congressman Kanjorski. We need to bring these labs closer together. They do share a lot, but, Congresswoman, you are right. They get very competitive with each other, and there are ways that we can channel their efforts closer together.

Mrs. BIGGERT. Thank you.

Thank you, Mr. Chairman.

Mr. BURTON. I am not sure, but I believe I am going to be the last questioner. I am not sure you saved the best for last, but, nevertheless, I am going to hopefully wrap this up.

Let me, first of all, say that the energy problems and the gasoline prices are not restricted to the areas that have been discussed. All across the country, gas prices are higher than they ought to be.

In Indianapolis, where we do not have the problems that we have talked about, my son-in-law went to get gas for his SUV the other day. It normally cost him about $28 or $30, and it cost him almost $50 to fill up his tank. So the hue and cry that you hear is not just coming from Chicago or Wisconsin or from those other areas. It is coming from all over the place, and there needs to be a very thorough review of all of this, not just because of the ethanol issue, but because of the exorbitant prices that are being charged for gasoline across the Nation right now and we need to check that out.

I want to talk to you, Secretary Richardson, about another issue, a year ago. I am not here to try to beat up on you. I have seen some of your television interviewers, and I have watched you undergo some difficult times. So it is not my purpose to do that, but I do want to go over a few things with you about Los Alamos.

A year ago this week, you were in my office and we talked about the previous espionage that took place and whether or not the Chinese had certain secrets that we believe they have and how that investigation was going on. You urged me not to hold hearings about certain parts of that because you were concerned that we might be giving away national security information if we did that. You assured me, and assured others, that we were not going to have any more problems, that you were going to go in there and clean that up.

I got to tell you, the thing that concerns me is the Chinese have the largest standing army in the world. They are buying submarines. They are buying everything that you can think of in the area of military equipment, from the Soviets and every place else, and I think they are going to be a major threat to the United States at some point. I really believe that. Now they have stolen a lot of our nuclear secrets, maybe all of them. They now have the ability to have a mobile-launched ICBM with 10 W–88 warheads, and we could not even use the term "W–88" a year ago because it was so top secret. I worry about my kids and my grandkids and your kids and your grandkids, and I am sure you share that.

But the thing that I am concerned about is that we still have lax security at Los Alamos. Now, I cannot go into some of the details that I have learned from the FBI today about how those hard drives were obtained and why the security was so lax, but what I wanted to ask you is—there is the bell. What I wanted to ask you is why in the world did that happen and what is going to be done to make sure that this never happens again because you assured us a year ago that that was going to be stopped, and there were not proper procedures at Los Alamos where those hard drives were.

Mrs. BIGGERT. Yes.

Mr. RICHARDSON. Congressman, first, I appreciate the very constructive way you have framed the issue in the question.

I am going to get to the bottom of this. What obviously happened at Los Alamos after 21 massive security improvements and 36 counter-intelligence improvements, including polygraphs and more guards at Los Alamos and gates and making sure that cyber security, computer security, you could not transfer, and just stand down. I stood down all those labs. In other words, you cannot do anything except undertake security training. That we had this problem, it is inexcusable. It is wrong. I am getting to the bottom of it.

You mentioned that the FBI right now is undertaking an investigation. The good news is that the hard drives were found. Their——

Mr. BURTON. Let me interrupt you there. I cannot go into the details about what was on those hard drives, and you cannot either in a public forum, but the fact of the matter is it was a real—it is a real problem for our national security. Those hard drives and the way they got them out of there—and I am not going to go into it, but you and I know the security measures were taken. For somebody to take those out of there, they had to do it for a reason. They just did not do it for their health. And then to find them behind a copy machine would indicate that they were trying to get them back as hastily as possible. How do we have assurances that they were not copied and given to the Chinese or to some other entity?

Mr. RICHARDSON. Congressman, at this stage, I can categorically state to you—and this is based on FBI information—there is no evidence of espionage. There is no evidence that they left that——

Mr. BURTON. Is there any evidence that it was not espionage?

Mr. RICHARDSON. I think what is happening right now is polygraphing. There is a focus on a few members of that team that have made contradictory statements. You and I cannot go into it here.

I will assure you that I will get to the bottom of this; that we will take disciplinary action. We have already taken additional procedures since then on encryption, on logging, that should have happened before. I am reviewing the contract of Los Alamos.

Mr. BURTON. Mr. Secretary, Bill, my fellow Member, I had a hearing in California. We had a Soviet former KGB and a GRU agent in that said that there were nuclear devices that were buried—possibly buried in the United States and 100 other sites around the world—possibly. There have been two sites that have been uncovered where equipment of the type they talked about was buried in Europe, and they said that there were numerous sites in the United States. One of the agents said he surveyed a site in the Shenandoah Mountains.

The reason I am bringing that up is the information that was at Los Alamos—and I am not going to go into what it was, but the information could be detrimental to our national security if nuclear devices have been buried and it has not been proven that they are not buried here in the United States right now.

The point I am trying to make is that is something that is intolerable. The other things you did are great. The other security improvements you made are great, but this is one that was missed or overlooked. For what reason, I know not. We do not have any evidence whatsoever that it was not taken by a foreign entity.

So all I am saying is what steps are you taking now to make sure this does not happen again if we do have any more secrets.

Mr. RICHARDSON. I mentioned several measures. One, we are encrypting this data so that this cannot occur again. Second, some of those logging procedures have been established. We have taken—you know, one of the problems, Congressman, is that I put all these hugely tough measures, like polygraphing, and civil libertarians, Asian-American groups, a lot of Members of Congress, some of the scientists that I supervise went against them.

Now, we are doing them, and it is happening, but I think, if anything, one of the things that I wish I had done more, despite all of these security experts and measures and directives, is to deal with a culture. We are also changing the combination to vaults. We are staffing the vaults. We are putting alarm on vaults. We are putting serial numbers on sensitive materials.

As you know, Congressman, you cannot change a security classification of a document or a drive without making sure there is inter-agency approval, and we are working on that, too, but we are massively ordering increased security measures for some of these encyclopedia data bases. We are going to get to the bottom of this.

Mr. BURTON. I know you have been involved in the political realm over the past few months, and I can understand that, but because of the significance of the threat to our national security, are you going to devote all of your time to correcting this measure?

Mr. RICHARDSON. I have said publicly that my time right now, this Los Alamos issue, oil prices, that is going to be a large part, a majority part, full time.

Mr. BURTON. I cannot tell you what to do. You were appointed by the President of the United States, and I understand the politics that are involved and I understand what your commitments are, but I would just say this is of such import that I would hope that you would devote more than just the majority of your time. I would hope that you would devote all of your time that is possible to making sure this is cleared up.

Mr. RICHARDSON. I will do that.

Mr. BURTON. I will tell you, the people in the other body and this body are really upset about the problems that have occurred, and if you made that kind of a commitment, I think it would take a lot of pressure off of you, rather than being out there campaigning. I understand you want to do that, and you can do that, but this is something of major significance and should be given priority.

Mr. RICHARDSON. Congressman, I made a pledge, and you saw some of those news shows. My time will be focussed entirely on these two issues.

Mr. BURTON. All right. Without any further questions—do you have any?

Mr. LATOURETTE. I do not have any further questions of this panel, but if I have a unanimous consent request relative to the third panel, if the Chair would entertain that.

Mr. BURTON. I will entertain a unanimous consent request.

Mr. LATOURETTE. Mr. Chairman, the third panel has been sitting here all day, specifically Mr. Red Cavaney and Mr. Eric Vaughn, one from the American Petroleum Institute, the other one from the Renewable Fuels Association. I would first ask unanimous consent that the record reflect that they have been here and are prepared to testify, and it is our schedule that keeps them from doing that.

Mr. BURTON. One of them has an anniversary today. Yes.

Mr. LATOURETTE. Then the second unanimous consent request that I would make is any statement that they wish to have before the committee in the record be accepted into the record and that the committee in the future consider whether or not we should have another hearing and invite them back to give their views on what has been said today.

Mr. BURTON. We will consider that.

[The prepared statements of Mr. Cavaney and Mr. Vaughn follow:]

STATEMENT

Red Cavaney
President and CEO
American Petroleum Institute
before the
House Committee on Government Reform
June 28, 2000

Statement of Red Cavaney
President and CEO, American Petroleum Institute
before the House Committee on Government Reform
June 28, 2000

I am Red Cavaney, President and CEO of the American Petroleum Institute (API). Thank you for this opportunity to present the views of API on rising fuel prices and what is the appropriate federal response. API is a national trade association representing all sectors of the U.S. oil and natural gas industry. Our members understand their customers' concerns over the recent higher gasoline prices. They know people rely on gasoline to get where they need to go and that higher prices can affect their lifestyles and wellbeing. Our industry works hard to ensure consumers have a readily available and affordable fuel supply – a fact borne out by history.

Over the past decade, gasoline has been more affordable than ever. Adjusted for inflation, 1998 prices were the lowest ever; in 1999, they were second lowest. Prices have been low because companies have competed hard to reduce their costs and because supplies have been plentiful.

But as everyone knows, gasoline prices in 2000 have increased – not to record levels, but far above where they were 12 to 18 months ago. And in the Midwest, they are above the higher national average. There are four main reasons:

First, world crude oil prices have sharply risen, the result of a decision by international oil producers to remove millions of barrels per day of crude oil off world markets while demand was increasing. Since crude oil accounts for about 60 percent of the cost of gasoline (excluding taxes), an increase in crude prices directly impacts the price at the pump. Over the past two months, the cost of crude has risen 35 percent.

Second, inventories have been lower than usual. With crude prices high, companies have built them more slowly. And prior to June 1, companies were clearing storage tanks of winter-time fuels to accommodate the new cleaner-burning gasoline, which also affected how much supply was available in the system to meet fuel shortfalls that occurred later in the Midwest due to pipeline and other problems. Pipelines are critical because Midwest refineries make less than 85 percent of the gasoline consumed there.

Third, demand for gasoline has been increasing, as it usually does during the beginning of the driving season. According to the Department of Energy's Energy Information Administration, "gasoline demand in the Midwest seems to be growing more strongly in 2000 than it has for the past couple of years in this region."

Fourth, the difficult-to-make, cleaner-burning gasoline which was introduced on June 1 costs more to manufacture everywhere, but special problems developed in the Midwest, where ethanol is the typical oxygenate component. Refiners weren't able to make quite as much special base fuel as quickly as needed. That tightened supplies, pushing up prices.

Other factors have also played a role, including the Unocal patent infringement case that has created uncertainty and risk for many companies making cleaner-burning reformulated gasoline. Refiners, importers and blenders have publicly indicated that they may avoid possible infringement of the patents by making or importing less reformulated gasoline. Not surprisingly, reformulated gasoline imports have averaged less than typical for this time of year.

For all of these reasons, today's gasoline supplies haven't been enough to meet demand at the record low prices that consumers enjoyed not long ago. That's why prices rose. This conclusion is completely consistent with the findings of a just-issued Congressional Research Service report and the Energy Information Administration's latest report (June 20, 2000).

The price increases have been painful, but supplies have been well allocated. Moreover, the higher prices are providing incentive to companies to get every gallon of gasoline to market they can. Refineries supplying the Midwest are running all out, and added supplies are beginning to exert downward pressure on prices.

In fact, spot prices for the Chicago market started falling back on June 7, less than a week after the new gasoline was introduced, and have fallen 30 percent since. Prices at the consumer level typically follow trends in spot markets at varying intervals, depending on how much higher-priced product is still in the system and other factors. There have already been some reports of pump prices beginning to decline.

Gasoline is much like many other commodity products, although it differs in one important aspect. When a drought reduces the corn harvest or a freeze cuts citrus production, prices go up. When corn gets expensive, people can switch to potatoes or some other product where supplies are more plentiful and prices lower. For gasoline, substitutes aren't readily available, so consumers feel stressed.

Yet, the system ultimately works to their advantage. Over the longer term, gasoline prices have been trending downwards.

Gasoline prices in perspective

The average retail price of gasoline reached $1.22 per gallon in 1999. This is the second lowest average annual pump price (in inflation-adjusted 2000$ terms) of the entire 81-year history of recorded pump prices. Average prices in 1998 were lowest. Prices started rising in March 1999 and continued to increase into 2000, reaching $1.71 in June.

Motor gasoline prices have declined sharply since 1981 when real pump prices reached a high of $2.53 per gallon (in 2000$). So the real cost of gasoline to consumers today remains below its 1981 peak. The decline can be attributed largely to lower crude costs, but manufacturing, distribution, and marketing costs are lower as well. Only taxes have increased.

The combined costs to manufacture, distribute, and market gasoline fell from an average of \$0.69 per gallon in 1981 to \$0.54 per gallon in June 2000. Taxes on gasoline in June amounted to 44.2 cents, including 18.4 cents per gallon in federal taxes, 23.8 cents per gallon in weighted average state taxes, and an estimated 2.0 cents per gallon in local taxes. For comparison, in 1981 when real pump prices reached a new high, taxes were just 31 cents per gallon. A large part of the tax increase can be attributed to federal taxes, which rose more than twice as much as state taxes.

Note, however, that state and local taxes vary widely by location. In Chicago, for example, total taxes on gasoline total 63.5 cents, including 45.1 cents in state and local taxes. These include a state motor fuel tax, a state environment tax, a basic state sales tax, a local state sales tax, a Chicago extra sales tax, a Cook County gas tax, and a Chicago gas tax.

Higher crude oil prices affect gasoline prices

One major factor affecting gasoline prices this year has been changes in the cost of crude oil. It's a simple matter of economics: when refiners have to pay more for the crude oil they use to make gasoline and other products, the price of those products tends to go up.

In 1998, crude oil prices declined to \$11 per barrel. Crude oil began 2000 at \$25 per barrel. International oil producers took four million barrels per day of crude oil off world oil markets, driving up prices to \$34.13 per barrel on March 7.

Following the OPEC agreement to raise output on March 27, 2000, crude oil prices began to fall, reaching a low for the year of $23.85 on April 10, 2000. As of June 12, crude oil prices have risen to above $30 per barrel. This was roughly triple what they were at their low point in late 1998.

Date	Crude Price $/BBL	Gasoline Price $/Gal.
1/4/00	$25.00	$1.314
3/7/00	$34.13	$1.539
3/20/00	$29.43	$1.569
4/10/00	$23.85	$1.516
5/1/00	$25.87	$1.461
6/12/00	$31.74	$1.664
6/16/00	$30.35	$1.771

Source: DOE/EIA

Gasoline price changes have followed crude price changes throughout the year. The sharp price declines of April following the March OPEC meetings were reversed because OPEC output did not address the fundamental tightness in world petroleum supply and demand conditions. World demand for petroleum products remains strong and output increases by OPEC merely met the existing, but not growing demand for products. As a result, prices returned to the over $30 per barrel level. The U.S. continues to import over 55 percent of our petroleum needs and remains at the mercy of world oil markets.

Making and distributing cleaner-burning gasoline

The oil and gas industry also introduced a new cleaner-burning, government-required gasoline to America on June 1, which has also been a factor in higher gasoline prices. This new fuel costs more to make everywhere, but special problems developed in the Midwest, where ethanol is the primary blending component. Refiners weren't able to make quite as much cleaner-burning gasoline as quickly as needed. That tightened supplies, pushing up prices. In some places, pipeline problems held back supplies.

The new cleaner-burning gasoline—called phase II reformulated gasoline (RFG)—must be made to extremely tight specifications. Providing a new fuel made to extremely stringent specifications presents a special challenge. Slight mixing of phase II RFG with other gasoline blends during storage or transportation may force companies to downgrade or reblend it, slowing and complicating manufacturing and distribution with possible impacts on fuel supplies.

Growth in the number of different grades of gasoline and distillate fuels grades, which must share the same distribution and storage system, has heightened the challenge of providing phase II RFG. It has made it more difficult to deal with unanticipated problems that can threaten the adequacy of fuel supplies.

In much of the Midwest, RFG contains ethanol, which tends to boost gasoline volatility. Refiners, therefore, must make the base phase II RFG gasoline to even tighter specifications to ensure that volatility levels in the final product meet government standards. Some companies have had to reblend basestock RFG supplies to be able to meet these specifications, and this has slowed down some deliveries. Also, extremely tight RVP specifications for summer grades of phase II RFG required refiners and marketers to virtually empty their tanks of winter grades before adding low-RVP summer grades so that summer grades could continue to meet RVP specifications.

Pipeline difficulties have also had an impact. The Midwest is a net importer of gasoline. It consumes more than its refineries can produce. Most of the additional gasoline is brought into the market by pipeline, although some is brought in by barge. Finally, several weeks ago, there was more demand for pipeline shipments than there was pipeline capacity. In addition, a major pipeline suffered a leak and was shutdown for five days. When it resumed operations, it was at 80 percent of operating pressure over part of the pipeline. This reduced inventories in the market.

Unocal patent infringement case

Other factors have also played a role in the price increases, including the Unocal patent infringement case that has created uncertainty and risk for many companies making cleaner-burning reformulated gasoline. Refiners, importers and blenders have publicly indicated that they may avoid possible infringement of the patents by making less reformulated gasoline, and reformulated gasoline imports have declined.

A federal District Court upheld a Unocal fuel patent in 1997, awarding damages of 5.75 cents per gallon against six refiners in California for patent infringement. The District

Court ruling was upheld by the U.S. Court of Appeals for the Federal Circuit last March. The refiners have until mid-August to ask the Supreme Court to review the Federal Circuit's decision. Unocal has four additional fuels patents that have not yet been tested in court.

If the Unocal patents stand, they could continue to impact supplies of RFG as refiners and importers individually evaluate their options. They could pay patent royalties on any infringing gasoline, reduce the amount of RFG they produce, or attempt to develop formulations that are outside the scope of the patents. Each option is likely to reduce the flexibility of refiners and increase the cost of making reformulated gasoline.

For all of these reasons, today's gasoline supplies haven't been enough to meet demand at the record low prices that consumers enjoyed not long ago. That's why prices rose. I should point out that this conclusion is completely consistent with the findings of a just-issued Congressional Research Service report and the DOE/EIA latest report of June 20, 2000.

Reducing impact of regulations

The government can help reduce the potential for market volatility by making environmental regulations more reasonable and workable.

Environmental rules are an important driving force behind our cleaner air and water. But improvements are possible that would give companies more flexibility to adjust to problems that may have temporary impacts on supply and price.

The first step is to eliminate unnecessary rules. For example, let's repeal the federal oxygenate requirement for reformulated gasoline, which makes that fuel harder and costlier to manufacture but is completely unnecessary to improve air quality. EPA's Blue Ribbon Panel on oxygenates agreed that the requirement should be eliminated.

We should also ensure that new requirements produce substantial benefits with minimal threat to fuel supplies. EPA's new proposal to improve diesel fuel by reducing sulfur is right directionally, but it over-reaches which could seriously impact diesel supplies with no guarantee of added environmental improvements beyond those achieved by a more moderate approach.

Supplies could be affected because some companies now making diesel fuel may not want to make the huge investments that would be necessary to reduce sulfur as low as EPA wants. Less supply could result in market volatility. EPA assumes the sulfur reductions it is proposing will work with a new kind of vehicle emission reduction technology, but it has presented no evidence that this unproven technology will cut emissions to the desired level no matter how low sulfur content is set.

A less extreme reduction in sulfur—90 percent compared with EPA's 97 percent—would likely achieve comparable emission reductions at much lower cost, while reducing the potential for supply disruptions.

In addition, we should ensure that our laws and regulations allow oil and natural gas companies to drill where new petroleum supplies are most likely to be found. Many of the most promising locations in this country are now off-limits. But supplies there could be recovered with little or no environmental impact, and they would help moderate higher crude oil prices.

Today, we import some 55 percent of our crude oil, meaning that we are at the mercy of foreign oil producing countries. The current price situation has much to do with the cutback in production by those countries. It doesn't have to be this way. U.S. oil is in plentiful supply and our companies can continue to deliver the energy needed to meet America's needs, but they cannot draw upon our vast reserves unless greater access is provided to government lands for responsible exploration and development.

Since 1983, access to federal lands in the western United States—where 67 percent of our onshore oil reserves and 40 percent of our natural gas reserves are located—has declined by 60 percent. Our search for new domestic offshore oil and natural gas is limited to the Gulf of Mexico and Alaskan waters because of the congressional moratoria that have placed off-limits most of the rest of our coastal waters. Onshore, the President has used his executive powers to limit oil and gas activity on vast regions of government lands.

Congress has refused to authorize exploration on that small section of the Arctic National Wildlife Refuge that was specifically set aside by law for possible exploration in 1980. More recently, the U.S. Forest Service moved to make it more difficult for our companies to explore for oil and natural gas on government lands when it announced a plan to bar road building in 43 million acres in the forest system.

Yet, technology has revolutionized how oil and natural gas are found and produced. For example, we now can produce more oil with fewer wells thanks to three-dimensional seismic equipment that locates hydrocarbons with greater precision and directional drilling technology that allows a variety of productive reservoirs to be accessed from one location. Fewer wells mean less disturbance of the environment. Offshore wells can now safely capture oil and gas in ocean depths of thousands of feet in areas far offshore.

We need to recognize that the oil and gas industry of the 21st century has the tools to decrease our dependence of foreign oil while protecting our environment.

Conclusion

The government can reduce the potential for market volatility by making environmental regulations more reasonable and workable and by considering the impacts on consumers of the reduced system flexibility brought about by the increasing complexity of the regulatory framework in which the industry must operate. Improved regulations would give companies more flexibility to adjust to problems that may have temporary impacts on supply and price. This applies especially to fuels regulations, including EPA's new diesel sulfur proposal, which sets a standard beyond what the technology will support. It also includes regulations that now restrict access to the most promising locations in this country to add to our supplies of oil and natural gas.

U.S. oil and natural gas companies know how to make and deliver gasoline, and all strive to be the lower cost provider. Even with occasional price spikes, they do a good job serving their customers. But with better regulations – still fully protective of the environment – they could do even better, and the risk of market volatility would be reduced.

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Testimony of
Eric Vaughn
President and Chief Executive Officer
Renewable Fuels Association

Before the
House of Representatives
Committee on Government Reform

Washington, D.C.
June 28, 2000

Good afternoon Mr. Chairman and Members of Committee. I want to thank you for the opportunity to present testimony this morning regarding the current gasoline price situation in the Midwest and the role of ethanol. This is a timely and critically important hearing. The causes for the unacceptably high gasoline prices in the Midwest are numerous, and ethanol can help both in the near term as the Midwest begins to address soaring gasoline prices and the long term as the United States develops a more responsible and proactive energy policy.

The Renewable Fuels Association is the national trade association for the domestic ethanol industry. Our membership includes ethanol producers, gasoline marketers, farm organizations and state agencies dedicated to the continued expansion and promotion of fuel ethanol. The ethanol industry produced approximately 1.5 billion gallons of ethanol last year from a variety of feedstocks, including corn, wheat, potatoes, beverage waste, wood waste, and other biomass. We are on a pace to break all previous production records in 2000 as production capacity continues to expand, particularly among farmer owned cooperatives, the fastest growing segment of our industry.

Background:
Fuel costs across the Midwest have risen dramatically over the past year, particularly since May when several fuel supply disruptions created product shortages in many areas. As noted in the attached chart, however, prices of conventional gasoline, reformulated gasoline (RFG) and MTBE have been rising steadily since June 1999. Chicago conventional gasoline has risen 127%, from \$0.54 to \$1.23 per gallon; Chicago ethanol RFG has risen 106%, from \$0.60 to \$1.24; and MTBE has risen 130%, from \$0.68 to \$1.56. At the same time, ethanol prices have risen just 29%, from \$0.55 to \$0.71.

With a net cost of just $0.71 per gallon, ethanol is the most cost-effective liquid transportation fuel available in the Midwest today. Because of its high octane and emissions benefits, refiners can displace 10% petroleum at a cost of $1.24 and replace it with ethanol, saving approximately $0.053 per gallon ($0.124 minus $0.071). Thus, at least a partial solution to the current gasoline price crisis in the Midwest is the increased use of fuel ethanol.

Current Gasoline Price Crisis
Gasoline prices are a function of many factors: crude oil prices, manufacturing costs, supply distribution and market dynamics (i.e., bidding). In this case, the rising cost of crude oil is at the heart of the problem. Since January 1999, crude oil prices have risen more than $20, to over $32 per barrel. This, alone, has given rise to about a $0.50 increase in per gallon gasoline prices. But more importantly, it has created a significant disincentive for refiners to build inventory. European and U.S. gasoline stocks are at ten-year lows. In fact, gasoline stocks are so low that readily available gasoline in the U.S. today is the equivalent of slightly less than two days of current consumption.

Indeed, this is a practice that makes sense for the shareholders of major international oil companies. But it leaves consumers vulnerable to even minor disruptions in supply or production. For example, just last summer consumers in California were facing the highest gasoline prices in the nation because "just-in-time" inventory could not satisfy the increased demand that occurred when 7% of the state's gasoline production capacity was shut down by a refinery fire.

In this case, refiners in the Midwest have been unable to recover from three separate supply disruptions that occurred when critical pipelines supplying the region were temporarily shut down. Again, the "just-in-time" inventory practices of the refining industry left consumers vulnerable. When supplies are tight, market dynamics bid the price of gasoline higher than economic principle would dictate.

We believe this is supply mismanagement of the worst kind. Had refiners built inventory sufficient to accommodate typical disruptions, the tight supply situation that has caused price bidding in the Midwest would not have occurred. Importantly, as the quarterly profit reports from the oil industry will demonstrate, the only winners in this situation are the companies that caused the problem to begin with by failing to assure adequate gasoline supplies.

What's worse, rather than simply admitting their mistake, the refining industry appears intent on assigning blame elsewhere. It's OPEC. It's EPA regulations. It's the ethanol industry. Indeed, the representatives of the major oil companies would have us believe they are innocent victims of circumstances beyond their control. Again, the soon-to-be-released quarterly corporate profit reports should shed some light on the real victims here – consumers.

The Role of Ethanol RFG:
As noted, according to spokespersons for the American Petroleum Institute (API), the logistical burden and cost of ethanol RFG is primarily responsible for the current price situation in the Midwest. But such suggestions lack any factual basis and appear more motivated by politics than economics. Let's look at the facts.

First, refiners have known about the Phase 2 RFG requirements for more than six years and have never suggested they would lead to such significant price increases or supply shortages. Refinery modeling completed for the RFA by The Pace Consultants, Inc. of Houston, Texas, concludes the incremental cost associated with producing ethanol reformulated gasoline blendstock for oxygenate blending (RBOB) is approximately $0.007 per gallon.

Second, the cost of conventional gasoline without ethanol in the Midwest has been rising as steadily as reformulated gasoline. Indeed, while RFG wholesale prices have risen 34% since May, conventional gasoline prices have risen 30%. One area experiencing some of the highest gasoline prices today is Detroit, an area without RFG and little ethanol blending. If ethanol RFG were the cause, why are these conventional gasoline markets also seeing such inordinately high prices compared with the rest of the country?

Third, ethanol RFG is also being sold in St. Louis and Louisville at lower costs than MTBE blended RFG being sold in those areas and significantly less than the ethanol RFG being sold in Chicago and Milwaukee. St. Louis and Louisville are southern RFG cities. Chicago and Milwaukee are northern RFG cities. While the specific regulatory requirements are similar, they are not the same. The southern RFG must meet a more stringent VOC performance requirement, meaning that the ethanol RFG being sold in St. Louis is more difficult to make than the fuel being produced for Chicago. Thus, if the cost of producing ethanol RFG is the cause of the problem, why is ethanol RFG being sold in St. Louis and Louisville less costly for consumers?

Ethanol is not part of the problem. It is part of the solution.

Ethanol Can Help
After the Explorer Pipeline fire in March, the pipeline company and the U.S. Department of Transportation agreed to reduce operating pressure by 20%. This has resulted in a volumetric reduction of approximately 10%. This is volume that could be partially made up with increased ethanol blending. The domestic ethanol industry has alerted oil companies selling conventional gasoline in the Midwest that we are prepared to provide increased volume in this area as soon as necessary.

While U.S. refiners have just two days of demand in storage, the domestic ethanol industry has been building stocks in anticipation of increased demand as MTBE use is reduced in response to the growing MTBE water contamination crisis across the country. In fact, according to EIA, there is approximately 250 million gallons of ethanol currently in storage. That is the equivalent of almost a 45-day supply at current usage.

Moreover, the domestic ethanol industry is producing at a record pace. This year we will likely shatter all previous production records, with more than 1.6 billion gallons. We are prepared to meet the challenge for Midwest fuel supplies -- today. All we need are oil companies willing to displace some of their petroleum and provide consumers with a high octane, low cost alternative fuel – ethanol.

Expanding the extent of ethanol blending in conventional gasoline would be the most timely and effective means of increasing liquid fuel supplies and lowering consumer costs across the Midwest. Again, we call on oil companies in the Midwest to consider this option today.

U.S. Energy Policy

The current gasoline price crisis in the Midwest is only a symptom of a larger disease – an epidemic caused by a failed energy policy. Our foreign policy, our defense policy and our economic policy are still largely dictated by our nation's desperate need for oil. Until the U.S. gets serious about energy, and is prepared to do more than saber rattle and beg oil sheiks for increased supplies, our nation will be vulnerable to the kind of supply mismanagement that has stricken the Midwest.

While most of us can remember the lines at gasoline stations during the mid-70's, we have been lulled into a false sense of energy security by the lower gasoline prices of the past decade. Fundamentally, however, we are as hostage to the whims of OPEC today as we were during the height of the energy crisis that threw our economy into a tailspin 25 years ago. In fact, we are even more dependent now than we were then. In 1973, the United States imported just slightly more than 30% of domestic consumption. Today, we are importing almost twice that amount. As noted by the American Petroleum Institute recently on its web site:

> "We import some 55 percent of our crude oil, meaning that we are at the mercy of foreign oil producing companies."

Indeed, as a nation our priorities are misguided. Consider, for example, that the United States spends more money to develop, test and manufacture a single jet fighter engine than is spent annually on the development of alternative fuels. While that jet fighter may one day be used to protect the free flow of oil from the Straight of Hormuz, a more efficient use of the taxpayers' money might be to assure that jet fighter doesn't need to be there in the first place. In a recent letter to the Senate signed by General Lee Butler, USAF (Ret.), Former Commander, Strategic Air Command & Strategic Air Planner, Desert Storm; Robert McFarlane, Former National Security Advisor; R. James Woolsey, Former Director, Central Intelligence; and Admiral Thomas Moorer, USN (Ret.), Former Chairman, Joint Chiefs of Staff:

> "Sitting on only 3% of the world's reserves while using 25% of the world's oil, nothing could be more short-sighted than for Americans to abandon the incentives for producing transportation fuels from sustainable sources. Such an abandonment would entrust the future of our energy supplies, and of key aspects

> of our security, to the potpourri of psychopathic predators, such as Saddam [Hussein], and vulnerable autocrats who control over three-quarters of the world's future supply of oil."

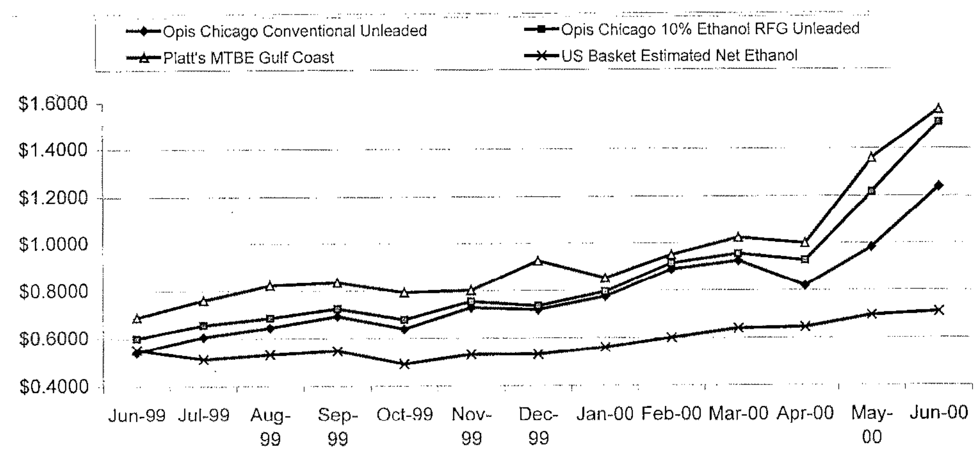
We sent our sons and daughters to fight in the Gulf War to protect the free flow of oil from the Middle East. That must never be allowed to happen again. We must develop and implement a domestic energy policy that promotes the expanded production and use of domestically produced, sustainable renewable fuels such as ethanol. Without it, we will continue to rely on rogue nations for our insatiable appetite for Middle East oil, and consumers will continue to remain vulnerable to price shocks and exaggerated energy costs.

Conclusion:
The cause of the current gasoline price crisis in the Midwest is quite simple: with $32 per barrel oil, refiners gambled with "just-in-time" supply management and lost. Consumers are now paying the price. With less than two days of available gasoline stocks, there is simply not enough supply to accommodate any disruptions in logistics or production. Refiners created a tight supply situation, and are now reaping the profits.

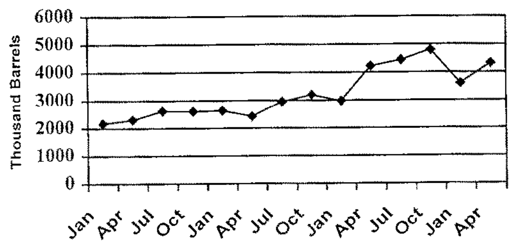
Congress should thoroughly investigate the impacts to consumers resulting from "just-in-time" inventory practices and take steps to assure greater available supplies. In the short term, ethanol remains an option to increase liquid fuel supplies and reduce consumer gasoline costs throughout the Midwest. But ultimately, Congress should take far more aggressive steps to formulate a national energy policy that will lead us to energy and economic independence. Renewable alternative fuels such as ethanol are part of the solution, both today and in the future.

Thank you.

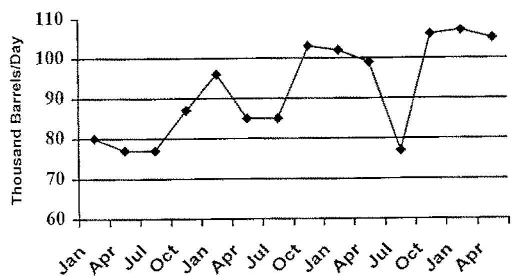
Comparative Midwest Fuel Prices
June 1999 – June 2000



Ethanol Stocks, 1997-2000



Ethanol Production, 1997-2000



Mr. LATOURETTE. Thank you.

Mr. BURTON. We stand adjourned. Thank you very much.

[Whereupon, at 8:12 p.m., the committee was adjourned.]

[The prepared statements of Hon. Christopher Shays, Hon. Henry A. Waxman, Hon. Benjamin A. Gilman, and additional information submitted for the hearing record follow:]

ONE HUNDRED SIXTH CONGRESS

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Statement of Congressman Christopher Shays
before the
Committee on Government Reform
on
Rising Fuel Prices and the Appropriate Federal Response

June 28, 2000

Mr. Chairman, last winter many Connecticut residents were paying up to twice last year's cost for home heating oil, and $2 per gallon of gasoline this summer seems a near certainty. So our discussion today of the "appropriate" federal response has to begin with the question, "Has there been any response at all to a problem the Administration knew, or should have known, to be looming for many months?"

Over five months ago -- on February 9 -- I joined 49 of my colleagues from both sides of the aisle in writing the President to express concern about rising fuel prices. In our letter, we asked the Administration to take decisive steps to stabilize prices, including releasing oil from the Strategic Petroleum Reserve. Our requests were met with half-measures: the release of some additional heating assistance (LIHEAP) funds and promises of future studies and diplomatic efforts.

That same week, I joined a bipartisan group of representatives from the Northeast in meeting with Secretary Richardson to express our concerns about the escalating cost of fuel, our disappointment with the Administration's inaction on the issue, and the need for the Administration to push OPEC to stabilize prices. Ultimately, Secretary Richardson's mission to OPEC nations brought an agreement to increase production, but no corresponding stabilization or decrease in the price of oil.

One month ago, on June 8, in the face of still rising gas prices, Congressman Sanders and I wrote to Secretary Richardson asking that he brief Members from the Northeast on specific steps the Administration is taking to ensure sufficient oil supplies at reasonable prices.

Statement of Rep. Christopher Shays
June 28, 2000
Page 2

To my disappointment, we have not yet received a response from the Secretary. Clearly, the federal approach to date favors short-term political palliatives over the harder choices required to craft a substantive energy policy.

Our experience with the Federal Trade Commission (FTC) has not been much better. In March, I joined 33 of my colleagues in writing to the Attorney General asking for an investigation into the sharp increase in the cost of home heating oil and consumer concerns over apparent price gouging. The Attorney General forwarded the letter to the FTC, which promised a comprehensive investigation.

To date, the FTC has not contacted the co-signers of the letter with the results of the review. On June 22, after four months without a response, we were forced to reiterate our concerns in a letter to FTC Chairman Pitofsky asking for a prompt conclusion of the investigation.

While I recognize the Administration's efforts, in no small measure due to the work of Secretary Richardson, helped convince OPEC to increase supply last March, that crude oil production increase has not had the effect on refined product prices. We find ourselves once again at the mercy of OPEC.

In terms of an appropriate federal response to this crisis, Congress too has a role to play in creating stable fuel prices. That is why I support the creation of a two million barrel home heating oil reserve in the Northeast. On April 12 the House voted 416 to 8 to authorize the creation of such a reserve, but our Amendment to appropriate $10 million for that purpose failed by just two votes.

Crude oil and heating oil reserves are needed as a buffer against volatility in global markets, against the power of the OPEC cartel and to protect national security. Congress still has work to do to strengthen that element of national energy policy.

But the Administration must also meet its responsibility to establish a long-term energy plan which focuses on conservation and alternative fuel sources. At the same time, the Administration must make clear to OPEC that the United States is prepared to act to moderate oil prices by releasing oil from the Strategic Petroleum Reserve.

The appropriate federal response to volatile energy prices and supply disruptions should include both short and long term initiatives to protect consumers. It should also include a willingness to share both good and bad news with the people's elected representatives. So it is my hope members of this committee today will finally learn at least some of the answers to questions posed to this Administration over the course of the past six months.

I look forward to the testimony of all the witnesses today.

Statement of Representative Henry A. Waxman
June 28, 2000

Today's hearing addresses an important topic: why are gasoline prices so high, especially in the Midwest.

There are some things we know about this issue and many that we don't. I hope this hearing will help shed light on some of the unanswered questions.

Let me begin by reviewing what we know. First, I think it is clear that environmental requirements are not the cause of high gasoline prices. The Chairman and other Republican leaders have tried to blame the Clean Air Act and the Environmental Protection Agency for high gas prices. They say that reformulated gasoline is a lot more costly to make than conventional gasoline, forcing fuel prices up.

They are simply wrong.

I know something about the reformulated gasoline provisions of the Clean Air Act because I was one of the principal authors of those provisions. The record shows that the reformulated gasoline provisions of the 1990 Act have been an enormous success.

Since 1990, emissions of volatile organic compounds, the main source of urban smog, have decreased by 20%. Average levels of urban smog have dropped by 9%. At the same time, the Clean Air Act is responsible for reducing emissions of hazardous air pollutants by over 800,000 tons annually.

One of the single most important factors in achieving these reductions has been reformulated gasoline. As a result of reformulated gasoline, emissions of smog-forming pollutants have been reduced by 105,000 tons annually, and emissions of toxic air pollutants have been reduced by 24,000 tons annually. The levels of benzene, a known human carcinogen, declined by 38% in urban areas that introduced reformulated gasoline in 1995.

And these reductions have been achieved at an extremely low cost.

Republican leaders are saying that reformulated gasoline is causing high gas prices. But the fact is that across most of the nation, the average retail price of a gallon reformulated gasoline is <u>less</u> than the average retail price of a gallon of conventional gas.

Let me repeat this point: the retail price of reformulated gasoline is often less than the retail price of conventional gasoline.

If the Republicans were right, this would be impossible. Reformulated gasoline would be much more expensive than conventional gasoline. But the fact is, reformulated gasoline costs most motorists less than conventional gasoline.

There are other essential facts that are often overlooked in this debate.

We will hear today that reformulated gasoline is different in Chicago and Milwaukee than in many other parts of the country. In other parts of the country, reformulated gasoline is made with MTBE. In Chicago and Milwaukee, it's made with ethanol. We will hear today that it's the ethanol requirement that is driving up Midwest gasoline prices.

Part of this is true. Reformulated gasoline in Chicago and Milwaukee does use ethanol.

But it's not true that the Clean Air Act -- or any other federal law -- requires the use of ethanol in reformulated gasoline in Chicago and Milwaukee. In these areas, under federal law, it's perfectly legal for the oil companies to seek to use reformulated gasoline that uses other oxygenates if they wanted to.

Why do the oil companies use ethanol in reformulated gasoline in Illinois and other Midwest states? They do this because these states grow a lot of corn. These states have passed state tax breaks and other incentives that encourage the use of the ethanol in fuel.

So it can't possibly be federal ethanol requirements that are responsible for high prices in Chicago and Milwaukee since there aren't any.

Moreover, it's doubtful that ethanol is the cause of the high prices. Detroit uses conventional gasoline, not reformulated gasoline. But this week, the price of conventional gasoline in Detroit was $1.93 per gallon – seven cents more than a gallon of reformulated gasoline in Milwaukee.

If reformulated gasoline is not the cause of high gas prices, what is?

One cause that has been mentioned is the temporary shutdown of Explorer pipeline in March. This is a possible cause. But as we will hear from federal officials today, it does not seem likely that the pipeline is a major cause of high prices. In fact, I understand that the pipeline has unused capacity and could ship more reformulated gasoline to the Midwest if the oil companies asked it to do so.

Another possible cause is price gouging by the oil companies. It's clear that the high prices of fuel in the Midwest mean millions more in oil company profits. But the fact that oil companies are earning record profits does not necessarily mean that they are violating the law. If the shortage of gasoline in the Midwest is due to legitimate causes, oil company profiteering may be improper, but it would not be illegal.

I requested that the Chairman invite the CEOs of the major oil companies to testify today so that we could get answers to these questions. But they have refused to attend, and the Chairman has refused to subpoena them.

Some on the Republican side have criticized the Administration for seeking an FTC investigation into oil company behavior. But this is exactly what's needed. There is clearly much more that we need to learn about why prices spiked up in the Midwest. The FTC has the expertise and experience needed to provide answers.

There is one final point I want to address: it's Congress' role and responsibility in this matter.

Unfortunately, energy policy is an area where we simply haven't done our job. The Administration has proposed numerous initiatives that would have increased energy efficiency and reduced our reliance on imported oil. These initiatives include tax breaks to promote the purchase of fuel efficient vehicles, the creation of heating oil reserves, and research partnerships with the auto industry. But Congress has repeatedly blocked these initiatives.

In fact, we have even let the President's authority to deploy the Strategic Petroleum Reserve expire.

The leadership in Congress is good at pointing fingers. But they rarely seem to accept responsibility for their mistakes. In this case, however, Congress would serve the public better if we did less blaming and more legislating.

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Opening Statement
Rep. Benjamin A. Gilman

I WANT TO THANK CHAIRMAN BURTON FOR TODAY'S IMPORTANT HEARING ON THE RISING FUEL PRICES....

IT IS GOOD TO SEE YOU THIS AFTERNOON MR. SECRETARY. I WOULD LIKE TO USE OUR TIME TOGETHER TO FURTHER EXPLORE THE ADMINISTRATION'S PLANS TO RESOLVE THE EXORBITANT FUEL PRICES THAT ARE HURTING THE AMERICAN PEOPLE. YESTERDAY THE INTERNATIONAL RELATIONS COMMITTEE HELD A HEARING ON "OPEC'S POLICIES: A THREAT TO THE

U.S. ECONOMY," TODAY WE ARE MEETING TO DISCUSS "RISING FUEL PRICES AND THE APPROPRIATE FEDERAL RESPONSE."

THE EFFECTS OF THE ORGANIZATION OF PETROLEUM EXPORTING COUNTRIES' ("OPEC") PRICE-FIXING-SCHEMES ON THE AMERICAN HOMEOWNER, THE SMALL BUSINESSMAN, THE COMMUTER, THE TRUCK DRIVER, THE CONSUMER, AND THE AMERICAN PEOPLE ARE DEVASTATING, WHILE OPEC'S REVENUES HAS DOUBLED OVER THE PAST TWO YEARS.

I CAN'T HELP BUT CONCLUDE THAT OUR

POLICY TOWARD OPEC IS HARD TO DISCERN - AND HARDER STILL TO EXPLAIN TO THE AMERICAN PEOPLE WHO HAVE SEEN GASOLINE PRICES RISE SOME 60 CENTS OVER THE PAST YEAR AND A HALF TO RECORD LEVELS IN THE NORTHEAST AND MIDWEST.

OUR VICE PRESIDENT HAS CALLED FOR AN INVESTIGATION BY THE FEDERAL TRADE COMMISSION INTO POSSIBLE PRICE GOUGING BY OIL COMPANIES, WITH PROFITS UP SOME $7 BILLION DOLLARS OVER THE PAST YEAR. MANY OF US AGREE THAT THE INVESTIGATION IS APPROPRIATE, BUT THAT IS NOT ENOUGH -- AND IT

IS CERTAINLY NOT A FORWARD-LOOKING POLICY THAT WILL LEAD TO LOWER GAS PRICES. THE ADMINISTRATION MUST HAVE FORMULATED A SHORT TERM SOLUTION-- ONE WHICH WILL LOWER THE PRICES TODAY, AND A LONG-TERM POLICY THAT WILL RESOLVE THE PROBLEM FOR THE FUTURE.

OIL PRICES TODAY ARE HIGHER THAN AT ANY TIME SINCE THE IRAQI INVASION OF KUWAIT. CONTINUED HIGH PRICES FOR GASOLINE AND OTHER FUELS ARE NOW BEGINNING TO STUNT OUR OWN ECONOMIC GROWTH AND CURTAIL GLOBAL GROWTH PROSPECTS AS WELL. THE CURRENT

SITUATION IS INDUCING BANKERS TO RAISE RATES AND CURTAIL LENDING, AGAIN, THE AMERICAN PEOPLE BEAR THE BRUNT OF THIS.

HOW HAS THE ADMINISTRATION REACTED TO THIS GROWING THREAT TO OUR POCKETBOOK AND OUR PROSPERITY? REMARKABLY PASSIVE IN THE FACE OF OPEC'S CONTINUED ASSAULT ON OUR FREE MARKET SYSTEM AND ANTITRUST NORMS, THIS ADMINISTRATION IS STILL FIRING BLANKS WHEN IT SHOULD BE MAKING AN ALL-OUT ATTACK ON THE PRODUCTION ALLOCATION SYSTEM WHICH HAS KEPT OIL AT $30 A BARREL FOR MUCH OF THE YEAR. WE HEAR MUCH ABOUT THE

ADMINISTRATION'S 'QUITE DIPLOMACY' IN DEALING WITH OPEC, BUT WHAT IS IT ACTUALLY DOING?

WHAT HAS THE ADMINISTRATION DONE TO SYSTEMATICALLY REVIEW OUR POLICIES TOWARD OPEC AND ITS MEMBER STATES? WHY HAS THE ADMINISTRATION FAILED TO WEIGH IN STRONGLY ENOUGH WITH OPEC LAST YEAR TO PREVENT A CONTINUATION OF PRODUCTION CUTBACKS? AND HOW CAN WE BEGIN TO TAKE EFFECTIVE ACTION AGAINST ITS CONTINUED PRODUCTION CUTBACKS AND PRICE FIXING BEHAVIOR? THESE ARE TIMES THAT CALL FOR THE ADMINISTRATION TO BE PROACTIVE IN DEALING WITH OPEC, NOT

REACTIVE!

THE ADMINISTRATION'S *PASSIVE* ATTITUDE HAS SENT A CLEAR SIGNAL TO OPEC THAT PRICE-FIXING IS FINE; THAT PRODUCTION CUTBACKS ARE NOT SO BAD AFTER ALL, AND THAT AS LONG AS YOU KEEP TRYING TO AIM AT A REASONABLE PRICE FOR CRUDE OIL, YOU CAN OVERSHOOT YOUR MARK WITH $30 A BARREL OIL WITH NOT SO MUCH AS A SLAP ON THE WRIST. THE UNITED STATES IS BEING VICTIMIZED BY OPEC'S MANIPULATION OF THE OIL MARKET.

LAST WEEK, I INTRODUCED "THE FOREIGN

TRUST BUSTING ACT" AND THE "INTERNATIONAL ENERGY FAIR PRICING ACT OF 2000," LEGISLATION THAT WILL ENSURE THAT THIS ADMINISTRATION ADOPTS A CONSISTENT AND COMPREHENSIVE POLICY OF OPPOSITION TO OPEC AND OTHER SIMILAR CARTELS. IN THE ONGOING ENERGY CRISIS FACING THIS NATION, THEY KEEP THE SPOTLIGHT WHERE IT BELONGS - ON THIS INTERNATIONAL ENERGY CARTEL. WITH THE ENACTMENT OF THESE MEASURES, THE ADMINISTRATION WILL NO LONGER BE ABLE TO GO BACK TO BUSINESS AS USUAL IN SUPPORTING BACK ROOM ARRANGEMENTS AND CARTEL-LIKE BEHAVIOR.

THE FIRST MEASURE WOULD ALLOW LAWSUITS TO BE BROUGHT AGAINST FOREIGN ENERGY CARTELS. THE SECOND WOULD SPECIFICALLY DIRECT THE PRESIDENT TO MAKE A SYSTEMATIC REVIEW OF ITS BILATERAL AND MULTILATERAL POLICIES AND THOSE OF ALL INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL FINANCIAL INSTITUTIONS TO ENSURE THAT THEY ARE NOT DIRECTLY OR INDIRECTLY PROMOTING THE OIL PRICE-FIXING ACTIVITIES POLICIES AND PROGRAMS OF OPEC. THE LEGISLATION MANDATES THAT THE U.S. REPRESENTATIVES TO THE IMF AND MULTILATERAL DEVELOPMENT BANKS VOTE TO OPPOSE ANY LENDING OR

FINANCIAL SUPPORT TO ANY COUNTRY THAT PROVIDES SUPPORT FOR OPEC ACTIVITIES AND PROGRAMS.

THE TIME FOR QUIET DIPLOMACY WITH OPEC HAS LONG SINCE PASSED, AND THIS ADMINISTRATION MUST NOT SIT BY WHILE THE AMERICAN PEOPLE ARE SUFFERING AT THE HANDS OF OPEC.

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Memorandum

June 16, 2000

SUBJECT : **Midwest Gasoline Price Increases**

FROM : Lawrence Kumins
Specialist in Energy Policy
Resources, Science, and Industry Division

Summary

Gasoline prices nationwide have risen about 60 cents per gallon since the beginning of 1999. Some localities – notably in Michigan, Illinois, and Wisconsin – have experienced even greater price hikes, often twice as much as the national average. These higher prices can be attributed to five factors. In summary, they are:

Higher Crude Oil Prices. Refiners' crude acquisition costs have risen by the equivalent of 48 cents per gallon during the past year and a half.

Use of Ethanol in Reformulated Gasoline. Reformulated gasoline (RFG) is required in numerous areas designated by EPA as ozone nonattainment areas. About 30% of the gasoline sold in the United States is RFG. Refiners serving the Chicago and Milwaukee areas use ethanol instead of MTBE (the additive used in most other RFG areas) to meet the oxygen requirements of the RFG program. New requirements for Phase 2 of this program, which took effect June 1, 2000, have made it more difficult and costly to make RFG with ethanol. How much more costly is a matter of debate. EPA estimates the impact of Phase 2 requirements at 5-8 cents per gallon. RFG prices in Chicago and Milwaukee are at least 50 cents above RFG prices elsewhere, however. Not all of this difference can be attributed to the RFG requirements or the use of ethanol. In fact, non-reformulated gasoline sold in areas near Chicago and Milwaukee is priced well above comparable gas sold elsewhere.

Pipeline Problems. Two oil pipelines serving the upper Mid West have been experiencing operational difficulties. The Wolverine Pipeline between Chicago area refineries and Michigan had a spill and is slowly being brought up to capacity. It is expected

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to be fully operational on June 17. Meanwhile, ExxonMobil has put its branded gasoline distributors on allocation. The Explorer pipeline serving St. Louis and Chicago is operating at 10% reduced throughput, meaning St. Louis deliveries are reduced by about 50,000 barrels per day (b/d) and Chicago by about 34,000 b/d. In a tight regional market, supply reductions of this magnitude can be extremely disruptive, and lead to significant price increases.

Low Inventories. The EIA reports that crude oil and gasoline inventories are extremely low. There is the equivalent of about 2 days of consumption in working inventory. When stocks get this low, misallocations to the distribution system cannot easily be corrected. And refiners are slow to but extra gasoline on the market when needed because they are unable to replace those barrels with gasoline or extra crude runs at their plants.

Patented RFG Process. Patents by Unocal on an important reformulated gasoline process may have some marginal impact on price and availability of RFG. However, with regional gasoline prices as high as they are, any license fee owed to Unocal once the license fee is ultimately determined would be too small to create a barrier to making RFG or the blending material for ethanol-based RFG.

In summary, some of the increased prices in Chicago/Milwaukee and Detroit can be attributed to these factors. About 48 cents of the current price is likely due to higher crude costs. This impacts gasoline consumers everywhere. It can also be roughly estimated that 25 cents of the regional price increase is due to transportation difficulties and another 25 cents, roughly estimated, could be due to the unique RFG situation in Chicago/Milwaukee. These figures are very rough approximations based on spot market valuations, which do not comprise a complete series of price data. They are intended as rough estimates of each factors contribution to higher prices.

Oil Supply Price Background

Retail prices of petroleum products and motor fuels have risen sharply this year. Volatile oil prices have been driven up largely by production cutbacks by the Organization of Petroleum Exporting Countries (OPEC). The reduced OPEC production quotas have combined with strong world demand to boost crude oil prices from $10 per barrel at the end of 1998 to about $30 per barrel by late 1999.[1]

OPEC output quotas also resulted in reduced petroleum stocks around the world. In the United States, crude oil and gasoline inventories are well below normal levels. Spot shortages of home heating oil and diesel fuel occurred in the eastern part of the nation during winter 2000. Now that gasoline is in seasonally high demand, short supplies and instances of volatile prices are cropping up around the country. The most notable price increases are in the upper Mid West, where pump prices have exceeded $2.00 per gallon.

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[1] All prices cited in this memo are from the U.S. Department of Energy's Energy Information Administration.

It must be reiterated that this effort to attribute price differentials to the availability of RFG and to pipeline supply difficulties is a simplistic exercise based on incomplete data. It has been undertaken in order to separate the price effects of generalized regional shortage due to transport breakdowns from the tight supply of RFG blending material.

Higher Crude Costs

Gasoline and crude oil reached their lowest prices in recent history in December 1998 and January 1999. In December 1998, crude cost U.S. refiners $9.84 per barrel; in January 1999 crude was $10.47. Similarly, gasoline of all types sold at the pump (including all taxes, etc.) for an average of $1.05 and $1.03 per gallon December and January.

Since that time, petroleum prices have risen consistently; in mid-June of 2000, crude is in the $30 per barrel area, an increase of roughly $20 per barrel or 48 cents per gallon. It is likely that all 48 cents has been included in pump prices.

OPEC has set production quotas that resulted in much higher crude prices than were anticipated. Crude oil on the N.Y. Mercantile Exchange (NYMEX) is trading at about $33 per barrel (bbl) as of mid-June. All petroleum products are affected more or less proportionally by high-priced crude oil, and consumers of all fuels look toward the June 21, 2000, OPEC meeting, at which a production increase is to be discussed.

Chicago-Milwaukee RFG

RFG is a smaller percentage of regional gasoline supply in the mid-continent than in most other regions. Essentially, it is used only in Chicago and Milwaukee; the rest of the region uses conventional fuel. These cities have virtually banned the oxygenate MTBE from RFG sold in their cities. Instead, ethanol is used to increase the oxygen content of RFG to minimize carbon monoxide emissions. In current market conditions, the price of the gasoline base material needed for oxygenate blending (called RBOB) – rather than the cost of ethanol – has become the primary factor in the region's high prices.

The difficulty stems from the fact that RFG volatility (speed of evaporation) is limited by regulation. Ethanol is much more volatile than the major alternative oxygenate, MTBE. In order for the ethanol blend RFG to fall under the overall volatility limit, the volatility of the RBOB to be used in ethanol blending must be low. This is a matter of blending volatile ethanol – a physical fact that cannot be changed – with special reduced-volatility RBOB. The difficulty arises because low-volatility RBOB is very hard to manufacture, and there is very little demand for this material outside the Chicago-Milwaukee gasoline market. Most of the required material is made in the six refineries in Illinois (whose capacity totals nearly 1 million barrels per day). When demand exceeds local refiners' ability to manufacture low-volatility RBOB, supplies are brought in from Gulf coast refiners by pipeline.

Low volatility RBOB is a specialty product; not all refiners can or will manufacture gasoline to such specifications. And shipping presents difficulties stemming from the unique nature of the product, the need to segregate within the pipeline and the fact that it is usually shipped in relatively small quantities. Additionally, transportation bottlenecks could adversely affect the price and availability of this material in this consuming region.

Troubled Pipelines

Two pipelines that play important roles in supplying gasoline to the upper Mid West are currently suffering operational difficulties. Petroleum is most efficiently transported in large quantities by pipeline. When the pipeline system has capacity problems, it can be supplemented by truck, and/or waterway transport in some cases. But pipelines' ability to move large amounts of fuel is difficult to replicate by supplementary transport, as are the low-costs inherent in pipelining.

The Explorer pipeline transports fuel from the Gulf coast to Chicago, traveling south to north and passing through St. Louis. The Explorer had a fire near St. Louis in March 2000. The damage was repaired quickly, and transport resumed. But as a result of the investigation into that incident, the pipeline company and the Department of Transportation entered into a verbal agreement to reduce operating pressure by 20%. This translates into a volumetric reduction (measured in b/d) of 10%. The Department of Energy (DOE) estimates that this has reduced the pipeline's throughput to St. Louis from 550,000 barrels per day to 500,000, creating an extremely tight local gasoline market. After St. Louis the pipeline's diameter becomes narrower to match reduced northbound requirements, although it is probable that the flow reduction in this segment of the pipeline is also 10%.

The other pipeline that is having problems is the Wolverine pipeline, which has a capacity of 186,000 barrels per day and runs eastward from Niles, Illinois, to Jackson, Michigan. A leak in early June has caused an interruption of service. Gasoline is currently being trucked around the break, which is being repaired. The pipeline is scheduled to be back in full service on June 17. While the repairs are being made, Michigan supplies have been disrupted and prices have spiked.

U.S. Crude Oil Inventories

OPEC attempts to set prices by administering the level of supply sent to the world market. When OPEC members met last March, they set quotas that were not high enough for refiners around the world to rebuild crude stocks depleted by winter heating demand. Thus, low inventories are a problem around the world. In the United States, crude oil stocks are presently 20 million barrels under the normal range for this time of year, according to the Energy Information Administration (EIA). They stand at 31 million barrels above the lowest operational inventories ever observed in recent times. This is the equivalent of 2 days of refinery operations.

Gasoline stocks are in similarly tight condition. While U.S. inventories are just below the lower range of normal seasonal stocks, they are only 16 million barrels above the minimum operational level of 185 million barrels.[2] This means that the amount of readily marketable gasoline in the U.S. production and distribution system is the equivalent of slightly less than two days of current consumption.

When oil inventories get this close to minimum operating level, refiners' flexibility is diminished, and they are less able to deal with such factors as unanticipated demand changes, distribution difficulties, or special requirements. The latter includes such factors as the demand for RBOB suitable for ethanol blending.

The Unocal Patent Issue

Unocal, a large, integrated oil company, has substantial gasoline production in its California refineries. California has special air quality problems, and special gasoline is needed to meet California Air Resources Board (CARB) specifications, which are currently tighter than national Phase II RFG requirements. In 1990, Unocal researchers discovered a unique way of manufacturing gasoline with minimum volatility, as well as some other parameters helpful in meeting clean gasoline requirements. A patent was applied for and in 1994, the U.S. Patent and Trademark Office awarded Unocal its first patent. Four other patents were subsequently awarded to the company.

In 1995, Unocal announced its intention to license the patent to other refiners. Shortly thereafter, six major refiners sued Unocal, challenging the validity of its patents. The U.S. District court found in favor of Unocal, upholding the patent's validity and awarding Unocal damages of 5.75 cents per gallon on the gallons manufactured that infringed on Unocal's patent. In March 2000 the initial verdict was upheld in the U.S. Court of Appeals for the Federal Circuit.

How much gasoline is involved in the Unocal patent? Most gasoline is made by processes other than those patented by Unocal. In California, where CARB gasoline is often made using the Unocal process, the company estimates that only 29% of the gallons produced would involve its patent; 71% fell outside the patent. Around the rest of the nation, an even smaller amount would fall under the patent. Unocal has asserted that the proportion of regular RFG subject to its patent is small, but increases as octane increases. Most gasoline sold nationwide is regular grade.

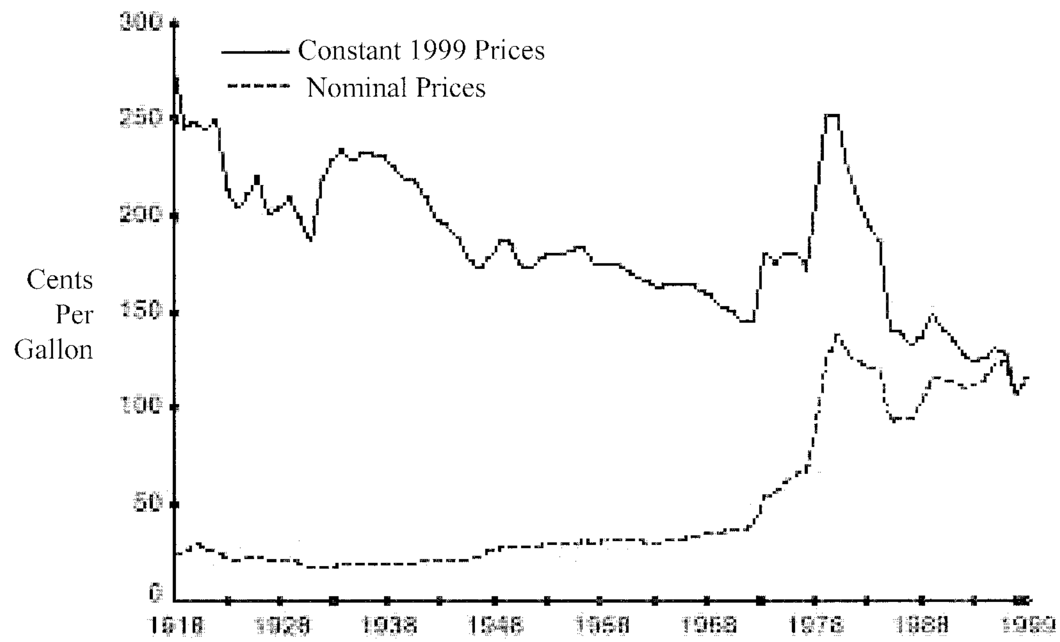
Refiners have substantial latitude in which to formulate gasoline, and can choose to blend around the patents by changing the mix of ingredients. Refiners contend that, while they can often avoid the patent issue, "blending around" can cost them as much as 5 cents per gallon in higher manufacturing costs. But the patents might be a factor in the manufacture of RBOB suitable for ethanol blending. Because of such RBOB's low volatility, it may well be dependent on Unocal's process.

[2] Minimum operational levels are the lowest inventory levels that have been observed in the United States in recent times. Such levels have been associated with distributional problems.

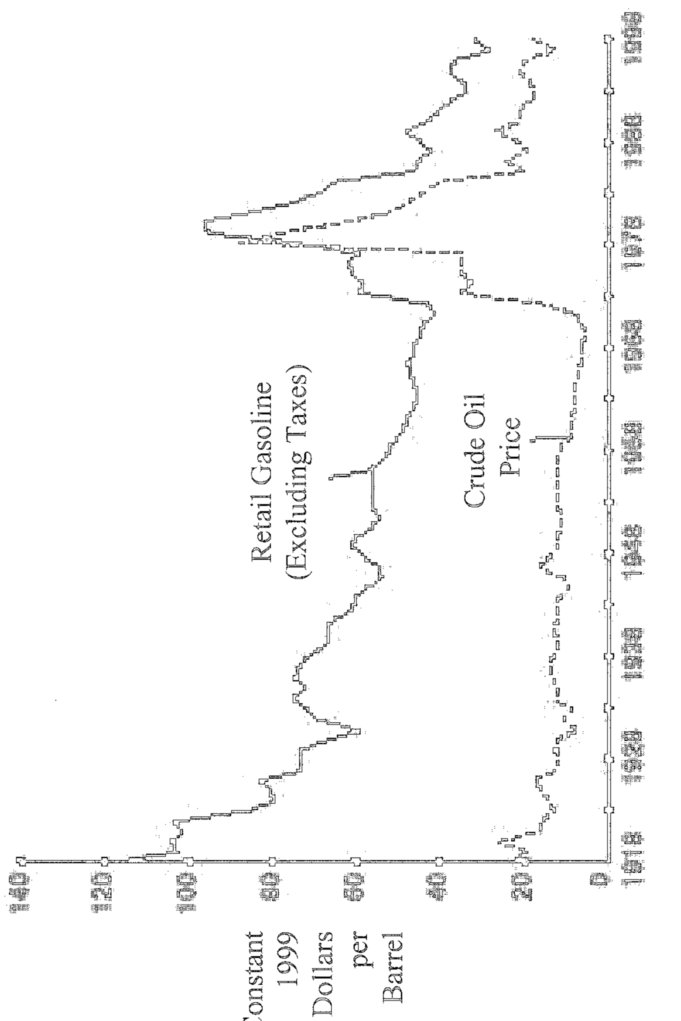
At this point, negotiations about licenses and appropriate fees are beginning. There seems to be agreement on both sides that the 5.75 cent-per-gallon judgment handed down in court is too high for future license fees. It is likely that fees may be smaller when the negotiations are complete.

Meanwhile, refiners using the Unocal process without a license operate in an area of uncertainty, because the cost of licensing the Unocal process has not yet been determined. Some contended that this uncertainty created by the court decision has adversely impacted RFG production. However, given the high market prices for gasoline generally, and for RFG and RBOB specifically, prices may already be high enough to cover whatever costs might be incurred when the license fee issue is resolved.

US Average Gasoline Prices, Including Taxes



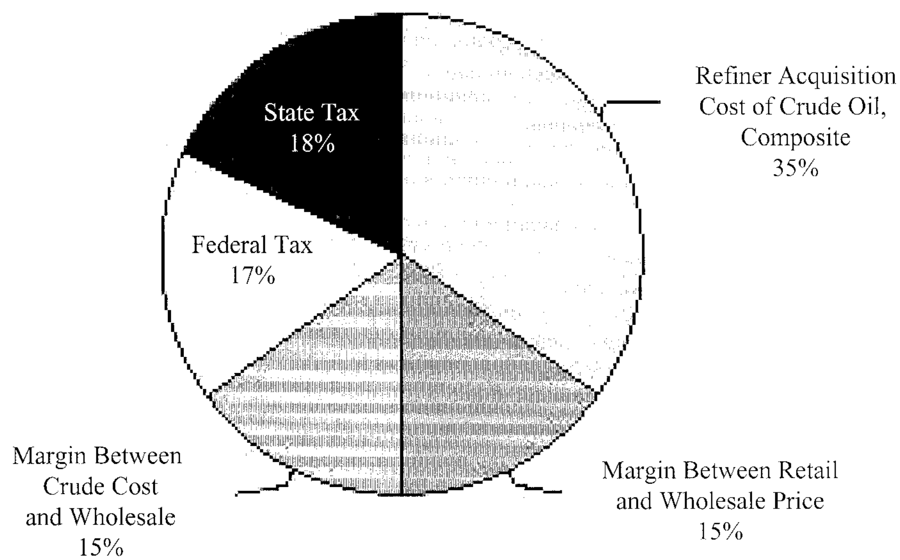
Source: Cambridge Energy Research Associates



Source: Cambridge Energy Research Associates

Where Does the Gasoline Dollar Go?

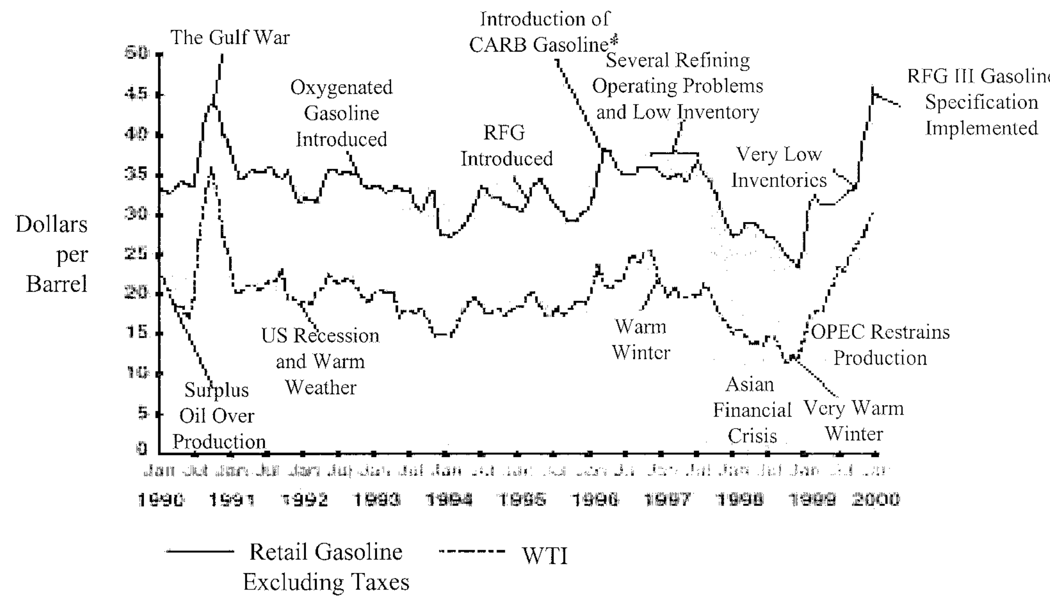
(based on 1997-1999 average prices)



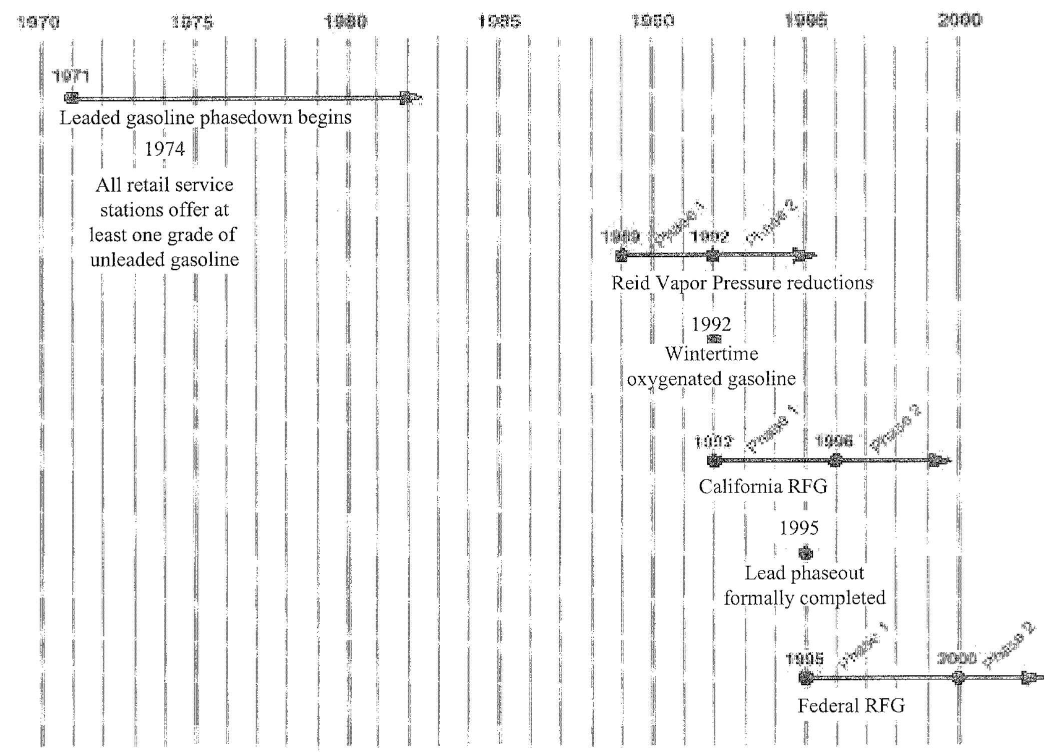
1999 cents per gallon

Source: Cambridge Energy Research Associates

Price Fluctuations are Event-Driven:
US Retail Gasoline Price
(Excluding Taxes) and Crude Oil Price



Source: Cambridge Energy Research Associates
* California reformulated gasoline introduced March 1996



Source: Cambridge Energy Research Associates