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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

November 24, 2021

The Honorable Joseph R. Biden
President of the United States
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Biden,

I write to ask you and your administration to support S. 977, the No Oil Producing and Exporting Cartels Act, or NOPEC.

In a November 17, 2021 letter to FTC, you raised concerns about “mounting evidence of anti-consumer behavior by oil and gas companies,” stating, “I do not accept hard-working Americans paying more for gas because of anti-competitive or otherwise potentially illegal conduct.”¹

Unfortunately, every initiative your administration has taken since you have been sworn in as President has been to undermine the United States’ ability to lower gas prices for American consumers. You have not encouraged more American drilling and exploration. Instead, you have attempted to destroy these good paying America jobs and make us more reliant on oil from Russia and the Middle East. You blocked construction of the Keystone XL Pipeline, placed a permanent hold on any new Alaskan oil production, and halted any new exploration and development in the rest of the country. Indeed, in January, Goldman Sachs forecasted an increase in oil prices fueled by restrictions on domestic production and your policies that discourage investment in domestic energy exploration.²

As gas prices increased, you have not revisited these disastrous decisions. Instead, you have turned to pleading with the Organization of Petroleum Exporting Countries (OPEC) and its partners to increase production to combat rising gas prices. OPEC has flat out denied that request.³

On November 23, following rejections from OPEC and its partners, your administration announced it would be releasing 50 million barrels of oil from the Strategic Oil Reserve in an effort to combat rising gas prices. This is a mere drop in the bucket and will do nothing to effectively address rising gas prices or longstanding concerns in the oil markets.

The price at the pump is already the highest it’s been in 7 years, greatly impacting American consumers at the same time that inflation makes their money worth less. Driving high gas prices

¹ Andrew Restuccia, Katy S. Ferek & Christopher M. Matthews, *Biden Asks FTC to Examine Oil, Gas Companies’ Role in High Gasoline Prices*, WALL ST. J. (Nov. 17, 2021), <https://www.wsj.com/articles/biden-asks-ftc-to-examine-whether-oil-gas-companies-are-illegally-keeping-gas-prices-high-11637164142>.

² Ethan Wolff-Mann, *Biden policy means higher oil prices: Goldman*, YAHOO! NEWS (Jan. 22, 2021), <https://www.yahoo.com/now/biden-policy-means-higher-oil-prices-goldman-170738261.html>.

³ Summer Said & Benoit Faucon, *OPEC, Russia Stick to Gradual Oil Production Boost*, WALL ST. J. (Nov. 4, 2021), <https://www.wsj.com/articles/opecc-russia-stick-to-oil-production-boost-11636037023>.

is the cost of crude oil. Oil prices have doubled since the election last November, with oil trading above \$80 per barrel this year for the first time since 2014.⁴

On the other hand, when oil prices were high in 2000, you pressed President Clinton to take action against OPEC.⁵ In the letter you argued that OPEC should be sued in federal court for violation of the United States antitrust laws. Your letter concluded “The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way. Consideration of such legal action could provide an inducement to OPEC and other oil-producing countries to raise production to head off such litigation.”

The solution you advocated for in your 2000 letter and the solution today is the same: enacting NOPEC. NOPEC would provide the Department of Justice with an effective tool to ensure U.S. consumers are no longer beholden to artificially inflated gas prices. This legislation would authorize the Department of Justice to sue oil producing cartel members for antitrust violations. It would clarify that sovereign immunity and “Act of State” doctrines cannot stop a court from hearing a case. Importantly, NOPEC only gives the Department of Justice the ability to sue, ensuring that the Administration is able to weigh possible foreign policy or national security concerns when determining whether to bring a case.

OPEC controls approximately 82% of proven oil reserves. When you include OPEC+, which includes 10 non-OPEC members who coordinate with OPEC, they control 90% of proven oil reserves.⁶ OPEC states on its own website that its mission is to “coordinate and unify the petroleum policies of its Member Countries and ensure the stabilization of oil markets...”⁷ This is the definition of anticompetitive conduct and collusion, and the Department of Justice should have the tools available to combat these practices that harm Americans at the pump.

NOPEC has been introduced for the past several Congresses and has enjoyed overwhelming bipartisan and bicameral support. In this Congress, on April 20, 2021, the House Judiciary Committee unanimously passed the bill by a voice vote. While in the Senate, you were a cosponsor in 2006 of similar legislation.⁸ As President today, you have the power to take action on an issue crucially important to the American people that you supported during the Clinton and Bush Administrations. Your and your administration’s support of NOPEC would help to enact this bill into law and ensure a fair and competitive marketplace.

Thank you for your consideration to this issue, I look forward to your response.

Sincerely,



Charles E. Grassley
Ranking Member
U.S. Senate Committee on the Judiciary

⁴ Caroline Downey, *U.S. Oil Prices Continue to Surge, Breaking Seven-Year Record*, YAHOO! NEWS (Oct. 11, 2021), <https://news.yahoo.com/u-oil-prices-continue-surge-193337716.html>.

⁵ 146 CONG. REC. 4095-97 (2000).

⁶ Nick Lioudis, *OPEC’s Influence on Global Oil Prices*, INVESTOPEDIA (Sep. 9, 2021), <https://www.investopedia.com/ask/answers/060415/how-much-influence-does-opec-have-global-price-oil.asp#citation-5>.

⁷ *Our Mission*, ORG. PETROL. EXP. COUNTRIES, https://www.opec.org/opec_web/en/about_us/23.htm (last visited Oct. 22, 2021).

⁸ No Oil Producing and Exporting Cartels Act, S. 2557, 109th Cong. (2006).