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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

October 25, 2021

The Honorable Merrick Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Garland,

I write to get the Department of Justice's view on S. 977, the No Oil Producing and Exporting Cartels Act, also known as NOPEC.

According to the American Automobile Association (AAA), the national average for a gallon of gasoline is \$3.32. Compared to last year it costs the average consumer \$17 more to fill up their vehicle.<sup>1</sup> This is a new 7 year high, greatly impacting American consumers at the same time that inflation makes their money worth less.

In recent weeks, gasoline blended with 10% ethanol has sold for 35-50 cents per gallon less than gasoline with no ethanol. But instead of promoting homegrown fuels that lower greenhouse gas emissions, create American jobs, and lowers the price at the pump, the White House has chosen to ignore the benefits that biofuels can bring to our country. The Renewable Fuel Standard (RFS) was implemented as a way to reduce our dependence on foreign oil. Currently, the Administration has created regulatory uncertainty for biofuel producers by delaying the annual volumes for the RFS program, fueling speculation that it plans to gut the amount of renewable fuel in our fuel supply.

Driving high gas prices is the cost of crude oil. Oil prices have doubled since the election last November, with oil currently trading above \$80 per barrel, the first time that oil has been above that level since 2014.<sup>2</sup> The Biden Administration's response has not been to encourage more American drilling and exploration, but to instead attempt to destroy these good paying American jobs and make us more reliant on oil from Russia and the Middle East. President Biden has 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.

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<sup>1</sup> *Sorry Folks but the Cost of Gasoline Is Still Going Up*, AAA (Oct. 18, 2021), <https://gasprices.aaa.com/sorry-folks-but-the-cost-of-gasoline-is-still-going-up/>.

<sup>2</sup> 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>.

Indeed, in January, Goldman Sachs forecasted an increase in oil prices fueled by restrictions on domestic production and policies that discourage investment in domestic energy exploration.<sup>3</sup>

President Biden actively has targeted domestic oil production and discouraged companies from investing in increasing domestic supplies by pledging to move the country away from fossil fuels. At the same time, President Biden has been urging the Organization of Petroleum Exporting Countries (OPEC) and its partners to increase production to combat rising gas prices. OPEC denied the President's request to increase production and will maintain its plan for a gradual increase in supply.<sup>4</sup>

It is curious that President Biden is asking foreign countries to pump more oil while actively undermining America's ability to create good paying jobs and become energy independent. This is bad policy, but if this Administration insists on handcuffing our own production while pleading for OPEC to increase production, we should at least have the tools available to hold OPEC accountable for anticompetitive conduct.

NOPEC would provide the Department of Justice with an effective tool to ensure United States 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.<sup>5</sup> 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..."<sup>6</sup> 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. On April 20, 2021, the House Judiciary Committee unanimously passed the bill by a voice vote. Your additional support would help to enact NOPEC into law and ensure a fair and competitive marketplace.

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<sup>3</sup> 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>.

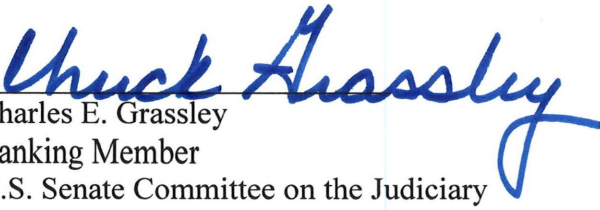
<sup>4</sup> Alex Lawler, Ahmad Ghaddar & Rania El Gamal, *OPEC+ Sees No Need to Meet U.S. Call for More Supply Sources Say*, REUTERS (Aug. 16, 2021), <https://www.reuters.com/business/energy/opec-sees-no-need-speed-up-oil-cuts-easing-despite-us-calls-sources-2021-08-16/>.

<sup>5</sup> 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>.

<sup>6</sup> *Our Mission*, ORG. PETROL. EXP. COUNTRIES, [https://www.opec.org/opec\\_web/en/about\\_us/23.htm](https://www.opec.org/opec_web/en/about_us/23.htm) (last visited Oct. 22, 2021).

Thank you for your consideration to this issue, I look forward to your response. If you have any questions feel free to reach out to my staff.

Sincerely,

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