

Testimony of

The Honorable

March 14, 2006

Statement Of Senator Patrick Leahy,
Ranking Member, Judiciary Committee
Hearing On "Consolidation In The Oil And Gas Industry"
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I commend the Chairman for holding this substantive and timely hearing today. The Committee tackles a fundamental and widening crisis that affects every American family, every American farmer and every American business. The questions before us are as basic as these: When does the opportunity to repeatedly raise fuel prices, and to amass record-shattering profits on a scale never before known in our society, or in any society -- when does that reach the point of becoming a corrosive kind of greed that demands some kind of corrective action? Another question: At what point does the ever-tightening circle of energy suppliers become anti-competitive? And finally, how long should the overseas oil cartel be exempt from antitrust remedies?

America's fuel crisis continues to drain hard-earned money from our families, farmers, factories and businesses. This problem is made more complicated because, as President Bush observed in his State of the Union address, "America is addicted to oil."

I can only hope the President's public acknowledgement means he has finally abandoned the failed policy of Vice President Cheney's Energy Task Force that worked in secret with Enron's Ken Lay and with other well-connected energy industry folks to develop an energy policy that pads the pockets of the special interests, at the expense of consumers.

The time for Congress to act is long overdue. It was clear even at the time last year's energy package was signed into law that it already was a wasted opportunity of epic proportions when it comes to truly, practically and meaningfully addressing the oil addiction the President now cites. Flawed policies in essence continue to levy a hefty unofficial "tax" on the pocketbooks and balance sheets of millions of families, farms and businesses across the country. Each additional week without progress means continued hardship on Vermonters and millions of others nationwide in heating their homes or budgeting for all the other ways these escalating fuel costs are adding to their daily expenses.

As a first step, Congress should enact the NOPEC bill into law. For weeks we have been evaluating the security concerns prompted by a foreign government's ownership of a company that would take over effective control of port facilities in six of our major ports. Meanwhile, in the case of the oil cartels, government-controlled entities routinely collude to set prices, and they have also wielded their power to purposely create major supply and security concerns in the United States. The time for our NOPEC reforms may have finally arrived.

The Senate has already passed this bill, which would make OPEC subject to our anti-trust laws. In fact, this Committee has approved the NOPEC bill three times. Regrettably, even though President Bush promised in the 2000 election to "jawbone OPEC," the Bush Administration and its friends in the House have scuttled the NOPEC bill and the relief it would bring to millions of Americans.

I am proud to join with the Chairman, Senators Kohl and DeWine and others on a new bill which includes our NOPEC legislation. This measure would make OPEC accountable for its anti-competitive behavior and allow the Justice Department to crack down on illegal price manipulation by oil cartels. It will allow the federal government to take legal action against any foreign state, including members of OPEC, for price fixing and other anti-competitive activities. The tools this bill would provide law enforcement agencies are necessary to fight OPEC's anti-competitive practices immediately, and they would help reduce gasoline prices now, rather than waiting another decade. It is time for the

President to make good on his campaign pledge and join the bipartisan majority in the Senate which is saying "NO" to OPEC.

But we should not stop there. A windfall profits tax on the record-breaking profits that oil companies have been raking in would help consumers afford home heating oil now and for years to come. Such a levy could help provide refunds for consumers to help protect them from high home heating prices. It could also be used to finance practical investments for homeowners to upgrade their insulation, replace windows, and trade in their old appliances for more energy efficient ones. Revenues could also be used to encourage consumers to buy more fuel efficient hybrid cars.

We also must address the merger-mania within the oil industry. Over the last several years, oil company mergers have significantly diminished competition, leading to higher prices for consumers. The U.S. Government Accountability Office (GAO) concluded in a report that recent mergers in the oil industry have directly led to higher prices. This may seem like an obvious conclusion, but one that has gone too long without some kind of resolution.

And finally the time is long overdue to make a serious commitment to alternative fuels and renewable energy. We all heard the President's State of the Union address and his declaration of the need to address our dependence on foreign oil. However in reality the President is proposing to devote less to alternative and renewable energy resource development in inflation-adjusted dollars than was devoted to this goal in Fiscal Year 2001.

I am glad that the Committee will be returning to the Chairman's previous policy of putting witnesses under oath. Before the Committee today are executives from the five biggest oil companies. In a year when these corporations posted record profits, we also saw them increase their prices. At \$36.7 billion in profit last year, ExxonMobil turned the highest yearly profit in U.S. history for any business. Since 2001, the oil companies represented here have recorded \$272.2 billion in profits. Since 1999, oil refiners have seen a 334 percent increase in yield on each gallon of gasoline refined because of prices they set, the lack of transparency, and the lack of effective regulation.

I suspect we will hear their reasons for price increases at a time when their corporations are posting record profits. But to ask Americans to pay more for gas so that a few corporations can boost the profit margin is unacceptable to me. American families are at the mercy of these companies to get to work, to go to school, and to run the businesses that pay their salaries. When all of you raise prices together, Americans are forced to meet that price.

I do hope each of the executives here today offers more than just a well-spun argument for higher prices to get higher profits. This cannot continue. In your careers, each of you has seen what happens when the foreign oil spigots are tightened or when disasters strike America. This requires a responsible and carefully-planned strategy. Instead of reading about what plan you have in place on the front pages of the newspapers, Americans read that as the prices at the pumps soar, so do your profit margins.

The rest of American rallies together when America is suffering. In contrast, instead of preparing for possible shortfalls or emergencies, it appears the oil industry has focused on taking advantage of consumers who have no alternatives. You are not in the business of making oil you are in the business of supplying a reliable energy source to millions of Americans.

That energy source for the time being is crucial to many in my home state of Vermont. Vermont's farmers, families, hospitals, colleges and businesses can not function without it.

For a typical Vermont farmer the impacts of your lousy planning can be catastrophic. I can give you one example from a Vermont farmer whom I have known for years, Harold Howrigan. His dairy operation fuel costs on about 800 acres increased by almost \$10,000 in one year. His costs were \$49,800 in 2004, and increased to \$59,650 in 2005. The overall increase in fuel costs for an average Vermont farmer last year was 43 percent, meaning that each farmer is estimated to pay an additional \$700 in fuel surcharges in 2006 alone. That may seem like pennies compared to the profit sums we will be discussing today, but to me, and to all Vermonters, we know what the terrible consequences can be: forcing many farmers to make unfair choices between running their farm or heating their home. These are not choices anyone should be faced with, certainly not our hard working farmers.

Vermont's dairy farmers, who get up everyday, well before the sun rises, whether it is minus 15 degrees, or whether it's pouring rain, or pelting snow, can not do their jobs without your product. It is not just farmers in my home state of Vermont. Farmers in Wisconsin, Pennsylvania, Idaho, California, and other key states that provide our domestic milk

supply are reliant on your product. That is how you get the cream for your morning coffee each day. So, after that cup tomorrow I would like you all to think about preparing for emergencies instead of preparing to take advantage of emergencies.

When I look at the record gasoline and home heating prices in comparison to the record profits of the largest oil companies, totaling tens of billions of dollars, it is clear that a change is necessary. The answer here is not easy, and change is not going to happen overnight, but the first steps must be taken, and they must be taken now.

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