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ONE HUNDRED NINTH 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

February 17, 2005

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Madam Secretary:

Recent press accounts indicate that you intend to appoint Ambassador Richard H. Jones to a top post on your staff at the State Department.[1] In his new position as "special coordinator" for Iraq, he will answer directly to you on key issues related to Iraq, including reconstruction, governance, and economic development. Formerly, Mr. Jones served as Ambassador to Kuwait and as Ambassador Paul Bremer's deputy at the Coalition Provisional Authority.

I am writing because there are many unanswered questions about why Ambassador Jones intervened on behalf of an obscure Kuwaiti company that was overcharging U.S. taxpayers and the Iraqi people to import gasoline into Iraq. This company, Altanmia, was a subcontractor under Halliburton's Restore Iraqi Oil contract. Last year, State Department officials informed my staff that there were ongoing criminal investigations into actions by personnel at the U.S. Embassy in Kuwait with respect to this contract.[2] Subsequent press accounts reported that the Justice Department was also involved.[3] To date, I have not heard whether these investigations have been concluded or whether Ambassador Jones and other embassy officials have been cleared of wrongdoing.

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[1] *Rice Moves to Name Senior Advisers,* Boston Globe (Feb. 17, 2005).

[2] Telephone conversation between Department of State Inspector General Legislative Affairs and Minority Staff, Committee on Government Reform (Feb. 3, 2004) (reporting that the State Department Inspector General received a request from the Defense Criminal Investigative Service to investigate the actions of officials at the U.S. embassy in Kuwait with respect to Halliburton's contract to import gasoline into Iraq).

[3] *E-Mail Muddies Probe of KBR,* Houston Chronicle (Nov. 11, 2004) ("The State Department's Inspector General's Office launched an investigation into the embassy staff's behavior earlier this year. The Justice Department was also brought in to investigate the alleged fuel overcharges").

With Rep. John Dingell, I first wrote to you in October of 2003 regarding the exorbitant prices Halliburton was charging to import gasoline into Iraq through its Kuwaiti contractor, Altanmia.[4] In October and November of 2003, we also wrote to several other Administration officials raising this issue.[5]

One month later, in December 2003, auditors at the Defense Contract Audit Agency (DCAA) agreed with our concerns and issued a draft audit report concluding that Halliburton and Altanmia had overcharged the U.S. government by as much as $61 million for gasoline imported from Kuwait into Iraq as of September 30. DCAA concluded that Halliburton "has not demonstrated ... that they did an adequate subcontract pricing evaluation prior to award" of the Altanmia subcontract.[6]

Despite these warnings, State Department documents obtained by the Committee on Government Reform show that rather than acting to halt these overcharges, senior State Department officials, including Ambassador Jones, intervened to pressure U.S. contracting officials to drop their efforts to find a less expensive source of gasoline. On December 2, 2003 – just nine days before DCAA publicly revealed its audit findings – Ambassador Jones sent an e-mail directing officials to:

> [T]ell KBR to get off their butts and conclude deals with Kuwait NOW! Tell them we want a deal done with al-Tanmia within 24 hours and don't take any excuses. If Amb. Bremer hears that KBR is still dragging its feet, he will be livid.

Within days, a senior government contracting official at the U.S. Army Corps of Engineers complained about this inappropriate political pressure. Mary Robertson was the career contracting official in Iraq responsible for the Halliburton oil contract. On December 6, 2003, she wrote an extraordinary letter to Halliburton officials, stating: "I will not succumb to the political pressures from the GoK or the US Embassy to go against my integrity and pay a higher price for fuel than necessary." Ms. Robertson wrote, "there are other firms who have indicated they can provide the product and this is the ethical thing to do." She concluded:

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[4] Letter from Reps. Henry A. Waxman and John D. Dingell to National Security Advisor Condoleezza Rice (Oct. 29, 2003). *See also* Letter from Rep. Henry A. Waxman to National Security Advisor Condoleezza Rice (Jan. 15, 2004).

[5] *See* Letter from Reps. Henry A. Waxman and John D. Dingell to Office of Management and Budget Director Joshua Bolten (Oct. 15, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell to Lt. Gen. Robert B. Flowers, Director, U.S. Army Corps of Engineers (Oct. 21, 2003); Letter from Reps. Henry A. Waxman and John D. Dingell and Sen. Joseph Lieberman to Joseph E. Schmitz, Inspector General, U.S. Department of Defense (Nov. 25, 2003) (all letters online at http://www.democrats.reform.house.gov/investigations.asp?Issue=Iraq+Contracting).

[6] U.S. Department of Defense, *News Briefing* (Dec. 11, 2003).

> I will not direct KBR to negotiate only with Altanmia to purchase fuel from Kuwait. My ethics will not allow me to direct KBR to go sole source to a contractor when I know there are other potential sources that can provide the fuel to the people in Iraq.[7]

A fundamental principle of government contracting is that "[g]overnment business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none."[8] According to the Federal Acquisition regulation (FAR), the actions of government officials "must ... be such that they would have no reluctance to make a full public disclosure of their actions." In addition, the U.S. contract with Halliburton specifies that "[t]he Contractor shall select subcontractors ... on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract."[9]

In this case, however, it appears that Ambassador Jones intervened to block the Corps of Engineers from negotiating a lower fuel price and saving the U.S. government millions of dollars.

I request that you release the results of any investigations completed by the State Department, Defense Department, or Justice Department regarding this issue. If these investigations have not yet been concluded, I request that you explain why you have appointed Ambassador Jones to this sensitive Iraq position while the criminal investigations remain ongoing.

Sincerely,

Henry A. Waxman
Ranking Minority Member

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[7] Letter from Mary C. Robertson, Administrative Contracting Officer, U.S. Army Corps of Engineers, to Kellogg Brown & Root (Dec. 6, 2003).

[8] Federal Acquisition Regulation, 48 CFR 3.101-1.

[9] U.S. Army Corps of Engineers, Contract DACA63-03-D-0005, Clause 52.244-5(a) (Mar. 8, 2003). *See also* U.S. Department of State, *News Briefing by Ambassador Richard A. Boucher, Assistant Secretary of State for Public Affairs* (Oct. 30, 2003) (Assistant Secretary of State Richard Boucher asserting: "The decisions are made by career procurement officials. There's a separation, a wall, between them and political-level questions when they're doing the contracts").