

White House stonewalls Congressional probe into Enron links

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The Bush administration is refusing to comply with a Congressional request for information concerning closed-door meetings held with Enron CEO Kenneth Lay and other oil and energy executives, which were instrumental in formulating the administration's energy policy last year. The stonewalling by the White House takes place in what has developed into a criminal investigation of Enron by Bush's own Justice Department and nearly a dozen Congressional inquiries into the largest corporate bankruptcy in US history.

It is well known in Washington and the media that Bush and Vice President Dick Cheney have the closest political and financial links to Lay and the Houston-based energy giant, which defrauded thousands of employees and investors out of their pensions and savings. The refusal to hand over basic information to Congress is in fact a crude attempt to cover up and conceal from the American people the enormous influence the Enron corporation has in the Bush administration.

In justifying this extraordinary position, Bush and Cheney have fraudulently postured as defenders of supposed constitutional principles. In fact, the position asserted by the Bush administration is a sweeping arrogation of power in the hands of the executive branch and an assertion of the right to function without serious accountability or oversight by the Congress or the public—in other words, all the trappings of a secret, imperial government.

Last week the General Accounting Office (GAO), the investigative arm of Congress, announced it will take legal action to force the vice president to turn over a list of those who attended meetings of the National Energy Policy Development Group (NEPDG)—the energy task force chaired by Cheney. The GAO is also seeking a list including the date, subject and location of each meeting.

The GAO lawsuit, which Comptroller General David Walker said he would file in Federal District Court in Washington in the next several weeks, would be the first in the agency's 80-year history against a member of the executive branch for failing to cooperate with a Congressional inquiry. The GAO has authority to investigate all matters relating to the use of public money and is one of the principal means by which the Congress conducts oversight over the activities of the executive branch.

In addition a federal judge ordered Cheney's task force to explain the constitutional argument behind its refusal to release details of the meetings. The ruling by US District Judge Emmet Sullivan stems from one of several cases filed in court seeking the release of the records.

The meetings of the task force, led by former oil man Cheney, formulated sweeping changes in government policy for the benefit of big oil and energy concerns. The draft National Energy Strategy,

which was released May 17, was so stamped by the interests of Enron and other oil and energy corporations it was virtually an Enron policy.

In addition to the lifting of environmental restrictions, tax breaks, drilling in Artic Wildlife Reserve—measures generally sought by all the big oil and natural gas companies—the draft policy specifically endorsed Enron's push for the further deregulation of the electricity market, which allowed the energy trader to buy or sell electricity regardless of where the power was produced. The administration also called for a new, self-regulatory body to oversee transmission grids, as Enron wanted, as well as endorsing the idea of seizing private land for construction of more transmission towers, another measure pushed by Enron.

It is also well known that Ken Lay hand picked Pat Wood to head the Federal Energy Regulatory Commission (FERC), which oversees electricity trading.

On January 3, Cheney was forced to admit that either he or his aides met with Lay and other company officials at least six times. Four of these meetings, including one between Cheney and Lay, took place before the task force issued a sweeping set of policy recommendations.

A memo cited recently by the *San Francisco Chronicle* demonstrates how the White House did Enron's bidding during the California energy crisis, when the company made billions by sharply inflating energy prices while the state faced rolling blackouts, the bankruptcy of its largest utility and a vast budget crisis after deregulation. The three-page document sent from Lay to Cheney contains eight points spelling out Enron's case for why federal authorities should abstain from imposing price caps or other measures sought by California officials to stabilize electricity prices, which had soared tenfold to as high as \$400 a megawatt hour. Enron and a dozen other wholesale suppliers were later sued by the state for price-gouging and alleged overcharges of \$9 billion.

Just weeks after meeting with Lay, Cheney declared that the White House thought price caps "were a mistake" that would inhibit private investment. Cheney repeated Enron's assertion the crisis was principally the fault of California's Democratic officials and that it would be resolved if the free market were allowed to operate without hindrance.

California Senator Diane Feinstein recently made the point that while Lay had unlimited access to the White House during the crisis, requests by state representatives for a meeting with administration officials were met with a deaf ear.

In addition to boosting Enron's fortunes in California, Cheney also intervened on behalf of the company in June 2001, seeking to help Enron collect a \$64 million debt from a failed energy project in India,

according to a recently published article in the *New York Daily News*.

President Bush and Cheney maintain they are under no obligation to release the information and have declared they will fight the GAO's lawsuit in court. The White House claims the Congressional agency is overstepping its bounds and unconstitutionally interfering with the functioning of the executive branch.

There are obvious reasons why the Bush administration is remaining silent on the task force meetings. The financial and political ties between Enron executives and the Bush White House have been widely publicized. A few notable points include the following:

1. Kenneth Lay was the single largest backer of George W. Bush's political career, with Lay and other Enron executives contributing nearly \$575,000 to Bush's political races. During the 2000 presidential election campaign, Bush reportedly used Lay's private jet for campaign stops.

2. Secretary of the Army Thomas White, the former vice chairman of Enron Energy Services, is only one of several administration officials now under investigation who were employed by Enron as executives, lobbyists and consultants, or who held large amounts of stock in the company. Bush political strategist Karl Rove—who held between \$100,000 and \$250,000 in Enron stock—is known to have gotten Enron to hire former Christian Coalition leader Ralph Reed as a \$20,000-a-month consultant.

3. The Bush administration's ties to Enron also included Cheney, whose company Halliburton built Enron Field, the major league baseball stadium in Houston. George Bush's father personally joined Lay in his campaign for the public to foot the bill for the stadium.

In opposing a Congressional inquiry, Bush and Cheney, through a sleight of hand, are attempting to assert the right of executive privilege without using the term. Executive privilege is a narrowly defined, yet well-established principle, under which the president—and the president alone—is exempted from disclosing information to congressional inquiries or the judiciary on the grounds that disclosure of such highly sensitive information would substantially impair government operations or national security.

The assertion of executive privilege, however, does not imply a sweeping prerogative of secrecy for the executive branch, particularly in cases involving criminal investigations or matters with vast public import. For example, Richard Nixon's attempt to assert executive privilege and block the release of the White House tapes during Watergate investigations was rejected by the Supreme Court.

The claim that the executive branch has the right of absolute confidentiality is a perversion of constitutional powers. In the letter announcing his plans to sue the White House Comptroller General, David Walker said as much, writing, "Were the Vice President's arguments in this case to prevail, any administration seeking to insulate its activities from oversight and public scrutiny could do so simply by assigning those activities to the Vice President or a body under the White House's direct control."

The fact that the White House is not raising the issue of executive privilege only underscores the bogus character of its claims to be standing on some sort of principle. At the same time there is little doubt that Bush's political advisers urged him not to take this course now because asserting executive privilege would put the president at the center of the Enron scandal.

The position of the Bush administration on the supposed right to secrecy, moreover, is entirely hypocritical and cynical, as a look at recent history demonstrates. During the Clinton administration the Republicans, backed by the media, said the president had no right to

exercise such privileges, including keeping confidential discussions with private attorneys, secret service bodyguards or his senior advisers. During the Monica Lewinsky affair, every suggestion that Clinton might exercise executive privilege was presented by Independent Counsel Kenneth Starr, the Republicans and the media not only as stonewalling, but as a demonstration of his guilt. Clinton's attempts to invoke confidentiality were repeatedly turned down by the courts.

The Republicans also showed little respect for the sanctity of White House task forces while Clinton was in office. The convening of the President's Task Force on Health Care Reform, chaired by Hillary Clinton, became the occasion of a frenzied right-wing campaign, led by the *Wall Street Journal*, denouncing "secrecy" at the Clinton White House.

Finally there are Bush's own actions. The *New York Times* recently reported that two months ago the Bush administration authorized the release to Congress of thousands of e-mail communications by senior White House officials in the Clinton administration, including messages sent by outside advisers, lawyers and senior aides to Vice President Al Gore. Some 2,000 pages were turned over to the House Committee on Government Reform, headed by right-wing Congressman Dan Burton. The White House also raised no objections to the release to Congress of records of Clinton's contacts with outside parties, including a transcript of a conversation between the former president and Prime Minister Ehud Barak of Israel, relating to the pardon application of fugitive Marc Rich.

This gives the lie to the present attempts to cover up the White House's actions in the cloak of constitutional principle. It appears that executive confidentiality is only applicable when it applies to Bush and the Republicans, not their political opponents.

The very fact that the Enron crisis is taking the form of a constitutional crisis is itself an indication of the depth of tensions that are tearing the American political system apart, tensions which ultimately reflect a profound social crisis.

How the Enron scandal will be resolved is impossible to predict. To this point the Democrats and the media have done everything they can to shield Bush and prevent the American public from drawing any far-ranging conclusions about the rot of America's economic and political system.

While the direct motivation for Cheney's stonewalling of Congress may be the desire to conceal the corrupt relations between the White House and Kenneth Lay and other Enron executives, the vice president's actions have broader political implications, which are deeply anti-democratic. Bush and Cheney are seeking to appropriate unprecedented powers for the executive branch, turn all other branches of the government into little more than a rubber stamp for the presidency and establish a government that operates in secret from the American people as a whole.

This element of lawlessness is characteristic of the Bush administration and the narrow social strata it represents—the Enrons and Kenneth Lays of the world, i.e., the most predatory and corrupt layers of the American capitalist class.



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