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ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

## House of Representatives

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May 6, 2003

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INDEPENDENT

Lt. Gen. Robert B. Flowers  
ATTN: Directorate of Military Programs  
U.S. Army Corps of Engineers  
441 G Street, NW  
Washington, DC 20314

Dear General Flowers:

Thank you for responding to my letter of April 10, 2003, about the Army Corps of Engineers' sole-source contract with the Halliburton subsidiary Kellogg Brown & Root.

Your May 2 letter indicates that the contract is considerably broader in scope than previously known. Prior descriptions of the Halliburton contract had indicated that the contract was for extinguishing fires at oil wells and for related repair activities. It now appears, however, that the contract with Halliburton — a company with close ties to the Administration — can include “operation” of Iraqi oil fields and “distribution” of Iraqi oil. Your letter further indicates that the contract is likely to remain in place until at least the end of August and could last into 2004.

Moreover, your letter indicates that the Administration is currently developing a proposal to issue a long-term contract to replace the Halliburton contract. Like the Halliburton contract, this contract would apparently designate a non-Iraqi company to produce and distribute Iraqi oil and generally exercise some of the responsibilities that an Iraqi oil company — or the newly reconstituted Iraqi oil ministry — would be expected to have.

These new disclosures are significant and they seem at odds with the Administration's repeated assurances that Iraqi oil belongs to the Iraqi people. They thus raise additional questions that I hope you will be able to answer.

### **The Scope and Length of the Halliburton Contract**

Information about the contract with Halliburton has been released by the Administration in dribs and drabs. The contract was issued to Brown & Root, a Halliburton subsidiary, without competition on March 8. However, the existence of the contract was not announced until March

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24, and the Corps did not disclose until April 8 that the contract had a potential value of up to \$7 billion.<sup>1</sup> Moreover, it was not until your May 2 letter, which I received late on Friday afternoon, that the Corps revealed that the scope of the contract includes “operation of facilities” and “distribution of products.” Only now, over five weeks after the contract was first disclosed, are members of Congress and the public learning that Halliburton may be asked to pump and distribute Iraqi oil under the contract.

The Brown & Root contract was first disclosed by Halliburton on March 24. The information provided by Halliburton at that time gave no indication that the contract could include operation of Iraqi oil fields. The company press release announcing the contract was titled “KBR Implements Plan for Extinguishing Oil Well Fires in Iraq.”<sup>2</sup> That press release described the contract as “assessing and extinguishing oil well fires in Iraq and evaluating and repairing, as directed by the U.S. government, the country’s petroleum infrastructure.”

In a one-page description of the contract that your office provided to me, the Corps generally confirmed this description. According to the Corps release, the Corps was in charge of “implementation of plans to extinguish oil well fires and to assess oil facility damage in Iraq” and would be contracting with Brown & Root to perform these functions.<sup>3</sup>

The announcement of the Halliburton contract received considerable public attention. As a result of the incomplete disclosure, however, the news reports consistently described the contract as a contract to “put out oil-field fires,”<sup>4</sup> to “fight oil fires,”<sup>5</sup> or to “fix Iraqi oil fields.”<sup>6</sup>

We now know, however, that the contract actually has a much broader scope than simply extinguishing oil well fires and repairing broken oil well infrastructure. In a letter to me on April

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<sup>1</sup>Letter from Lt. Gen. Robert B. Flowers, U.S. Army Corps of Engineers, to Rep. Henry A. Waxman (Apr. 8, 2003).

<sup>2</sup>Halliburton, *KBR Implements Plan for Extinguishing Oil Well Fires in Iraq* (Mar. 24, 2003).

<sup>3</sup>U.S. Army Corps of Engineers, *The Corps of Engineers’ Role in Combatting Iraqi Oil Fires* (undated).

<sup>4</sup>*Contracts to Rebuild Iraq Go to Chosen Few*, Washington Post (Mar. 28, 2003).

<sup>5</sup>*The Iraq Money Tree*, New York Times (Apr. 14, 2003).

<sup>6</sup>*Halliburton May Be Replaced in Iraq Oilfield Contract*, Bloomberg News (Apr. 14, 2003).

8, you disclosed that the contract was worth up to \$7 billion and had a term of up to two years. And in your most recent May 2 letter, you further disclosed that the contract includes the operation of facilities and distribution of products.

The May 2 letter also adds additional detail about the likely duration of the sole-source contract with Brown & Root. The letter states that “the best estimate” for awarding a new competitive contract is “approximately the end of August.” However, the letter goes on to say that “the time required to complete [the process of awarding the contract] is estimated to be from four to nine months” — meaning the current contract could last through January 2004.

### **Administration Intentions Regarding Iraqi Oil**

Besides shedding new light on the contract with Brown & Root, the May 2 letter indicates that the Corps is in the process of preparing a proposal for a long-term contract to replace the existing Brown & Root contract. According to the letter, the Corps is “completing the competitive acquisition strategy and plan, preparing the statement of work, and preparing the solicitation that will request proposals to perform the work.” The May 2 letter states that this new contract will also authorize the contractor to operate oil facilities and distribute oil products.

The contract with Halliburton and the planned successor contract raise significant questions about the Administration’s intentions regarding Iraqi oil. The Administration has previously drawn a bright line on Iraqi oil: according to White House spokesman Ari Fleischer, “[t]he oil fields belong to the people of Iraq, the government of Iraq, all of Iraq. All the resources of Iraq need to be administered by the Iraqi government.”<sup>7</sup> Likewise, Secretary of State Colin Powell has said that “[t]he oil of Iraq belongs to the Iraqi people.”<sup>8</sup> And Secretary of Defense Donald Rumsfeld has reiterated that Iraqi oil “belongs to the Iraqi people.”<sup>9</sup>

In light of these statements, I am puzzled as to why the Corps is actively preparing a solicitation for a long-term contract to produce and distribute Iraqi oil. That contract would clearly seem to contradict Mr. Fleischer’s statement that the “the oil fields belong to the people of Iraq.” In fact, such a contract would apparently mean that Halliburton or another similar company — and not the Iraqi people — would be making the fundamental decisions on how much oil should be produced and who should produce it.

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<sup>7</sup>White House, *Press Briefing by Ari Fleischer* (Feb. 6, 2003).

<sup>8</sup>*Powell Says U.S. Not after Iraqi Oil*, Los Angeles Times (Jan. 23, 2003).

<sup>9</sup>*NewsHour*, PBS (Feb. 20, 2003)

Just this weekend, the Administration appointed an Iraqi, Thamer Abbas Ghadban, to run Iraq's oil ministry. According to press accounts, Mr. Ghadban will head a team overseeing the country's oil industry, as well as its oil sales and marketing operations.<sup>10</sup> The information provided in your May 2 letter, however, appears to conflict with these intentions. Your letter says that it will be the Corps — not Mr. Ghadban — that will issue a contract to operate facilities and distribute oil.

While Iraqis may need American help in the short-term to rebuild the country's oil infrastructure, it is less clear whether they need or want an outside company to produce and distribute their oil on a long-term basis. Indeed, press reports have already described tensions between Iraqi oil managers and Americans,<sup>11</sup> as well as frustration among Iraqi oil workers unable to resume their jobs.<sup>12</sup> Some Iraqi oil workers are apparently dissatisfied with the pace of work done by Brown & Root and with the lack of consultation about how to rebuild and operate the country's oil infrastructure.<sup>13</sup> The Administration's decision to appoint a former American oil executive to chair an advisory board overseeing the Iraqi oil ministry may well increase the perception among some Iraqis that they are not being given full control over the resources that the Administration previously indicated belonged to them.<sup>14</sup>

There appears to be a conflict between the Administration's statements of intent (that the oil belongs to Iraqis) and its actions (issuing contracts to U.S. companies like Halliburton to produce and distribute the oil). This conflict should be addressed by the Administration in a forthright manner.

### **Release of Information**

I am grateful to you for clarifying matters concerning the scope and duration of the Brown & Root contract. Moreover, I do not mean to suggest that the Corps has intentionally misled

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<sup>10</sup>See, e.g., *U.S. Names Iraqi as Team Leader of Oil Operations*, Wall Street Journal (May 5, 2003).

<sup>11</sup>*New Drill: Inside Iraq's Giant Oil Industry, Maze of Management Tensions*, Wall Street Journal (Apr. 30, 2003); *Getting Iraq back into the Flow*, Washington Post (May 6, 2003).

<sup>12</sup>*At Iraqi Oil Plant, Bitterness and Frustration*, Washington Post (Apr. 30, 2003).

<sup>13</sup>*Id.*

<sup>14</sup>Details about the board's authority have apparently not yet been revealed. *Three Get Top Posts to Revive Iraqi Oil Flow*, New York Times (May 4, 2003); *U.S. Names Iraqi as Team Leader of Oil Operations*, Wall Street Journal (May 5, 2003).

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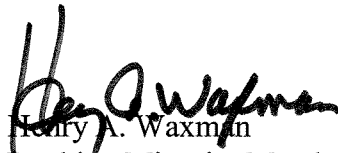
anyone about the contract. I am, however, concerned that the Administration's reluctance to provide complete information about this and other Iraqi contracts has denied Congress and the public important information and caused unnecessary confusion about the contracts' details. The solution to this problem is for the Corps to release the contract and any supporting documentation.

I would thus like to reiterate the request for documents and information relating to the contract that I made in my letter of April 16 (attached). I believe that it would be in the best interests of all concerned parties — not least of the American taxpayer — for the Corps to release this information publicly as soon as possible.

I also request that you release complete information on an ongoing basis about any task orders issued to Brown & Root under the contract, all work done under the contract to date, and any funds paid to the company.

Thank you again for your cooperation.

Sincerely,

  
Henry A. Waxman  
Ranking Minority Member

Enclosure

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April 16, 2003

HENRY A. WAXMAN, CALIFORNIA,  
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BERNARD SANDERS, VERMONT,  
INDEPENDENT

Lt. Gen. Robert Flowers  
ATTN: Office of the Principal Assistant  
Responsible for Contracting  
U.S. Army Corps of Engineers  
441 G St, NW  
Washington, DC 20314

Dear General Flowers:

I am writing to ask that you clarify recent press reports regarding the Army Corps of Engineers' contract with Kellogg Brown & Root Services to perform work in Iraq.

There appears to be some confusion about the estimated costs of both the Brown & Root contract and the new competitive contract that the Army Corps is planning to issue. The latter contract would apparently replace the current sole-source Brown & Root contract. The *Washington Post* reported yesterday that the new contract will be worth \$600 million, on top of the \$50 million already spent under the current contract.<sup>1</sup> According to today's *Wall Street Journal*, however, the Army Corps believes that the current contract with Brown & Root will cost around \$600 million.<sup>2</sup>

I would appreciate your clarifying this matter by telling me the Army Corps' current estimated value for (1) the Brown & Root contract and (2) the competitive contract that the Army Corps is planning to issue.

In addition, I would like to receive copies of (1) the current contract, (2) the justification and approval documents that explain the Corps's decision to bypass full and open competition in awarding that contract, and (3) the task order that the Army issued to Brown & Root to develop contingency plans for repairing and continuing operations of the Iraqi oil infrastructure.

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<sup>1</sup>*U.S. to Request Bids for Work on Oil Fields*, Washington Post (Apr. 15, 2003).

<sup>2</sup>*Halliburton May Face Challenge by Fluor, Bechtel on Oil-Field Pact*, Wall Street Journal (Apr. 16, 2003).

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Thank you again for responding to my letter of March 26, 2003 about this matter. I appreciate your cooperation and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman" followed by a long, horizontal flourish.

Henry A. Waxman  
Ranking Minority Member