



Buyers Up • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group  
Joan Claybrook, President

October 5, 2005

Dear Representative,

On Friday, Oct. 7, the House will consider HR 3893, the “Gasoline for America’s Security (GAS) Act of 2005.” This bill takes the approach that environmental laws must be weakened in order to encourage the U.S. refining industry to expand or construct new refining capacity. This is false. The facts clearly show that not only are current environmental laws in place at a time when the refining industry is experiencing record profits, but that recent, fundamental changes to the refining industry—namely recent mergers—have created financial incentives for refineries to encourage tight supplies. Until these market fundamentals—and not environmental rules—are corrected, Americans will continue to be price-gouged by oil companies.

This week, the national average gasoline price hit \$2.93/gallon, up 50% from a year ago. These prices were well on their way to hitting record highs long before Hurricane Katrina. Oil and gasoline prices were rising long before the hurricane wreaked havoc. U.S. gasoline prices jumped 14% from July 25 to Aug. 22.

The problem is that too few oil companies control too much of the refineries, squelching competition but guaranteeing record profits for the industry.

In 1993, the five largest U.S. oil refining companies controlled 34.5% of domestic oil refinery capacity; the top ten companies controlled 55.6%. By 2004, the top 5—ConocoPhillips, Valero, ExxonMobil, Shell and BP—controlled 56.3% and the top ten refiners controlled 83%.<sup>1</sup> As a result of all of these recent mergers, the largest five oil refiners today control more capacity than the largest ten did a decade ago. This dramatic increase in the control of just the top five companies makes it easier for oil companies to manipulate gasoline prices.

The proof is in the numbers. According to the Energy Information Administration, profit margins for U.S. oil refiners have been at record highs. In 1999, U.S. oil refiners made 22.8 cents for every gallon of gasoline refined from crude oil. By 2004, they were making 40.8 cents for every gallon of gasoline refined, a 79% jump.<sup>2</sup> And *The Washington Post* recently noted that those profit margins have soared even higher in 2005, to 99 cents on each gallon sold, for a more than 300% increase since 1999.<sup>3</sup>

It is no coincidence that oil corporation profits—including refining—are enjoying record highs. Since 2001, the largest five oil refiners in America have recorded \$228 *billion* in profits.

---

<sup>1</sup> [www.eia.doe.gov/oil\\_gas/petroleum/data\\_publications/refinery\\_capacity\\_data/refcapacity.html](http://www.eia.doe.gov/oil_gas/petroleum/data_publications/refinery_capacity_data/refcapacity.html)

<sup>2</sup> *Refiner Sales Prices and Refiner Margins for Selected Petroleum Products, 1988-2004*, [www.eia.doe.gov/emeu/aer/pdf/pages/sec5\\_53.pdf](http://www.eia.doe.gov/emeu/aer/pdf/pages/sec5_53.pdf)

<sup>3</sup> Justin Blum, “Gas Profit Guzzlers,” *The Washington Post*, September 25, 2005, Page F01.

And will the environmental regulations make it easier to build new refineries? No, because the financial structure of the refining industry is what is prohibiting additional investment. That's because the industry is making record profits off of the current tight supplies. They have no interest in creating surplus capacity because that will erode their profit margins.

Want proof? Start with the U.S. Federal Trade Commission. In March 2001, FTC concluded in its *Midwest Gasoline Price Investigation*.<sup>4</sup>

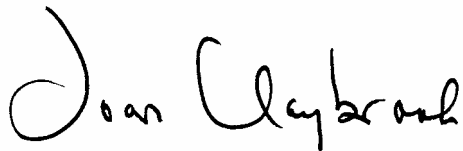
*“...A significant part of the supply reduction was caused by the investment decisions of three firms... One firm increased its summer-grade RFG [reformulated gasoline] production substantially and, as a result, had excess supplies of RFG available and had additional capacity to produce more RFG at the time of the price spike. This firm did sell off some inventoried RFG, but it limited its response because selling extra supply would have pushed down prices and thereby reduced the profitability of its existing RFG sales. **An executive of this company made clear that he would rather sell less gasoline and earn a higher margin on each gallon sold than sell more gasoline and earn a lower margin. Another employee of this firm raised concerns about oversupplying the market and thereby reducing the high market prices. A decision to limit supply does not violate the antitrust laws, absent some agreement among firms. Firms that withheld or delayed shipping additional supply in the face of a price spike did not violate the antitrust laws. In each instance, the firms chose strategies they thought would maximize their profits.**”*

So, that settles it: U.S. oil refineries would rather sell less gasoline and earn bigger profits than flood the market and earn lower profit margins. Gutting environmental laws, as HR 3893 proposes, will do nothing to expand refining capacity.

A May 2004 U.S. Government Accountability Office report<sup>5</sup> also agreed with Public Citizen that recent mergers in the oil industry have directly led to higher prices. It is important to note, however, that this GAO report severely underestimates the impact mergers have on prices because its price analysis stops in 2000 – long before the mergers that created ChevronTexaco, ConocoPhillips, and Valero-Ultramar/Diamond Shamrock-Premcor.

Rolling back environmental laws will do nothing to lower prices, but it will weaken public health protections for Americans.

Sincerely,



Joan Claybrook  
President  
Public Citizen

---

<sup>4</sup> [www.ftc.gov/os/2001/03/mwgasrpt.htm](http://www.ftc.gov/os/2001/03/mwgasrpt.htm)

<sup>5</sup> *Effects of Mergers and Market Concentration in the U.S. Petroleum Industry*, GAO-04-96, [www.gao.gov/new.items/d0496.pdf](http://www.gao.gov/new.items/d0496.pdf)