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ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN

November 14, 2008

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*The following letter was sent to Members of the Democratic Caucus who had signed an early October letter to Speaker Pelosi outlining broad principles for climate change legislation (see attached list)--*

Dear Representative:

On October 2, 2008, you joined 151 of our Democratic colleagues in signing a letter to Speaker Pelosi outlining the principles you believe Congress should follow as it develops an economy-wide mandatory program to address global climate change. I applaud your commitment to addressing this critical issue and pledge my cooperation in making sure that the principles outlined in your letter are embodied in any legislation produced by the House.

In fact, I have already started the work of transforming those principles and goals into legislative action.

On October 7, 2008, along with Representative Rick Boucher, I released a 461 page discussion draft of a climate change bill. The draft is the result of more than two years of work by the Committee on Energy and Commerce to develop a comprehensive national program to combat global climate change, the most complex and challenging environmental issue of our time. As we noted at the time of the draft's release, politically, scientifically, legally, and morally, the question has been settled.

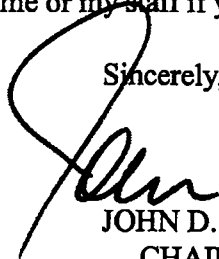
We released the discussion draft to give all interested parties and stakeholders adequate time to review it and comment on its specifics. I have asked everyone for substantive feedback because when the new Congress convenes in January 2009, I intend to move quickly, especially now that our President-elect shares our commitment to solving this problem.

I think you will find the discussion draft aligns with the principles and goals outlined in your letter. To that end, I have enclosed an analysis which compares the principles of your letter with the substance of the discussion draft. I hope you will take the time to review this document

Page 2

and provide me with your thoughts. I look forward to working with you in the coming months, and please do not hesitate to contact me or my staff if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'John D. Dingell', written over a large, stylized circular flourish.

JOHN D. DINGELL  
CHAIRMAN

Enclosure

The following Members of Congress were addressees on the letter from Chairman John D. Dingell:

Abercrombie, Neil (HI-1)	Hall, John J. (NY-19)	Olver, John W. (MA-1)
Ackerman, Gary L. (NY-5)	Hare, Phil (IL-17)	Pallone, Frank Jr. (NJ-6)
Andrews, Robert E. (NJ-1)	Harman, Jane (CA-36)	Pascrell, Bill Jr. (NJ-8)
Arcuri, Michael A. (NY-24)	Hastings, Alcee L. (FL-23)	Pastor, Ed (AZ-4)
Baird, Brian (WA-3)	Higgins, Brian (NY-27)	Payne, Donald M. (NJ-10)
Baldwin, Tammy (WI-2)	Hinchey, Maurice D. (NY-22)	Price, David E. (NC-4)
Becerra, Xavier (CA-31)	Hirono, Mazie K. (HI-2)	Rangel, Charles B. (NY-15)
Berkley, Shelley (NV-1)	Hodes, Paul W. (NH-2)	Richardson, Laura (CA-37)
Berman, Howard L. (CA-28)	Holt, Rush D. (NJ-12)	Rothman, Steven R. (NJ-9)
Bishop, Timothy H. (NY-1)	Honda, Michael M. (CA-15)	Roybal-Allard, Lucille (CA-34)
Blumenauer, Earl (OR-3)	Inslee, Jay (WA-1)	Rush, Bobby L. (IL-1)
Bordallo, Madeleine Z. (GU-Del)	Israel, Steve (NY-2)	Ryan, Tim (OH-17)
Boswell, Leonard L. (IA-3)	Jackson, Jesse L. Jr. (IL-2)	Sánchez, Linda T. (CA-39)
Brady, Robert A. (PA-1)	Jackson-Lee, Sheila (TX-18)	Sanchez, Loretta (CA-47)
Braley, Bruce L. (IA-1)	Johnson, Eddie Bernice (TX-30)	Sarbanes, John P. (MD-3)
Brown, Corrine (FL-3)	Johnson, Henry C. "Hank" Jr. (GA-4)	Schakowsky, Janice D. (IL-9)
Capps, Lois (CA-23)	Kagen, Steve (WI-8)	Schiff, Adam B. (CA-29)
Carnahan, Russ (MO-3)	Kennedy, Patrick J. (RI-1)	Schwartz, Allyson Y. (PA-13)
Carson, André (IN-7)	Klein, Ron (FL-22)	Scott, Robert C. "Bobby" (VA-3)
Castor, Kathy (FL-11)	Kucinich, Dennis J. (OH-10)	Serrano, José E. (NY-16)
Chandler, Ben (KY-6)	Langevin, James R. (RI-2)	Sestak, Joe (PA-7)
Christensen, Donna M. (VI-Del)	Larsen, Rick (WA-2)	Shea-Porter, Carol (NH-1)
Clarke, Yvette D. (NY-11)	Lee, Barbara (CA-9)	Sherman, Brad (CA-27)
Clay, Wm. Lacy (MO-1)	Lewis, John (GA-5)	Sires, Albio (NJ-13)
Cleaver, Emanuel (MO-5)	Lipinski, Daniel (IL-3)	Slaughter, Louise McIntosh (NY-28)
Cohen, Steve (TN-9)	Loebsack, David (IA-2)	Smith, Adam (WA-9)
Conyers, John Jr. (MI-14)	Lofgren, Zoe (CA-16)	Solis, Hilda L. (CA-32)
Courtney, Joe (CT-2)	Lowey, Nita M. (NY-18)	Speier, Jackie
Crowley, Joseph (NY-7)	Lynch, Stephen F. (MA-9)	Stark, Fortney Pete (CA-13)
Cummings, Elijah E. (MD-7)	Maloney, Carolyn B. (NY-14)	Sutton, Betty (OH-13)
Davis, Danny K. (IL-7)	Markey, Edward J. (MA-7)	Tauscher, Ellen O. (CA-10)
Davis, Susan A. (CA-53)	Matsui, Doris O. (CA-5)	Thompson, Bennie G. (MS-2)
DeGette, Diana (CO-1)	McCarthy, Carolyn (NY-4)	Thompson, Mike (CA-1)
Delahunt, William D. (MA-10)	McCollum, Betty (MN-4)	Tierney, John F. (MA-6)
DeLauro, Rosa L. (CT-3)	McDermott, Jim (WA-7)	Tsongas, Niki (MA-5)
Dicks, Norman D. (WA-6)	McGovern, James P. (MA-3)	Van Hollen, Chris (MD-8)
Doggett, Lloyd (TX-25)	McNerney, Jerry (CA-11)	Walz, Timothy J. (MN-1)
Edwards, Donna F. (MD-4)	Meek, Kendrick B. (FL-17)	Wasserman Schultz, Debbie (FL-20)
Ellison, Keith (MN-5)	Meeks, Gregory W. (NY-6)	Waters, Maxine (CA-35)
Engel, Eliot L. (NY-17)	Miller, Brad (NC-13)	Watson, Diane E. (CA-33)
Eshoo, Anna G. (CA-14)	Moore, Dennis (KS-3)	Watt, Melvin L. (NC-12)
Faleomavaega, Eni F.H. (AS-Del)	Moore, Gwen (WI-4)	Waxman, Henry A. (CA-30)
Farr, Sam (CA-17)	Moran, James P. (VA-8)	Weiner, Anthony D. (NY-9)
Fattah, Chaka (PA-2)	Murphy, Christopher S. (CT-5)	Welch, Peter (VT-At Lrg)
Filner, Bob (CA-51)	Murphy, Patrick J. (PA-8)	Wexler, Robert (FL-19)
Frank, Barney (MA-4)	Nadler, Jerrold (NY-8)	Woolsey, Lynn C. (CA-6)
Giffords, Gabrielle (AZ-8)	Napolitano, Grace F. (CA-38)	Wu, David (OR-1)
Gillibrand, Kirsten E. (NY-20)	Neal, Richard E. (MA-2)	Yarmuth, John A. (KY-3)
Green, Al (TX-9)	Norton, Eleanor Holmes	
Grijalva, Raúl M. (AZ-7)	Oberstar, James L. (MN-8)	
Gutierrez, Luis V. (IL-4)		

## Enclosed Summary

### **The Dingell-Boucher Discussion Draft Climate Bill is Largely Consistent with the Principles for Climate Legislation October 2008 Letter to Speaker Pelosi**

The Dingell-Boucher discussion draft climate legislation shares the four key goals outlined in the October 2, 2008, letter to Speaker Pelosi:

- 1. *Reduce emissions to avoid dangerous global warming;***
- 2. *Transition America to a clean energy economy;***
- 3. *Recognize and minimize any economic impacts from global warming legislation; and***
- 4. *Aid communities and ecosystems vulnerable to harm from global warming.***

Indeed, there is close overlap between this list and the seven “core principles” outlined in the memorandum announcing the discussion draft that Chairmen Dingell and Boucher circulated to Committee Members. Set forth below in bold are the substantive principles contained in the letter to Speaker Pelosi, followed by a description of how the Dingell-Boucher discussion draft addresses each principle.

#### **Reduce Emissions to Avoid Dangerous Global Warming**

***Cap and cut global warming emissions to science-based levels with short and long-term targets. Total U.S. emissions must be capped by a date certain, decline every year, be reduced to 15 percent to 20 percent below current levels in 2020, and fall to 80 percent below 1990 levels by 2050.***

The discussion draft would cap emissions starting in 2012 and require an 80 percent reduction below 2005 levels by 2050 and a six percent reduction below 2005 levels by 2020. These targets fall within the range set by the U.S. Climate Action Partnership (USCAP) Call to Action, which is a consensus recommendation from a variety of leading environmental groups, corporations, and other stakeholders. The draft would set the cap at the upper range of the USCAP recommendations in the early years to give the economy time to transition, but moves quickly to the more stringent end of the range starting after 2020. The cap would cover sources responsible for 87 percent of U.S. emissions. The discussion draft contains other measures to reduce emissions from sources outside the cap.

***Review and respond to advancing climate science... A mechanism for periodic scientific review is necessary, and EPA, and other agencies as appropriate, must adjust the regulatory response if the latest science indicates that more reductions are needed.***

The discussion draft would require a periodic review by the National Academy of Sciences. This review will collect the latest scientific information, review the performance of the climate change program, and suggest changes. It directs the President to establish a task force which will report to Congress with recommendations for modifications of the country's climate program.

***Make emissions targets certain and enforceable. Our strong existing environmental laws depend on enforceable requirements, rigorous monitoring and reporting of emissions, public input and transparent implementation, and Government and citizen enforcement. All of these elements must be included in comprehensive global warming legislation.***

Because the discussion draft would add the climate change program to the existing Clean Air Act, its targets and other provisions of the climate change regulatory program would be subject to that Act's strong, existing enforcement, public input, and transparency requirements. The discussion draft also contains requirements for rigorous monitoring and reporting of emissions, based on a greenhouse gas registry bill introduced by Rep. Baldwin.

***Cost-containment measures must not break the cap on global warming pollution.***

The discussion draft contains a variety of cost containment measures, none of which would break the cap on emissions. Cost containment measures include: the cap-and-trade system itself, heavy investments in energy efficiency and other efficiency measures, provisions allowing compliance with offsets, and banking and borrowing provisions. The draft would set aside a "strategic reserve" of allowances that could be added to the market if allowance prices are higher than expected. Because these allowances come from under the cap, they protect the overall emissions reduction goals of the program. In addition, the discussion draft includes strong oversight of the carbon market, based in large part on provisions in Rep. Markey's climate bill.

***Any offsets must be real, additional, verifiable, permanent, and enforceable. The percentage of required emissions reductions that may be met with offsets should be strictly limited, and should be increased only to the extent that there is greater certainty that the offsets will not compromise the program's environmental integrity.***

The discussion draft contains an explicit direction that EPA ensures that offsets are "real, verifiable and additional" and that biological sequestration is permanent. The use of offsets is limited; regulated entities may meet a small percentage of their compliance obligations with offsets (five percent for the first five years of the program, rising to 30 percent in 2021).

***Require the United States to engage with other nations to reduce emissions through commitments and incentives. The United States must reengage in the international negotiations to establish binding emissions reductions goals under the United Nations Framework Convention on Climate Change (UNFCCC). . . . The legislation must encourage developing countries to reduce emissions by assisting such countries to avoid deforestation and to adopt clean energy technologies.***

The recent election has assured that the United States will reengage with other Nations in the international negotiations to reduce greenhouse gas emissions. The discussion draft also directs the President to re-engage in the UNFCCC to achieve international action on climate and contains a variety of provisions to encourage developing countries to reduce emissions. The draft would allow the use of international offsets and would establish a special set of offset rules to encourage reductions in deforestation. Allocation option C also would set aside a significant amount of allowance value for the United States to use to meet our financial obligations to developing countries undertaken in future international climate

agreements; this could include commitments for avoided deforestation projects or the adoption of clean energy technologies. All allocation options contain a supplemental greenhouse gas reduction fund that would allow the EPA to engage in capacity building in other countries. Finally, the Administrator is directed to refill the strategic carbon reserve by purchasing international forest carbon credits.

**Transition America to a Clean Energy Economy**

***Invest in the best clean energy and efficiency technologies. A significant portion of revenues from auctioning emissions allowances should be invested in clean energy and efficiency measures, targeted to technologies and practices that are cleaner, cheaper, safer, and faster than conventional technologies, as determined through the application of clear standards set by Congress.***

All versions of the allocation scheme in the draft bill would aggressively pursue clean technology and energy efficiency, directing between 21.5 to 28.25 percent of the allowance value to these purposes.

***Include and encourage complementary policies.... Smart growth measures, green building policies, and electricity sector efficiency policies are important types of complementary policies. The legislation should include federal complementary policies and encourage state and local complementary policies in areas better addressed by states and localities.***

The draft includes and encourages complementary policies through a variety of provisions, including: providing allowances for state energy efficiency and transportation system efficiency programs (including smart growth measures), encouraging States to “decouple” their investor-owned utilities sales and net income (thereby providing an incentive for utilities to aggressively promote efficiency), encouraging States to adopt enhanced energy efficiency building codes. The draft would also allow the EPA to set performance standards for sources not regulated by the cap, including non-road mobile engines. The draft also reserved a section to update energy efficiency standards for appliances.

***Preserve states' authorities to protect their citizens. Federal global warming requirements must be a floor, not a ceiling, on states' ability to protect their citizens' health and state resources.... Addressing global warming requires state and local efforts, as well as national ones.***

The draft would preserve the rights of States to adopt a wide range of policies to pursue energy efficiency, clean technology, and greenhouse gas emission reductions. The draft would allow States to regulate stationary sources of greenhouse gas emissions through a carbon tax, emission limits, or other measures, except that the draft would require that there be a single, Federal cap-and-trade program, rather than having multiple cap-and-trade programs. In recognition of the different views on state regulation of tailpipe greenhouse gas standards, the draft sets forth, but does not adopt, either of two possible options: (1) grant the California waiver, allowing California and other States to enforce its existing greenhouse gas tailpipe standards (and allowing California to apply for similar waivers for future standards), or (2) prohibit California (and other States) from adopting greenhouse gas tailpipe standards for vehicles covered by Federal greenhouse gas standards.

**Recognize and Minimize Any Economic Impacts from Global Warming Legislation**

***Use public assets for public benefit in a fair and transparent way. Emissions allowances should be auctioned with the revenues going to benefit the public, and any free allocations should produce public benefits. If any allocations are given to polluters, they must be provided only to existing facilities for a brief transition period and the quantity must be limited to avoid windfall profits.***

The draft sets out four possible options for distributing allowances, all designed to use allowances in ways that protect consumers, the economy, or the environment.

- All options would use a significant amount of the allowance value for energy efficiency and clean energy development as a way of reducing the overall cost of the climate change program, and a significant amount of allowance value to assist low income consumers.
- In Option D all other allowances would be auctioned and the proceeds would be distributed to the American people on a per capita basis.
- Option A focuses on reducing the cost to electricity consumers by allocating allowances to local distribution companies (which are subject to regulation by state public utility commissions) and on protecting American manufacturing jobs by allocating allowances to manufacturing facilities (using an allocation scheme that expands and slightly modifies a job competitiveness protection bill by Reps. Inslee and Doyle).
- Option B would reduce the allowances available to the electricity sector, using them instead for measures that would assist in reducing emissions.
- Option C would reduce the allowances available to the manufacturing and electricity sectors, using them for measures that would help reduce greenhouse gas emissions or address climate change.

To enable future Congresses to re-evaluate the allocations, the draft bill would only allocate allowances to specific purposes through 2025 (auctioning all allowances after that time and returning the money to citizens on a per capita basis).

***Revenues from auctioned allowances should be returned to low- and moderate-income households at a level sufficient to offset higher energy costs.***

All allocation options include a low-income consumer climate change rebate based on the proposals of the Center for Budget and Policy Priorities to protect low income consumers from higher energy costs. In addition, options A, B, and C, would allocate allowances to electricity Local Distribution Companies (which are subject to State public utility commission regulation and which would be required to use the allowances to benefit consumers), and Option B would provide a climate rebate to all consumers prior to 2025.

***Workers and communities most affected by the transition to a clean energy economy should receive a portion of the revenues to ease the transition and build a trained workforce so that all can participate in the new energy economy.***

Allocation options B and C would provide allowances for the Green Jobs Fund under the Energy Efficiency and Renewable Energy Worker Training Program created by the Energy Independence and Security Act of 2007 to help develop the work force skills to transition to the new energy economy.

***Protect against global trade disadvantages to U.S. industry. In addition to providing incentives for developing countries to reduce emissions, the legislation should provide for an effective response to any countries that refuse to contribute their fair share to the international effort.***

Protecting U.S. industry from global trade disadvantages is a necessary component of climate change legislation. Allocation Options A, B, and C, would allocate allowances to manufacturing facilities to protect against global trade disadvantages (using an expanded and slightly modified version of a distribution formula in the Inslee-Doyle bill). The draft also contains an international reserve allowance program to employ border adjustments for energy-intensive goods from countries which are not contributing to the global effort to reduce emissions.

#### ***Aid Communities and Ecosystems Vulnerable to Harm from Global Warming***

***A portion of auction revenues should be provided to states, localities, and tribes to respond to harm from global warming and adapt their infrastructure to its effects, such as more severe wildfires, intensified droughts, increased water scarcity, sea level rise, floods, hurricanes, melting permafrost, and agricultural and public health impacts.***

Allocation Option C would use allowances to support state, local, and tribal efforts to plan for, and adapt to climate change impacts. This section is largely based upon the adaptation language in Rep. Markey's climate bill (H.R. 6186).

***Assist developing countries to respond and adapt to the effects of global warming.***

Allocation Option C would set aside a significant amount of allowance value for the United States to use to meet our financial obligations to developing countries undertaken in future international climate agreements; this could include commitments to assist developing countries to respond and adapt to the effects of global warming. All allocation options also would direct the Administrator of EPA to use allowance value to achieve supplemental greenhouse gas emission reductions. One of the preferred activities under this program is actions that "reduce vulnerability and promote adaptation to climate change impacts in . . . the most vulnerable developing countries."

***Assist wildlife and ecosystems threatened by global warming.***

Allocation Option C would direct allowances to be used for States to support wildlife and ecosystem adaptation efforts; provided that those States have comprehensive wildlife and ecosystem adaptation plans.