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BY HAND DELIVERY

April 10, 2014

Representative Harry Waxman
2204 Rayburn House Office Bldg.
Washington, DC 20515

Senator Sheldon Whitehouse
Hart Senate Office Bldg., Room 530
Washington, DC 20510

Dear Representative Waxman and Senator Whitehouse:

I am responding to your March 26, 2014, letter to Mr. David L. Robertson. Your letter states that you want “to learn whether Koch Industries or any of its affiliated companies has a financial interest in the Keystone XL pipeline.”

As an initial matter, your letter repeatedly cites a March 20, 2014, *Washington Post* blog report, which you describe as detailing “mounting evidence that Koch Industries has a financial interest in the Keystone XL pipeline.” But as you may know, this “report,” which relied on a deeply flawed and false report by an environmental activist group, has been widely discredited, including by the *Washington Post* itself.¹ Therefore, as your inquiry is based upon the suspect March 20, 2014 *Washington Post* blog posting, there is no “mounting evidence” that Koch has a financial interest in the Keystone XL pipeline.

¹ See, e.g., Mark Hemingway, *The Washington Post's Suspect Attack on the Koch Brothers*, *The Weekly Standard* (Mar. 22, 2014) (https://www.weeklystandard.com/blogs/washington-posts-erroneous-attack-koch-brothers_785771.html); Jonah Goldberg, *Push the Keyboard Away*, *National Review Online* (Mar. 21, 2014) (<http://www.nationalreview.com/corner/373935/push-keyboard-away-jonah-goldberg>); John Hinderaker, *Washington Post Falls For Left-Wing Fraud, Embarrasses Itself*, *Powerline* (Mar. 20, 2014) (<http://www.powerlineblog.com/archives/2014/03/washington-post-falls-for-left-wing-fraud-embarrasses-itself.php>); John Hinderaker, *The Washington Post Responds To Me, And I Reply To The Post*, *Powerline* (Mar. 22, 2014) (<http://www.powerlineblog.com/archives/2014/03/the-washington-post-responds-to-me-and-i-reply-to-the-post.php>); Jonathan Adler, *Are the Koch brothers the “biggest lease holder” in Canada's oil sands?*, *The Washington Post* (Mar. 22, 2014) (<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/22/are-the-koch-brothers-the-biggest-lease-holder-in-canadas-oil-sands/>); Jonathan Adler, *Should The Post run a correction to the Koch oil sands story?*, *The Washington Post* (Mar. 27, 2014) (<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/27/should-the-post-run-a-correction-to-the-koch-oil-sands-story/>); John Hinderaker, *The Washington Post Corrects, Disingenuously*, *Powerline* (Apr. 8, 2014) (<http://www.powerlineblog.com/archives/2014/04/the-washington-post-corrects-disingenuously.php>)

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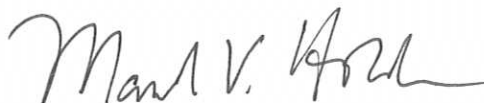
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Relatedly, your letter asks whether Koch stands by its prior statements that it has no financial interest in the Keystone XL pipeline. Koch reaffirms those statements, some of which were previously made in response to questions raised by Representative Waxman about these very same issues in 2011 and 2012. Koch reiterates that it has no ownership or investment interest in the Keystone XL Pipeline, it is not a proposed shipper or customer, and it has not taken any position with regard to any legislation before Congress concerning the Keystone XL pipeline. These prior statements also are consistent with those of TransCanada, which is seeking to build the Keystone XL pipeline. TransCanada has stated, more than once, that Koch has “absolutely nothing to do with Keystone XL (KXL). They are neither a shipper nor a receiver on KXL and this has been confirmed repeatedly and publicly many times.”²/

To the extent that your letter touches upon matters that implicate the First Amendment, I am sure you recognize Koch’s right to participate in the debate of important public policy issues and its right of free association. These rights have been recognized by the United States Supreme Court. The tradition of robust political debate, including anonymous speech, is older than the United States, and dates back to the Federalist Papers and the nation’s founding. See, e.g., McIntyre v. Ohio Elections Commission, 514 U.S. 334, 343 (1995) (there is a “respected tradition of anonymity in the advocacy of political causes. This tradition is best exemplified by the secret ballot, the hard won right to vote one’s conscience without fear of retaliation.”); NAACP v. Alabama, 357 U.S. 449, 460 (1958) (freedom to engage in anonymous association for the advancement of beliefs and ideas is protected by the Constitution).

Thank you for your attention to this matter.

Respectfully submitted,



Mark V. Holden

² See, e.g., Letter: *Koch Industries have absolutely nothing to do with Keystone XL*, MLive (Oct. 30, 2013) (http://www.mlive.com/opinion/jackson/index.ssf/2013/10/letter_koch_industries_have_ab.html); *TransCanada CEO frustrated with Keystone criticism*, Reuters (Nov. 1, 2011) (<http://www.reuters.com/article/2011/11/01/transcanada-girling-idUSN1E7A01SA20111101>).