

December 3, 2008

To President Elect Obama and the Obama-Biden Transition Team,

As concerned citizens, we write to express our opposition to the appointment of Bill Richardson as the Secretary of Commerce. Our objection relates to Richardson's actions as Energy Secretary in violating Dr. Wen Ho Lee's due process rights by prematurely terminating Dr. Lee's employment, advancing the indictment of Dr. Lee when there was no evidence that he had engaged in espionage, and fueling suspicion about the loyalties of dedicated, hard-working Chinese-Americans. Richardson's actions raise serious questions about his judgment and sense of fairness, requisite qualifications of a presidential Cabinet nominee. Until Richardson concedes and apologizes for his actions, we will continue to object to his nomination.

Please note that our opposition to a Richardson appointment as the Secretary of Commerce or any high-level Cabinet position should not be construed in any way as opposition to Hispanic or other ethnic minority nominees. In fact, we applaud the nomination of qualified individuals of diverse racial and ethnic backgrounds to serve in President-Elect Obama's administration.

Here are some of the reasons for which we base our opposition:

1. **Richardson has yet to acknowledge that he violated Dr. Wen Ho Lee's due process rights.** According to University of California (UC) employment regulations, all Los Alamos National Laboratory (LANL) employees must first receive written notice of any intention to terminate and be given 8 calendar days to respond. In publicly announcing that Dr. Wen Ho Lee had been fired in the New York Times<sup>1</sup>, Richardson not only violated UC regulations but denied Dr. Lee's right to due process.

2. **Richardson fails to acknowledge his role in exacerbating suspicion towards Chinese-Americans as disloyal citizens of the U.S.** The firing of Dr. Lee occurred at the heels of a 5-month Congressional committee investigation seeking to determine whether China stole American military secrets through espionage. Two days after a March 6, 1999 New York Times article detailing possible theft of nuclear warhead information at the national weapons labs<sup>2</sup>, Richardson publicly terminated Dr. Lee and allowed the scientist's name to be linked to the ongoing espionage investigation at the Los Alamos National Laboratory. In doing so, Richardson helped cast continuing doubt on the loyalty and reputation of tens of thousands of Chinese and Asian American scientists and engineers working in public and private research facilities across the nation.<sup>3</sup>

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<sup>1</sup> (See NY Times article *U.S. Fires Scientist Suspected of Giving Bomb Data, James Risen, March 9, 1999*)

<sup>2</sup> (See NY Times article *Breach at Los Alamos: A special report.; China Stole Nuclear Secrets for Bombs, U.S. Aides Say, March 6, 1999*)

<sup>3</sup> (See NY Times article *Chinese Intellectuals in U.S. Say Spying Case Unfairly Casts Doubt on Their Loyalties, Fox Butterfield and Joseph Kahn, May 16, 1999*)

**3. Richardson has not acknowledged his culpability in participating in the decision to indict Dr. Wen Ho Lee.** The New York Times reported that a critical meeting, attended by Energy Secretary Richardson, FBI Director Louis Freeh, Attorney General Janet Reno, and National Security Advisor Sandy Berger, occurred to determine the indictment of Dr. Lee.<sup>4</sup> In allowing political considerations to factor into the decision to indict, the true merits of prosecuting this case appear to have been lost. In many other reported cases of security violations, administrative action rather than prosecution was pursued.<sup>5</sup>

**4. Richardson has not acknowledged that his actions at the time reinforced the notion that the ethnic profiling of Asian Americans is an acceptable practice.** Robert Vrooman, the former head of Los Alamos National Laboratory counterintelligence, gave a sworn declaration that stated “racial profiling was a crucial component in the FBI’s identifying Dr. Lee as a suspect.”<sup>6</sup> In addition, Charles Washington, former Acting Director of Counterintelligence at the U.S. Department of Energy, filed an affidavit stating that “if Dr. Lee had not been initially targeted based on his race (Taiwanese-Chinese), with the resulting wide press disclosures that he had purportedly [words deleted] and the politicizing of the situation, he may very well have been treated administratively like others who had allegedly mishandled classified information.”<sup>7</sup>

**5. Despite the presiding judge’s rebuke, Richardson continues to stand by his decisions.** We find Richardson’s defense of his actions in protecting the nation’s security extremely disingenuous<sup>8</sup>, especially in the context of the unjust treatment of Dr. Lee, who had to endure 278 days of pre-trial detention in solitary confinement, and the presiding judge’s stern rebuke of the Energy Department. In his statement releasing Dr. Lee from jail, Judge James A. Parker aimed directly at those responsible: “It is only the top decision makers in the Executive Branch, especially the Department of Justice and the Department of Energy...who have caused embarrassment by the way this case began and was handled....they did not embarrass me alone. They have embarrassed our entire nation and each of us who is a citizen of it.”

Incredibly to date, Bill Richardson has yet to concede any wrongdoing and apologize to Wen Ho Lee and Chinese Americans whose rights, loyalty, and integrity were seriously damaged by his decisions and actions as Energy Secretary. He should admit his rush to judgment in attempting to identify Dr. Lee as the possible espionage suspect, as well as provocatively heightening suspicions about the loyalty of Chinese-Americans during a period of intense congressional and media scrutiny. Until Richardson issues an apology about his role in this case, we believe his confirmation to Cabinet Secretary should be

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<sup>4</sup> (See NY Times article *Decision Nears on the Fate of Ex-Los Alamos Scientist*, James Risen and David Johnston, December 8, 1999).

<sup>5</sup> [http://www.fas.org/irp/ops/ci/selective\\_prosecution.html](http://www.fas.org/irp/ops/ci/selective_prosecution.html)

<sup>6</sup> [http://www.fas.org/irp/ops/ci/selective\\_prosecution.html](http://www.fas.org/irp/ops/ci/selective_prosecution.html)

<sup>7</sup> <http://www.fas.org/irp/ops/ci/washington.html>

<sup>8</sup> (See Amy Goodman’s interview with Bill Richardson, Richardson Admits Errors in Wen Ho Lee Case, [http://www.democracynow.org/2007/12/14/i\\_wish\\_id\\_been\\_stronger\\_richardson](http://www.democracynow.org/2007/12/14/i_wish_id_been_stronger_richardson))

opposed by all Americans who believe that government officials should be persons of excellent character, competence, and sound judgment beyond reproach.

(In opposing Bill Richardson's appointment to become the next Commerce Secretary, we are acting independently of Dr. Wen Ho Lee's family or his legal counsel. The Lee family has made it clear that they wish to return to their private lives, but the people involved in this effort believe that the injustice dealt to the Lee family demands a vocal response to Bill Richardson's appointment.)