

HENRY A. WAXMAN, CALIFORNIA,
CHAIRMAN

TOM LANTOS, CALIFORNIA
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
BRIAN HIGGINS, NEW YORK
JOHN A. YARMUTH, KENTUCKY
BRUCE L. BRALEY, IOWA
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
BETTY MCCOLLUM, MINNESOTA
JIM COOPER, TENNESSEE
CHRIS VAN HOLLEN, MARYLAND
PAUL W. HODES, NEW HAMPSHIRE
CHRISTOPHER S. MURPHY, CONNECTICUT
JOHN P. SARBANES, MARYLAND
PETER WELCH, VERMONT

ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
FACSIMILE (202) 225-4784
MINORITY (202) 225-5074

www.oversight.house.gov

TOM DAVIS, VIRGINIA,
RANKING MINORITY MEMBER

DAN BURTON, INDIANA
CHRISTOPHER SHAYS, CONNECTICUT
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
MARK E. SOUDER, INDIANA
TODD RUSSELL PLATTS, PENNSYLVANIA
CHRIS CANNON, UTAH
JOHN J. DUNCAN, JR., TENNESSEE
MICHAEL R. TURNER, OHIO
DARRELL E. ISSA, CALIFORNIA
KENNY MARCHANT, TEXAS
LYNN A. WESTMORELAND, GEORGIA
PATRICK T. McHENRY, NORTH CAROLINA
VIRGINIA FOXX, NORTH CAROLINA
BRIAN P. BILBRAY, CALIFORNIA
BILL SALI, IDAHO
JIM JORDAN, OHIO

March 10, 2008

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Johnson:

I am writing to request that EPA provide to the Oversight Committee documents that the agency has improperly withheld from the Committee.

On December 20, 2007, I wrote to request that you provide the Committee with documents relating to your decision to reject California's efforts to reduce greenhouse gas emissions.¹ I requested that the documents be produced on a rolling schedule, with all responsive documents produced by January 23.

On January 25, 2008, EPA informed the Committee that it would produce all responsive documents by February 15, 2008.² I agreed to this production schedule, and EPA produced documents to the Committee throughout February. However, many of these documents were redacted. Your staff asserted an "Executive Branch confidentiality interest in a number of these documents because they reflect internal deliberations and/or attorney-client communications."³

Although this is not a valid basis for withholding information from the Committee, Committee staff reviewed the redacted documents to assess whether the documents would be necessary for the Committee's investigation. This review has been productive, and as I have previously written you, I have determined that only a small subset of the redacted documents are

¹ Letter from Chairman Henry A. Waxman to Stephen Johnson, Administrator, U.S. EPA (Dec. 20, 2007).

² Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Jan. 25, 2008).

³ Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Feb. 1, 2008).

The Honorable Stephen L. Johnson
March 10, 2008
Page 2

necessary for the investigation and need to be produced. Accordingly, I requested unredacted copies of selected documents on three occasions:

- On February 1, I requested five documents from EPA.⁴ On February 6, EPA refused to provide the documents without citing any legal justification for its position.⁵ On February 8, I issued a subpoena for the documents and EPA provided them on February 12.
- On February 11, I requested that 27 additional documents from EPA be provided by close of business on February 12.⁶ On February 12, EPA stated that it would respond by February 15.⁷ On February 15, EPA provided three of the 27 requested documents but refused to provide the remaining 24 documents.⁸
- On Monday, March 3, I requested 172 additional documents from EPA by Friday, March 7.⁹ EPA wrote to me on Friday, March 7, and stated that EPA planned to respond by March 14.¹⁰ EPA offered no assurance that the documents would be provided at that time or that they would be provided at all.

Additionally, EPA continues to withhold communications between EPA and the White House and the Department of Justice. EPA staff has indicated that there are “hundreds of documents” being withheld and the majority of these documents involve EPA and the White House.

⁴ Letter from Chairman Henry A. Waxman to Stephen Johnson, Administrator, U.S. EPA (Feb. 1, 2008).

⁵ Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Feb. 6, 2008).

⁶ Letter from Chairman Henry A. Waxman to Stephen Johnson, Administrator, U.S. EPA (Feb. 11, 2008).

⁷ Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Feb. 12, 2008).

⁸ Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Feb. 15, 2008).

⁹ Letter from Chairman Henry A. Waxman to Stephen Johnson, Administrator, U.S. EPA (Mar. 3, 2008).

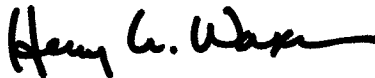
¹⁰ Letter from Christopher P. Bliley, Associate Administrator, U.S. EPA, to Chairman Henry A. Waxman (Mar. 7, 2008).

The Honorable Stephen L. Johnson
March 10, 2008
Page 3

I appreciate the efforts EPA has taken to collect responsive documents, but I am concerned about the failure of the agency to produce requested documents to the Committee. Therefore, I ask that your staff work with Committee staff to establish by the close of business on March 12, 2008, a mutually agreeable deadline for the production of the specifically requested documents, as well as the remaining documents involving the White House and Department of Justice. If no acceptable voluntary schedule is established, I anticipate taking steps to require production of the documents.

If you have any questions concerning this request, please have your staff contact Greg Dotson or Jeff Baran of the Committee staff at (202) 225-4407.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly slanted style.

Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member