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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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November 16, 2007

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

Dear Administrator Johnson:

Since June 2007, the Committee has been examining an effort by the Administration to generate opposition to the efforts of California and other states to reduce greenhouse gas emissions from automobiles.

Documents provided to the Committee indicate that the White House approved a behind-the-scenes lobbying effort to block California from regulating greenhouse gas emissions from motor vehicles. The lobbying campaign was personally directed by the Secretary of Transportation. According to the documents and interviews with senior officials, the goal was to urge members of Congress and state governors to oppose Environmental Protection Agency (EPA) approval of the new California motor vehicle standards.¹

Your testimony last week before the Committee did little to clarify the role that EPA may have played in this lobbying campaign. You testified under oath that you had talked with Secretary Peters about the California waiver and EPA's deadline for comments, stating: "I do recall asking Secretary Peters whether she was aware of anyone else seeking an extension on the comment period."²

¹ Letter from Chairman Henry A. Waxman to Mr. James L. Connaughton, Chairman, Council on Environmental Quality (Sept. 24, 2007).

² House Committee on Oversight and Government Reform, *Hearing on EPA Approval of New Power Plants: Failure to Address Global Warming Pollutants*, 110th Cong., (Nov. 8, 2007).

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But you were unable to answer other questions. You were unable to explain a May 31, 2007, e-mail from Secretary Peters to her chief of staff that refers to “calls to the Gov’s on the issue I had discussed with Administrator Johnson.”³ You were also unable to explain a June 7, 2007, e-mail from Jennifer Brosnahan, Deputy General Counsel at DOT, which reported:

EPA GC’s office says the Administrator is leaning toward NOT extending the comment period, but wants people to know that he has the discretion to accept late-filed comments. So the legislators and Governors should not despair if they can’t meet the June 15 deadline. Also, they asked for feedback asap (next hour or two) on whether we are ok with Adm. Johnson saying at the hearing tomorrow that he is not extending the comment period. Now’s our chance to “raise a red flag” if we want to.⁴

You also said: “I do not recall any specific discussion regarding contacting congressional offices including particularly whether to solicit opinions on the California waiver”⁵; “I do not recall any discussion of lobbying”⁶; and “I don’t recall having a discussion on that topic with anyone at the White House.”⁷

To assist the Committee in its investigation of these issues, I request the following documents:

1. All documents relating to communications between EPA and the Department of Transportation or the White House regarding the California waiver request pending before EPA. For purposes of this request, the term “White House” includes, but is not limited to, the Executive Office of the President and the Office of the Vice President.
2. All documents relating to communications between EPA and members of Congress or governors regarding the California waiver request.
3. All documents relating to communications between persons associated with the auto industry and EPA’s Office of the Administrator or Office of the Assistant Administrator for Air and Radiation regarding the California waiver request.

Please provide the requested documents by November 21, 2007.

³ E-mail from Mary Peters, Secretary, Department of Transportation, to Robert Johnson (May 31, 2007; 8:46 a.m.).

⁴ E-mail from Jennifer Brosnahan to Tyler Duvall, et al. (June 7, 2007; 11:23 a.m.).

⁵ *Supra* note 2, at 5

⁶ *Supra* note 2, at 6

⁷ *Supra* note 2, at 7

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The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Committee's request.

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, flowing style.

Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member

Congress of the United States

House of Representatives

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Responding to Oversight Committee Document Requests

In responding to the document request from the Committee on Oversight and Government Reform, please apply the instructions and definitions set forth below.

Instructions

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Records, documents, data, or information called for by this request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
3. Each document produced should be produced in a form that renders the document capable of being copied.
4. When you produce documents, you should identify to which paragraph in the Committee's request the documents respond.
5. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
6. Each folder and box should be numbered, and a description of the contents of each folder and box, including the request number to which the documents are responsive, should be provided in an accompanying index.

7. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a non-identical or identical copy of the same document.
8. If any of the requested information is stored in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information.
9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.
10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. When documents are produced to the Committee, one production set should be delivered to the majority staff in Room 2157 of the Rayburn House Office Building and one to the minority staff in Room B350A in the Rayburn House Office Building.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices,

confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request? any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof
5. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.

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proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

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