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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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September 16, 2008

The Honorable Granta Nakayama
Assistant Administrator for Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Mr. Nakayama:

The Oversight and Government Reform Committee requests your testimony at a hearing on Wednesday, September 24, 2008 at 10:00 a.m. in Room 2154 of the Rayburn House Office Building. The purpose of this hearing is to examine the Administration's implementation and enforcement of the Clean Water Act.

To date, EPA has failed to provide the Committee with important documents in this investigation. On July 7, 2008, Chairman Oberstar and I wrote to EPA and requested that the agency provide documents relating to EPA's enforcement program by July 21, 2008.¹ When EPA failed to provide the documents, we wrote to EPA again on July 23 to request that EPA establish a mutually agreeable deadline for the production of these documents.² After consulting with EPA, we agreed to a production deadline of August 14.³ While EPA had collected the responsive documents by August 14, the agency refused to produce them. As a result, the Committee issued a subpoena for these documents on August 20.⁴ The subpoena required EPA to produce the documents by August 22. EPA failed to meet this deadline and only this week provided some heavily redacted documents to the Committee.

The Committee has repeatedly made clear to EPA that unless the President asserts a valid claim of executive privilege, responsive documents must be provided when they are subpoenaed by the Committee. In this case, there has been no assertion of executive privilege and EPA's failure to produce the responsive documents appears to have no legal merit. I therefore request that you provide complete, unredacted copies of the responsive documents no later than close of

¹ Letter from Rep. Oberstar and Rep. Waxman to EPA Administrator Stephen Johnson (July 7, 2008).

² Letter from Rep. Oberstar and Rep. Waxman to EPA Administrator Stephen Johnson (July 23, 2008).

³ Letter from Rep. Oberstar and Rep. Waxman to EPA Administrator Stephen Johnson (August 1, 2008).

⁴ House Oversight and Government Reform website, Chairman Waxman Issues a Subpoena for Clean Water Act Documents (Aug. 20, 2008) (online at <http://oversight.house.gov/story.asp?ID=2155>).

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business on September 17, 2008. If you do not provide the documents by this date, you may be compelled to bring the documents to the Committee when you appear to testify.

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. Information for witnesses appearing before the Committee is contained in the enclosed Witness Information Sheet.

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,



Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member

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Witness Information Sheet

The following is a summary of some of the pertinent rules and procedures applicable to witnesses testifying before the Committee on Oversight and Government Reform:

- Witnesses should provide 100 copies of their written testimony to Earley Green, Chief Clerk, 2157 Rayburn House Office Building, no later than 10:00 am two business days prior to the hearing. Witnesses should also provide their statement by this date in electronic format, either as a CD or via email to earley.green@mail.house.gov.
- At the hearing, each witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions.
- House Rule XI clause 2(g)(4) requires that witnesses appearing in a nongovernmental capacity submit to the Committee in advance of the hearing "a curriculum vitae and a disclosure of the amount and source (by agency and program) of *each* Federal grant (or subgrant thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness."
- The Committee does not provide financial reimbursement for witness travel or accommodations. Witnesses with extenuating circumstances, however, may submit a written request for such reimbursements to Robin Butler, Financial Administrator, 2157 Rayburn House Office Building, at least one week prior to the hearing. Reimbursements will not be made without prior approval.
- Witnesses with disabilities should contact Committee staff to arrange any necessary accommodations.
- The Committee on Oversight and Government Reform is the principal oversight committee in the U.S. House of Representatives. In addition, the Committee has legislative jurisdiction over a number of subjects affecting the management of government operations and activities. The specific jurisdiction of the Committee is set forth in House Rule X clauses 1(m), 2, 3(i), and 4(c).
- The Committee rules governing this hearing are online at www.oversight.house.gov/rules/.

For inquiries regarding these rules and procedures, please contact the Committee on Oversight and Government Reform at (202) 225-5051.