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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, STAFF DIRECTOR
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October 2, 2008

The Honorable Michael Mukasey
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Mukasey:

We write to follow up on a letter sent to you on July 29, 2008, calling for the Department of Justice to open an investigation into whether the Administrator of the U.S. Environmental Protection Agency (EPA), Stephen L. Johnson, made false or misleading statements before the Environment and Public Works (EPW) Committee.

As stated in that letter and other communications to you, we believe there is significant evidence indicating Mr. Johnson provided false, misleading, or intentionally incomplete statements in his sworn testimony before the Committee in relation to the decision announced by his Agency on December 19, 2007 to deny the request by California for a waiver under Section 209 of the Clean Air Act. In connection with our request that you open an investigation on this issue, we have provided your staff with full preliminary transcripts of testimony before the EPW Committee by Mr. Johnson and his senior aide, Jason Burnett, pertaining to the California waiver decision.

In connection with the requested investigation, we would like to bring to your attention testimony received by the EPW Committee on September 23, 2008 on the California waiver by EPA Principal Deputy Assistant Administrator Robert Meyers. In his testimony, Mr. Meyers provided responses that appear to further support the conclusion that EPA Administrator Johnson provided false or misleading testimony to the EPW Committee. We have attached a preliminary transcript of Mr. Meyers' testimony and direct your attention particularly to pages 19-22, 25-28, and 31-41 of the preliminary transcript.

You will note the evasiveness of many of his answers. The transcript may not reveal the lengthy delays before his answers as he calculated his answers, but you may find that in the video record of the hearing. You should also be aware that Mr. Meyers refused to return to the Committee for further questioning at a hearing the following day, September 24, 2008, despite his previous agreement to do so. We bring this to your attention as you determine who may be appropriate to interview in this inquiry. It seems very clear that Mr. Meyers could shed more light on this situation under sustained questioning.

We further wish to draw your attention to the attached April 6, 2005 transcript in which Mr. Johnson indicated that he would appear before EPW or any other duly constituted Congressional Committee to testify upon request. Despite repeated EPW Committee requests since March of this year, Mr. Johnson has refused to testify before this Committee for over 6 months, offering reasons for his unavailability that in some cases appear to be misleading or false, suggesting an intent to evade further questioning on these and other important matters. We believe these materials are consistent with a view that the misstatements we originally described are both material and calculated to lure the Committee into a false conclusion relative to White House involvement in the waiver decision.

We would appreciate hearing from you at your earliest convenience on the status of your review of our July 29 request. We look forward to your prompt attention and response to this matter.

Sincerely,



Barbara Boxer
Chairman



Sheldon Whitehouse
United States Senator

Attachments