



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 22 2008

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter dated July 16, 2008 inviting Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA or Agency), to appear before the Senate Judiciary Committee for a hearing on July 30, 2008. The topic of the hearing would be various EPA decision-making processes, including efforts to address climate change, and our response to Congressional requests for information about those processes.

EPA respects Congress' oversight role and has worked to respond as expeditiously and completely as possible to the myriad Congressional requests for information, consistent with our Constitutional and statutory obligations. Administrator Johnson, however, will not be able to appear at this hearing to discuss this issue. Nonetheless, I would like to take this opportunity to describe the great lengths to which EPA has worked and the considerable resources we have devoted to accommodating Congressional requests for information. During this session of Congress, EPA has spent thousands of hours of staff time and provided copies of or access to tens of thousands of documents in response to the more than 70 formal information requests from at least 10 different Congressional committees or subcommittees. In addition, EPA officials have testified more than 90 times before Congress, including 17 appearances by the Administrator himself. EPA has also answered more than 500 follow up questions from individual members as a result of these hearings.

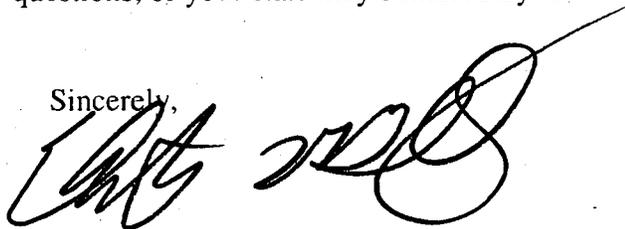
As these efforts demonstrate, EPA has sought to accommodate Congressional requests for information while balancing the need to preserve important Executive Branch confidentiality interests. For example, the Executive Branch has an important interest in preserving the confidentiality of pre-decisional deliberations, attorney-client advice, litigation preparations, certain law enforcement information, confidential business information, and personal privacy information. These interests are especially heightened where EPA's deliberations are ongoing or a law enforcement activity is pending. Subjecting the deliberations of an Executive Branch agency contemplating regulatory or law enforcement action to Congressional review while they are still ongoing will lead to

an erosion of the separation of powers. Disclosure could also undermine public confidence in an agency's actions because questions may be raised over whether the agency's actions were being taken in response to or influenced by proceedings in a legislative or public forum outside the established administrative process for such input.

In addition, disclosure of such information would compromise the ability of Agency employees to provide candid and confidential advice and recommendations during the Agency's ongoing deliberative processes or law enforcement proceedings. It would also deter the candor of future Executive Branch deliberations because Executive Branch officials at all levels would know they could be called by a committee of the Congress to account for their advice and recommendations to their superiors, while such decisions are still being deliberated by the Agency. Notwithstanding these important interests, EPA has sought ways to accommodate Congressional requests for information wherever possible, including providing Congressional committees thousands of non-public documents and making certain other non-public documents available for review. We look forward to working with Congress in the future to provide information in furtherance of its important legislative and oversight activities.

Please contact me if you have any questions, or your staff may contact Reynold Meni in my office at (202) 564-3669.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Bliley', with a long horizontal line extending from the end of the signature.

Christopher P. Bliley
Associate Administrator

cc: The Honorable Arlen Specter
The Honorable Barbara Boxer
The Honorable James M. Inhofe