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Committee on Energy and Commerce
Washington, DC 20515–6115

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April 3, 2008

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

Dear Secretary Chertoff:

Under Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are investigating the management, operation, and activities of the Department of Homeland Security's (DHS) Plum Island Animal Disease Center (PIADC), and the proposal by DHS to close the PIADC and relocate its operations to a new facility, to be called the National Bio and Agrodefense Facility (NBAF). In letters to you dated September 20, 2007, and February 21, 2008, we requested records and information to assist our investigation of these matters.

Despite the detailed requests in these letters, your agency is still withholding records requested by the Committee. Specifically, in his most recent response to us on your behalf, Under Secretary Jay M. Cohen refused to provide copies of the following:

- A draft report prepared by the Homeland Security Institute (HSI) dated April 27, 2007, titled, "*DHS Agrosecurity Science and Technology – Plum Island and Beyond.*" Our February 21, 2008, letter requested this draft report "and copies of all subsequent drafts, whether final or not";

- Copies of all reports and analyses of the Crimson Sky simulation. Any documents in the possession of DHS regarding the Crimson Sky simulation are covered by this request, whether authored by DHS or not; and

- A copy of the after-action report on the 1978 accidental release of foot-and-mouth disease on Plum Island.[1]

In addition, the Committee staff requested a copy of the "ground rules" for Under Secretary Cohen's NBAF site visits prepared by the Science and Technology Office of General Counsel.[2] DHS has failed to provide a copy of this document as well.

Under Secretary Cohen has not proffered any valid reason for withholding the foregoing documents, nor has he denied that DHS possesses these records. We must therefore insist that the requested copies be delivered to us no later than 4:00 p.m. on Friday, April 11, 2008. Should these records not be delivered by that time, we will be forced to convene a meeting of the Subcommittee the following week to issue a subpoena to compel production.

Moreover, in the course of our investigation, we have learned that there may have been at least two releases of foot-and-mouth disease at Plum Island in addition to the 1978 incident referenced above. Please provide a list of all releases of foot-and-mouth disease that have occurred at Plum Island since 1954, including the dates, circumstances, and other relevant information, and all reports and studies of such incidents that may be in the possession of DHS.

In addition to the matter of records, we understand that representatives from the Government Accountability Office (GAO), who are conducting an investigation of related issues at our request, have encountered difficulties in obtaining access to the PIADC and to the PIADC Director, Dr. Larry Barrett. GAO is authorized by statute to conduct such investigations and to obtain access to all Government records and personnel.

We hereby request that you personally ensure the full cooperation of DHS with GAO's requests and facilitate their investigation, particularly with respect to the Plum Island and NBAF inquiries. By Friday, April 4, 2008, please provide a written explanation from Under Secretary Cohen regarding his reasons for delaying GAO's access to Plum Island and PIADC personnel, as well as an open invitation to GAO to visit the island and conduct such interviews as they may deem necessary.

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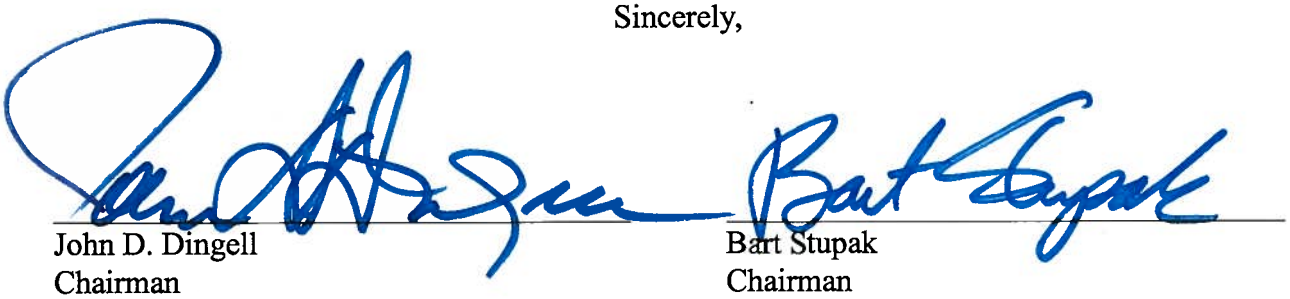
[1] We have since learned that there were two after-action reports on this incident, one that was published externally, and one that was internal. We are hereby requesting copies of both reports.

[2] The existence of these ground rules was revealed in the course of a staff interview of DHS personnel on November 16, 2007, and the request acknowledged in an e-mail from DHS on that date.

If you have any questions regarding this request, please contact us or have your staff contact John Arlington of the Committee staff at (202) 226-2424.

Sincerely,



John D. Dingell
Chairman

Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Oversight and Investigations