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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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September 16, 2008

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

Dear Administrator Johnson:

On June 25, 2008, we wrote you concerning the failure of the Department of Defense (DOD) to comply with three imminent and substantial endangerment orders issued under Section 7003 of the Resource Conservation and Recovery Act to Ft. Meade, Maryland, McGuire Air Force Base, New Jersey, and Tyndall Air Force Base, Florida. The letter we received on August 11, 2008, signed by Associate Administrator Christopher P. Bliley was not fully responsive.

The outright resistance of a Federal agency to comply with lawful final orders containing an imminent and substantial endangerment finding issued by the Environmental Protection Agency (EPA) is unprecedented and an extremely serious matter. Therefore, we had requested that you "inform us of the actions you have taken to insure that the lawful orders issued by EPA to the three DOD facilities are complied with." Should the Committee assume from your failure to respond to this request that no actions have been taken by you to ensure compliance with these final orders? In the case of McGuire Air Force Base, the one year anniversary of the final order is rapidly approaching.

As the executive branch official statutorily charged with administering and enforcing the Resource Conservation and Recovery Act, the Committee expects that vigorous and concrete actions would have been taken by now to insure compliance with these final orders. That appears not to be the case.

In carrying out its oversight obligations the Committee renews its request pursuant to Rules X and XI of the Rules of the House of Representatives to be informed of the specific actions you have taken to date to insure that these lawful final orders issued by EPA are complied with by the three DOD facilities.

The Honorable Stephen L. Johnson
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Further, we believe you misunderstood our request contained in question seven of the June 25, 2008, letter. The Committee seeks the Agency's response to the following question.

Does the Resource Conservation and Recovery Act, or any other statute, provide authority or direction to the Department of Justice to review or override EPA's determination that the facts demonstrate an imminent and substantial endangerment may be present in a final order issued under Section 7003?

We look forward to your expeditious response in this matter.

Sincerely,

Handwritten signatures of John D. Dingell and Gene Green in blue ink.

John D. Dingell
Chairman

Gene Green
Chairman
Subcommittee on
Environment
and Hazardous Materials

Handwritten signature of Hilda L. Solis in black ink.

Hilda L. Solis
Vice Chair
Subcommittee on
Environment
and Hazardous Materials

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

The Honorable John Shadegg, Ranking Member
Subcommittee on Environment and Hazardous Materials