



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Dingell:

This is in further response to your letter dated October 11, 2007, requesting additional information about the activities of the U.S. Environmental Protection Agency's (EPA or Agency) criminal enforcement program, which were featured in a September 30, 2007 article in the *Washington Post*. In particular, your request sought six categories of information or documents about enforcement matters discussed in the article.

EPA respects your role as Chairman and shares your goal of an effective and robust criminal enforcement program. As you know, EPA has already provided the Committee with access to significant information regarding the criminal enforcement program in response to your requests, and we are committed to providing the Committee with additional information to the extent possible, consistent with our Constitutional and statutory obligations. EPA responded to Categories 1 and 2 of your request by letter dated November 7, 2007. This letter responds to Categories 3 and 4 of your request; EPA expects to provide a further response concerning the remaining categories soon.

Category 3 of your request sought copies of records related to EPA's criminal investigation regarding demolition of a building containing asbestos in Massachusetts. Category 4 of your request sought copies of records related to EPA's criminal investigation of an oil spill from the Selendang Ayu cargo ship in Alaska in 2004, and the subsequent plea bargain entered into by the Department of Justice (DOJ) and IMC Shipping Co. related to that spill. EPA is enclosing copies of documents responsive to your request.

However, EPA has identified a strong Executive Branch confidentiality interest in a number of internal documents that concern sensitive law enforcement investigations and deliberations about enforcement strategy. These documents reflect discussions among EPA investigators, attorneys, and managers and between EPA and DOJ and other

agencies concerning these two matters. Disclosure of these communications could have a significant chilling effect on the ability of the Agency's personnel to communicate effectively in pursuing investigations and could undermine the operation of EPA's enforcement program. Nevertheless, as a further accommodation to the Committee, EPA is prepared to make its internal documents related to these matters available to the Committee members and designated staff for review in a reading room at EPA's offices.

The Agency believes that disclosing this information under these conditions satisfies the Committee's oversight needs while also furthering the proper execution of the Agency's obligations. Disclosure under these conditions does not constitute a waiver of any confidentiality interests in this information or similar information in other circumstances. Because your request sought documents generated by other agencies, we are currently consulting with those agencies pursuant to our normal process. Finally, consistent with our August 9th and September 19th, 2007 responses to your earlier request for information related to EPA's investigation of contamination at Camp LeJeune, the consultation process has been completed and additional documents from DOJ or other agencies are being added to the reading room collection.

If you have further questions or would like to arrange inspection of the documents responsive to Categories 3 and 4, please contact me, or your staff may contact Carolyn Levine in the Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

A handwritten signature in blue ink, reading "Granta Y. Nakayama". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Granta Y. Nakayama