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May 17, 2007

**BY HAND DELIVERY**

The Honorable Jerrold Nadler  
Chairman, Subcommittee on the Constitution,  
Civil Rights, & Civil Liberties  
Committee on the Judiciary  
United States House of Representatives  
B-353 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Nadler:

I received late yesterday your letter to my attorney, Joel Kobert, requesting that I testify at a legislative hearing before your Subcommittee scheduled for next Tuesday, May 22, 2007. I understand that the subject matter of your hearing pertains to the conduct of the Environmental Protection Agency ("EPA") in response to the terrorist attacks on September 11, 2001. As Mr. Kobert indicated in his letter this week to the Subcommittee staff, the issues that you will explore at the Subcommittee's hearing are the subject of pending litigation in federal court. To be clear, I do not believe it is appropriate for me to testify about matters that are currently pending in litigation. As a consequence, I respectfully urge you to reconsider your request for my appearance while this litigation is still pending before the U.S. Court of Appeals for the Second Circuit.

Nevertheless, if you insist that I appear before the Subcommittee while that litigation is still pending, I am prepared to honor your request and will make myself available to the Subcommittee on a date that is mutually convenient. I am extremely proud of the EPA's work in response to the terrorist attacks on our nation on September 11, 2001. The men and women of the EPA were -- and are -- dedicated to protecting the health of the American public, and I will be pleased to answer any questions the Subcommittee might have about their efforts during my tenure as Director of the Agency. I am not, however, available to appear before the Subcommittee next Tuesday because of previously scheduled commitments. The late notice of your invitation simply did not provide me with sufficient time to accommodate your request for my appearance.

I suggest that the Subcommittee's staff contact my attorneys, K. Lee Blalack and Walter Dellinger, of O'Melveny & Myers LLP, at (202) 383-5374 to coordinate the scheduling of my testimony before the Subcommittee at a mutually convenient date and time.

Very truly yours,

  
Christine Todd Whitman

cc: The Honorable Trent Franks (via hand delivery)  
Ranking Minority Member, Subcommittee on the Constitution,  
Civil Rights, & Civil Liberties, Committee on the Judiciary  
The Honorable John Conyers, Jr. (via hand delivery)  
Chairman, Committee on the Judiciary  
The Honorable Lamar Smith (via hand delivery)  
Ranking Minority Member, Committee on the Judiciary  
David Lachmann (via hand delivery)  
Chief of Staff, Subcommittee on the Constitution,  
Civil Rights, & Civil Liberties, Committee on the Judiciary  
Paul Taylor, Esq. (via hand delivery)  
Chief Minority Counsel, Subcommittee on the Constitution,  
Civil Rights, & Civil Liberties, Committee on the Judiciary  
Perry H. Apelbaum, Esq. (via hand delivery)  
Chief Counsel & Staff Director, Committee on the Judiciary  
Joseph Gibson, Esq. (via hand delivery)  
Chief Minority Counsel, Committee on the Judiciary  
K. Lee Blalack, II, Esq.  
Walter E. Dellinger, III, Esq.