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

January 31, 2008

THE ADMINISTRATOR

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

You have committed the US to pursue new, quantifiable actions to reduce carbon emissions. These new actions should spur both private sector investment in developing new, cost-effective technologies and private sector deployment of these technologies at a large scale. I believe legislation is the best approach to achieve this. However, your Administration is compelled to act on this issue under existing law given the many lawsuits and petitions before the Environmental Protection Agency (EPA). It is my intent to do so in a way that is responsible and that does not foreclose a superior legislative solution.

First, the Supreme Court's *Massachusetts v EPA* decision still requires a response. That case combined with the latest science of climate change requires the Agency to propose a positive endangerment finding, as was agreed to at the Cabinet-level meeting in November. Some have noted that the Energy Independence and Security Act (EISA) enables implementation of your 20-in-10 plan without an endangerment finding. Even if that is true, a finding is still required by the Supreme Court case, and the state of the latest climate change science does not permit a negative finding, nor does it permit a credible finding that we need to wait for more research. EISA also did not change EPA's obligation regarding the regulation of vehicles although it did expand the Department of Transportation's authority in a way that will facilitate a joint rulemaking.

A second set of actions will be required by other imminent lawsuits and petitions. For instance, EPA has pending before it petitions seeking greenhouse gas standards for aircraft, marine vessels, and off-road vehicles. Also within the next several months, EPA must face regulating greenhouse gases from power plants, some industrial sources, petroleum refineries and cement kilns.

A robust interagency policy process involving principal meetings over the past eight months has enabled me to formulate a plan that is prudent and cautious yet forward thinking. This plan will fulfill your Administration's obligations under the Supreme Court decision and also will provide a response to the multiple pending lawsuits and petitions rather than risk additional unfavorable court action. Further, it follows your May 14th 2007 Executive Order and creates a framework for responsible, cost-effective and practical actions.

I want to thank you for talking with me about this plan when we met last month and, of course, I welcome your guidance as we move forward. After careful and sometime difficult deliberation, I have concluded that it is in the Administration's best interest to move forward with this plan in the next few weeks. I appreciate the senior-level discussions that have enabled me to develop this approach, and I look forward to working with other members of your team to discuss details and a rollout.

Attached is my plan.

Respectfully,

Stephen L. Johnson

Privileged
Communication to the President

EPA Climate Change Plan

Phase 1

- In response to the Supreme Court mandate in *Massachusetts v EPA*, issue a proposed positive endangerment finding for public notice and comment as agreed to in the policy process.
- In response to the direction in EISA, issue a proposed vehicles rule jointly with the Department of Transportation to implement the new EISA and address issues raised in the Supreme Court case.
- To address requirements under the Clean Air Act, issue a proposed rule to update the New Source Review program to raise greenhouse gas thresholds to avoid covering small sources and to better define cost-effective, available technology.

Timing: Proposal in March or April. Final by the end of 2008.

Phase 2

- Issue advanced notices covering remaining petitions, lawsuits and court required deadlines. This would enable EPA to frame issues for the legislative debate and to channel future rulemakings to pursue environmental protection in context of benefit-cost analysis, availability of existing technologies, energy security, and remaining useful life of affected facilities.

Timing: Spring 2008.

Phase 3

- As required by EISA, issue a proposed renewable fuels rule following new authority provided by EISA. Note that the new EISA significantly altered the regulatory approach that EPA, in coordination with Department of Energy and the Department of Agriculture, must take.

Timing: Proposal by September 2008. Final rule in 2009. Additional administrative steps will be taken in 2008.