US Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Avenue S.E.
Washington, DC 20590

June 29, 2007

The Honorable Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Waxman:

On behalf of Secretary Peters, I am writing in response to your letters to her dated June 12, 2007, and June 13, 2007.

Your letters requested Department of Transportation (DOT) documents "relating to (1) communications with members of Congress or their staffs regarding the California waiver request or (2) communications with EPA or other federal entities, including the White House, regarding the California waiver request."

As indicated in the June 12, 2007, letter from then-Acting General Counsel Rosalind Knapp to you, DOT made contacts with members of Congress to inform them of California's pending waiver request so that they could consider providing formal comments to EPA. These contacts took place pursuant to legal advice from the Office of the General Counsel that such contacts would not violate anti-lobbying restrictions found in 18 U.S.C. § 1913 and annual appropriations acts restricting the use of appropriated funds for "publicity or propaganda purposes" to support or defeat pending legislation. DOT's interest in informing the public and their elected representatives about this important issue is consistent with its longstanding and well-known support of a single, national regulatory scheme for motor vehicle fuel economy.

Documents responsive to your request are enclosed. Also enclosed is an inventory of additional documents that are responsive to your request but implicate confidentiality interests of the Executive Branch. As requested in the written instructions that your staff provided on June 21, we have identified the confidentiality interest associated with each item in the inventory. We have also provided for each item the name of the sender, the name(s) of the recipient(s), the date, the type of document, and the subject heading. For e-mails or other documents that do not contain a meaningful subject heading, we have supplied one in brackets. Please note that, for security reasons, we have redacted Secretary Peters' e-mail alias in the two instances where it appears.

The enclosed documents and the inventory include some references to DOT contacts with state governors' offices on the subject of the California waiver request. Because you

have not requested documents related to communications with state governors, we have not done an exhaustive search for that category of documents. However, should you wish to broaden your request to encompass such documents, we could expand our search and production to include that category of documents.

There is an additional category of documents that may fall within the parameters of your request but do not appear to be within the substantive scope of your inquiry and have not been collected. These documents relate to communications beginning in the 2006 time frame among lawyers at DOT, EPA, and other agencies concerning legal questions regarding the Clean Air Act and various pending cases.

If I can answer any questions about the foregoing, please do not hesitate to contact me at (202) 366-4702, or through DOT's Office of Governmental Affairs.

Sincerely,

D.J. Gribbin
General Counsel