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DEPARTMENT OF TRANSPORTATION
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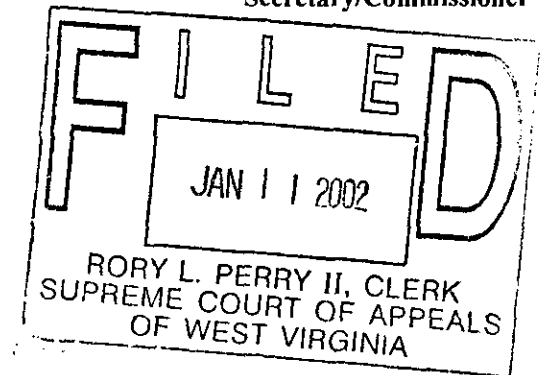
**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary/Commissioner**

January 11, 2002

By Hand

**Mr. Rory Perry, Clerk
West Virginia Supreme Court of Appeals
Room E-315, State Capitol
Charleston, West Virginia 25305**



**Re: *State ex rel. McGraw v. Burton, et al.*
No. 30094**

Dear Mr. Perry:

I write in my capacity as Cabinet Secretary of the Department of Transportation, having been named by the Court as a respondent in the above-referenced matter.

I would have liked to have participated actively, by counsel, in this matter, but found myself in a quandary as to whether I have authority to engage counsel of my choice to do so. Unable to reach a confident conclusion on this matter, I have decided, out of caution, to notify the Court directly that I support and endorse, in my official capacity, and as a respondent herein, the contents of the Brief filed by Mike Callaghan, Cabinet Secretary of the Department of Environmental Protection, and Brian Kastick, Cabinet Secretary of the Department of Tax and Revenue.

Very truly yours,

**Fred VanKirk, P.E.
Secretary/Highways Commissioner**

cc: Service List