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Congress of the United States
House of Representatives

April 28, 2010

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**COMMITTEE ON
STANDARDS OF
OFFICIAL CONDUCT**

U.S. HELSINKI COMMISSION

The Honorable Thomas Vilsack
Secretary
United States Department of Agriculture
1400 Independence Avenue, S.W.
Washington, DC 20250

The Honorable Peter Orszag
Director
Office of Management & Budget
Eisenhower Executive Office Building
725 17th Street, N.W.
Washington, DC 20503

Dear Secretary Vilsack and Director Orszag:

I write today with regard to the suspension of payments made to applicants to the Biomass Crop Assistance Program (BCAP). I respectfully request that payments made to participants be restarted as soon as possible.

Codified in 7 U.S.C Section 8111, BCAP was authorized in Section 9001 of the Food, Conservation and Energy Act of 2008, which amended Title IX of the Farm Security and Rural Investment Act of 2002 to include a new section 2011. The United States Department of Agriculture (USDA) designated the Farm Service Agency (FSA) as the program administrator.

Under BCAP collection, harvest, storage and transportation (CHST) payments were paid to producers of an eligible crop on land under a BCAP contract or to a person with the right to collect or harvest material eligible for BCAP. The payments are to be provided on a matching basis at a rate of \$1 for each \$1 per ton provided by the biomass conversion facility, up to an amount not to exceed \$45 per ton, for a period of two years.

Prior to the promulgation of a rule governing the BCAP program, FSA chose to administer the CHST portion of the program under a Notice of Funding Availability (NOFA). Without the appropriate rulemaking process, USDA lacked the proper economic understanding of the program. The resulting participation pushed the budgetary projection well over initial calculations. The President's FY 2011 Budget estimated cost of BCAP for the fiscal year at \$742 million, over ten times the Farm Bill projection for all five years of authorization.

USDA proposed a rule for the entire BCAP program on February 8, 2010, followed by a 60 day comment period. USDA then chose to suspend all payments of the CHST program until the completion of the BCAP rule. On March 31, 2010, payments ceased for applicants who had been approved prior to the program suspension on February 8.

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The suspension of these funds has been devastating to loggers and other parties who participated in the CHST program. Numerous parties invested their own resources in equipment, timber/woody biomass, and employees based upon projected payment schedules through the CHST. When they entered the program, there was no indication from FSA that the program would be suspended. The suspension of payments has been disruptive and frankly unfair to the participants. Despite the fact that their payments will resume when the rule is complete, these folks have bills to pay and contracts to honor today.

I respectfully request that you work together to immediately restart payments to participants in the CHST program. I agree that it is necessary to complete the rule on BCAP to provide better guidance for administration. However, the suspension comes on the backs of the people who will carry-out the Administration's goals of developing advanced biomass production and cultivation techniques.

I represent the First Congressional District of North Carolina, which is the fourth poorest Congressional District in the United States. Our remaining industries deserve a fair shake from the Government. They entered into CHST honestly and enthusiastically, and have been rewarded by suspending the very funds they depend upon to survive. Please work to restart these funds. I eagerly anticipate your response.

Thank you very much.

Very truly yours,



G. K. Butterfield
Member of Congress

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