



## Institute for Agriculture and Trade Policy

September 24, 2009

### BCAP PEIS

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To Whom It May Concern,

The Institute for Agriculture and Trade Policy is submitting these comments on the Draft Programmatic Environmental Impact Statement (PEIS) on the Biomass Crop Assistance Program (BCAP). The Institute for Agriculture and Trade Policy works locally and globally at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems. We have been involved in national and global policy on food, farming, clean energy, trade and global governance for 23 years. In particular, we helped shape the Biomass Crop Assistance Program as it was passed into law last year, and will continue to monitor its development and support its implementation. Our goal is for BCAP to meet its legislative intent of supporting farmers and bioenergy producers in new and sustainable biomass crop establishment.

In regard to the overall comment process, we are concerned that our input on the proposed scope for this PEIS, including the proposed preliminary program alternatives, along with the input of many interested organizations, was completely ignored in drafting this PEIS. The two "alternatives" did not change but were left as is, as arbitrary contrasts, neither of which was contemplated in the enabling legislation of BCAP. We continue to believe that each alternative would be illegal under the language enacted into the BCAP law in 2008. We certainly hope that the input being collected on this draft EIS will in fact be used to revise the final PEIS.

In our opinion, the final PEIS should contain a science-based evaluation of potential environmental impacts of different types of biomass production, particularly evaluating relative impacts of different feedstocks on soil and water quality, wildlife and biodiversity, and climate considerations. According to CEQ guidance, the primary purpose of an environmental impact statement (EIS) is to "provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment" (40 CFR 1502.4). This draft PEIS clearly does not do that.

Instead, this draft PEIS avoids nearly all of the important questions about how BCAP should be run to maximize establishment of the most environmentally beneficial crops and minimize support for biomass crops that may harm the environment. Most of the information presented is general information that is not analyzed or interpreted

in regard to how different types of biomass development might be beneficial or harmful. We would suggest major revisions, except that well over a year has already been wasted since enactment of BCAP. Considering the urgency of introducing BCAP support, we instead feel it would be better at this point to proceed with sensible rules and implementation, and ignore the useless alternatives and mitigation presented in this document.

To move forward BCAP quickly but in a way that would be of least risk to the environment prior to establishment of the final rule, we recommend the following initial priorities:

- Issue a draft rule as soon as possible, to allow early 2010 project selection.

- Focus BCAP on establishing new biomass crops for new biomass facilities.

- Focus BCAP exclusively on perennial feedstocks.

- Fund a variety of projects with a variety of feedstocks and varying scales, selected for their strong contribution to environmental benefits. Use the new Conservation Measurement Tool created by NRCS for the Conservation Stewardship Program to evaluate feedstock options.

- Establish carbon sequestration as a priority within the program's parameters, and prioritize project support based on carbon sequestration potential.

- Require rigorous conservation plans and forest stewardship plans.

- Exclude commodity crop residues from both the BCAP CHST program and the BCAP projects.

- Refocus the BCAP CHST program on new biomass supplies, not supplies that were already flowing freely into the market.

Specific comments follow:

P 40 BCAP Eligible Crops. The law clearly says that Title 1 commodity crops are not eligible crops for BCAP. We object to the interpretation presented here (and in the CHST NOFA) that Title 1 commodity crop residues are eligible crops. That is not our reading of the clear language of the law. There is no rational reason for Congress to subsidize removal of a residue product after they have already subsidized the commodity crop itself. The distinction between the grain and the crop stem, stalk, cob or hull is not important, as the entire crop was already produced with commodity program support and needs no further incentive. We recommend that the CHST program immediately suspend payments for Title 1 crop residues.

In addition, Appendix B of the PEIS should be revised to exclude Title 1 residues. We support the assertion of the PEIS on page 40 that BCAP projects should focus on dedicated energy crops— however, this must be written into the rule, and it is consistent with our interpretation of the law for both parts of BCAP. In an apparent self-contradiction, the PEIS on page 47 seems to say the CHST list of eligible materials would apply to BCAP project areas as well. We strongly oppose using that list for BCAP projects. In addition, the CHST program ought to be returned to its original intent: to assist BCAP contract holders ONLY. The intent is to help with CHST for new biomass materials that need innovation and development of techniques for CHST issues.

P 43 Agricultural Resources. It is baffling that you do not describe the environmental hazards of crop residue removal, the water and soil impacts of annual biomass crop production, nor the benefits of mixed native species perennial plantings. Without such consideration and review, this section absolutely failed to meet its intended need.

P 43 Biomass Conversion Facilities. You fail to include the use of biomass for power and heat at existing biofuels facilities ó key areas of opportunity for new and economical biomass use.

P 36 Cooperating Agencies NRCS should be added to the list for their role in designing and approving conservation plans for every non-forest BCAP contract.

Page 87 Soil Carbon Sequestration The assertion that perennial crops would maximize carbon storage in the soil should be emphasized. It is also noted that vast improvements to stopping erosion, sedimentation, and polluted runoff come from perennial vegetation. This should guide BCAP crop selection toward perennials and away from annuals and residues from annuals. Similarly page 89 points out the virtues of perennials versus annuals or annual residues in regards to surface water quality and groundwater quality.

Page 90 Water Use Quantity The irrigation section lacks clear analysis of what BCAP should do about irrigation. Considering increasing concerns about water availability and use, we advocate no BCAP payments for irrigated biomass, including both dedicated energy crops and residues.

Page 114 Top 5 BCAP Project Sites We object to the criteria used to predict the top BCAP project sites, even though we understand it is merely part of a modeling exercise. Selection criteria for BCAP projects are clearly laid out in the law, and they are largely ignored here, including the most important criteria which is environmental sustainability. This whole economic analysis is useless when Alternative A itself, funding only 2-5 enormous facilities, is rejected, as it should be because it is inconsistent with the goals of BCAP.

Page 177 Genetically Engineered Organisms Because the EIS finds that each site using genetically engineered organisms will require site-specific review and extensive research and delays, we recommend that BCAP not cover such feedstocks at all, especially considering that most proposed biomass crops under consideration for production are already non-GMO.

Page 187 Air Quality This analysis of GHG emissions seems extremely flawed when it assumes that Alternative 2 would rely on crop residue removal and conversion of pasture and hayland to energy crops, and therefore increase emissions. BCAP must provide guidance and limitations away from those biomass types of scenarios, and instead focus on establishing perennials on degraded croplands, thereby dramatically reducing GHG emissions, and hopefully even

achieving zero carbon due to high levels of carbon sequestration. FSA must find a simple way to do an adequate lifecycle analysis of GHG emissions for each BCAP project selected.

Page 215 Mitigation Recommendations. The PEIS mischaracterizes the required conservation plan for all BCAP farm participants as being focused only on Conservation Reserve Program participants, to ensure compliance with CRP while growing biomass under BCAP. The true purpose of the conservation plan is for NRCS to approve every non-forest BCAP participant's total management of their biomass land. The conservation plan should include protection of water, soil and wildlife and include specific requirements for every practice needed during establishment, production and harvest.

We recommend that FSA work in partnership with NRCS to create a version of the newly developed Conservation Measurement Tool to apply specifically to biomass production. This tool can assess each grower's site and conservation practices to ensure sustainable operations. NRCS needs to create criteria for an approved conservation plan for each BCAP contract. Other than the CMT, there are no such criteria now. NRCS Practice Standards specify how to do a practice if and when a farmer voluntarily chooses such a practice. They do not provide recommendations. It is essential that BCAP have rigorous conservation and forest stewardship plans that meet stated criteria for approval, and in fact are monitored to ensure that the plans are implemented during the five year BCAP contract.

Thank you for considering our comments.

Sincerely,

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