

December 4, 2009

Ms. Lisa Jackson, Administrator
US Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Dear Ms. Jackson:

We, the twenty-seven undersigned social and environmental organizations, representing more than a million supporters nationwide, are concerned about the potential for the cellulosic biofuel producer credit contained in the 2008 farm bill to be inappropriately awarded to kraft pulp and paper mills for burning black liquor, a waste product of the kraft process. Not only have kraft mills been burning black liquor since the 1930s, but also doing so is necessary to recover chemicals they need for pulping. Burning of black liquor thus requires no subsidy to make it profitable for mills. Furthermore, black liquor is not a new, clean, climate-friendly biofuel.

The paper industry undoubtedly plays an important economic role in many rural regions of our country and there is a legitimate set of public policy questions about what types and levels of public support are needed to keep the industry competitive and help it become more energy efficient and less carbon intensive. However, this larger debate is undermined by tax incentives that create perverse environmental outcomes.

The original tax credit loophole for this fuel is in the 2005 transportation bill, and though it is set to expire at the end of 2009, it has already cost taxpayers billions of dollars in payouts to those virgin pulp and paper companies who have applied for it. In 2009 alone it is estimated that this loophole will cost between \$6-8 billion – far exceeding the original \$61 million estimated for the cost of the credit. Goldman Sachs reported that not only has this created profits for paper companies through a “black liquor to gold” scheme, but also that it was the “opposite of what the lawmakers likely had in mind when the tax credit was established.”

The original intent of both of these tax credits is to reduce dependence on fossil fuels and incentivize the production and use of domestic alternatives. Instead, paper companies brazenly crafted a creative yet crude way to dip into the pockets of US taxpayers, and are being paid billions for what they have been doing for over 75 years, and would continue to do without the credit. It is worth noting that they actually increased their use of diesel fuel as the alternative fuels credit required the alternative fuel be mixed with a certain percent of fossil fuel – clearly a requirement intended for ethanol, not black liquor.

Another unintended consequence caused by this loophole is a distinct competitive advantage for virgin paper producers over recycled paper producers. Because recycled paper producers rely on recovered paper rather than virgin wood pulp to make their product, they do not produce and burn black liquor, and therefore are not eligible for the credit. Thus, an incentive to increase the use of products that have less impact on our climate had the opposite effect: high energy and carbon intensive virgin paper was rewarded while lower energy and lower carbon recycled paper products were not. Despite these unintended consequences, Representative Steve Kagen (D-WI) has recently introduced HR 4066 to make the alternative fuels tax credit permanent, rather than allowing it to expire at the end of this year.

Our organizations are very concerned about the challenges such perverse incentives have for our nation’s ability to build a green jobs economy, address climate change and create energy security. Recycled paper manufacturing creates jobs in our communities, reuses waste paper, which

conserves valuable landfill space and reduces methane emissions, and reduces the manifold environmental impacts of one of the most resource intensive and polluting industries in our nation.

In summary, we must learn from the mistakes of the alternative fuels tax credit. By allowing black liquor to be eligible, the very intention of the credit was undermined, as it *increased* use of fossil fuel rather than decreased it, cost taxpayers billions of dollars, and placed greener, cleaner ways of making paper at a severe market disadvantage. In other words, limited resources necessary to solve the nation's -- and the planet's -- urgent problems are being handed out via this loophole for long-standing behavior instead of as a reward for innovation.

Now, the EPA has an opportunity to avoid this mistake by stating clearly that black liquor is not eligible for the cellulosic biofuels producer credit. We urge the EPA to seize this opportunity not only for the clear benefits to our environment but also for the significant economic benefits to our nation. We are happy to provide any further resources on this issue to assist you and your staff on this important issue.

Sincerely,

David Mickey	<i>Blue Ridge Environmental Defense League</i>
Rev. Charles Lord	<i>Caney Fork Headwaters Association</i>
Nicole Rycroft	<i>Canopy</i>
Archie Beaton	<i>Chlorine Free Products Association</i>
Dave Werntz	<i>Conservation Northwest</i>
Susan Kinsella	<i>Conservatree</i>
Rev. Walter Stark	<i>Cumberland Countians for Peace & Justice</i>
Scot Quaranda	<i>Dogwood Alliance</i>
Margaret Sheehan	<i>EcoLaw Massachusetts</i>
Scott Greacen	<i>Environmental Protection Information Center</i>
Ginger Cassady	<i>Forest Ethics</i>
Frank Locantore	<i>Green America Better Paper Project</i>
Alan Muller	<i>Green Delaware</i>
Tyson Miller	<i>Green Press Initiative</i>
Ernie Reed	<i>Heartwood</i>
Jim Scheff	<i>Kentucky Heartwood</i>
Kimberly Baker	<i>Klamath Forest Alliance</i>
Mary Booth	<i>Massachusetts Environmental Energy Alliance</i>
Eric Palola	<i>National Wildlife Federation</i>
Tim Hermach	<i>Native Forest Council</i>
Nick Bennett	<i>Natural Resources Council of Maine</i>
Allen Hershkowitz	<i>Natural Resources Defense Council</i>
Donald B. Clark	<i>Network for Environmental & Economic Responsibility/United Church of Christ</i>
Michael Brune	<i>Rainforest Action Network</i>
Delores Broten	<i>Reach for Unbleached</i>
Mark Donham	<i>Regional Association of Concerned Environmentalists (RACE)</i>
Matthew Koehler	<i>WildWest Institute</i>

Coordinated by the Environmental Paper Network

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cc: Gina McCarthy, USEPA Assistant Administrator, Air and Radiation
Margo Oge, USEPA Director of the Office of Transportation and Air Quality