

1 INTERIM RESOLUTION 2023-005

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3 REQUESTING THE SENATE COMMITTEE ON AGRICULTURE, FORESTRY, AND
4 ECONOMIC DEVELOPMENT AND THE HOUSE COMMITTEE ON AGRICULTURE,
5 FORESTRY, AND ECONOMIC DEVELOPMENT ENCOURAGE THE UNITED STATES
6 CONGRESS TO ENSURE THAT PRIOR CONVERTED CROPLAND THAT IS LEASED
7 FOR SOLAR ARRAYS MAINTAINS ITS DESIGNATION AS "AVAILABLE FOR
8 AGRICULTURE" THROUGH AN AMENDMENT TO THE AGRICULTURE IMPROVEMENT
9 ACT OF 2018 (ALSO KNOWN AS THE FARM BILL) OR IN UNITED STATES
10 DEPARTMENT OF AGRICULTURE GUIDANCE.

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12 WHEREAS, prior converted croplands are wetlands that were converted to
13 agricultural use before December 23, 1984; and

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15 WHEREAS, wetland conservation provisions in the Food Security Act of
16 1985 protect wetlands on private lands from conversions to nonagricultural
17 use to ensure that production of a commodity crop is possible; and

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19 WHEREAS, the status of prior converted cropland exempts the land from
20 Clean Water Act regulations unless there is a change in land use, which
21 occurs when cropland becomes unavailable for agricultural use through
22 commercial or residential development; and

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24 WHEREAS, certain conservation activities, including wildlife
25 management, forestry, and fallowing land, are not considered changes in land
26 use due to the ability to return to agricultural production at any time; and

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28 WHEREAS, while solar leases are clearly nonagricultural, the land also
29 remains available for agricultural production upon termination of the lease;
30 therefore, prior converted cropland leased for solar arrays faces uncertainty
31 regarding its prior converted cropland status; and

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33 WHEREAS, under the current memorandum between the United States
34 Department of Agriculture, the United States Environmental Protection Agency,
35 and other federal agencies, the status of prior converted cropland follows
36 United States Department of Agriculture guidance, with no penalties for

1 abandonment as long as the land remains available for the production of
2 agricultural commodities; and

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4 WHEREAS, the United States Department of Agriculture manual currently
5 classifies solar arrays as nonagricultural; therefore, prior converted
6 cropland leased for solar arrays would lose its prior converted cropland
7 designation and jeopardize its certified wetland determination, which would
8 prevent the land from returning to crop production in the future; and

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10 WHEREAS, this potential risk could, in turn, erode land values; and

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12 WHEREAS, the Agriculture Improvement Act of 2018 or United States
13 Department of Agriculture guidance needs to be amended to ensure that prior
14 converted cropland leased for solar arrays maintains its available for
15 agriculture status through designation as "fallow" or other appropriate
16 designation,

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18 NOW THEREFORE,

19 BE IT RESOLVED BY THE SENATE COMMITTEE ON AGRICULTURE, FORESTRY, AND ECONOMIC
20 DEVELOPMENT AND THE HOUSE COMMITTEE ON AGRICULTURE, FORESTRY, AND ECONOMIC
21 DEVELOPMENT OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 THAT the Senate Committee on Agriculture, Forestry, and Economic
24 Development and the House Committee on Agriculture, Forestry, and Economic
25 Development encourage the United States Congress to review issues related to
26 prior converted cropland leased as solar arrays and make amendments to the
27 Agriculture Improvement Act of 2018 or to United States Department of
28 Agriculture guidance to ensure that prior converted cropland leased as solar
29 arrays maintains its available for agriculture status through an appropriate
30 designation.

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32 BE IT FURTHER RESOLVED THAT upon adoption of this resolution, a copy be
33 provided by the staff of the Bureau of Legislative Research to the United
34 States Department of Agriculture, the majority leader of the United States
35 Senate, the Speaker of the United States House of Representatives, and the
36 members of the Arkansas congressional delegation.

1 Respectfully submitted,

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5 Senator Ronald Caldwell

6 District 10

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10 Representative Roger D. Lynch

11 District 60

12 Prepared by: CRH/CRH

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