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B-142011, Aug. 6, 1969

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MISCELLANEOUS - AGRICULTURE - PRICE-SUPPORT LIMITATION AFFECT DECISION TO THE SECRETARY OF AGRICULTURE HOLDING THAT FUNDS MADE AVAILABLE IN THE CONTINUING APPROPRIATION, FOR VARIOUS DEPARTMENTS, PUBLIC LAW 91-33, UNTIL THE REGULAR 1970 APPROPRIATIONS ARE ENACTED, IS NOT SUBJECT TO THE $20,000 PRICE-SUPPORT PAYMENT LIMITATION INCLUDED IN ONE OF THE VERSIONS OF THE DEPARTMENT'S REGULAR APPROPRIATION WHICH HAS PASSED THE HOUSE AND SENATE BUT HAS NOT BEEN SENT TO CONFERENCE.

TO MR. SECRETARY:

YOUR LETTER OF JULY 23, 1969, REQUESTS A DECISION AS TO WHETHER THE JOINT (CONTINUING) RESOLUTION, H.J. RES. 790, PUB.L. 91-33, 83 STAT. 38, MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1970, PROHIBITS THE USE OF FUNDS FOR THE FORMULATION OF PRICE SUPPORT PROGRAMS FOR THE 1970 CROP YEAR WHICH FAIL TO ESTABLISH A $20,000 CEILING ON PAYMENTS UNDER WHEAT, COTTON, AND FEED GRAIN PROGRAMS TO ANY INDIVIDUAL FARMER.

THE JOINT RESOLUTION APPROPRIATES (SECTION 101 (A) (1)):

"SUCH AMOUNTS AS MAY BE NECESSARY FOR CONTINUING PROJECTS OR ACTIVITIES (NOT OTHERWISE SPECIFICALLY PROVIDED FOR IN THIS JOINT RESOLUTION) WHICH WERE CONDUCTED IN THE FISCAL YEAR 1969 AND FOR WHICH APPROPRIATIONS, FUNDS, OR OTHER AUTHORITY WOULD BE AVAILABLE IN THE FOLLOWING APPROPRIATION ACTS FOR THE FISCAL YEAR 1970:

"DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATION ACT;

"TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION ACT; AND

"INDEPENDENT OFFICES AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATION ACT.'

PARAGRAPH (3) OF SECTION 101 (A) OF THE JOINT RESOLUTION PROVIDES THAT WHENEVER THE AMOUNT WHICH WOULD BE MADE AVAILABLE "OR THE AUTHORITY WHICH WOULD BE GRANTED" UNDER AN APPROPRIATION ACT (BILL) -- LISTED IN SECTION 101 (A) (1) -- AS PASSED BY THE HOUSE,"IS DIFFERENT" FROM THAT WHICH WOULD BE AVAILABLE OR GRANTED UNDER THE ACT (BILL) AS PASSED BY THE SENATE, THE PROGRAM SHALL BE CONTINUED UNDER THE LESSER AMOUNT OR "THE MORE RESTRICTIVE AUTHORITY.'

HOWEVER, PARAGRAPH (4) OF THE SAME SECTION OF THE RESOLUTION CONTAINS THE FOLLOWING EXPRESS EXCEPTION: "PROVIDED, THAT NO PROVISION (EXCEPT A PROVISION

AUTHORIZING THE FILLING OF POSITIONS) WHICH IS INCLUDED IN AN APPROPRIATION ACT ENUMERATED IN THIS SUBSECTION BUT WHICH WAS NOT INCLUDED IN THE APPLICABLE APPROPRIATION ACT FOR 1969, AND WHICH BY ITS TERMS IS APPLICABLE TO MORE THAN ONE APPROPRIATION, FUND, OR AUTHORITY SHALL BE APPLICABLE TO ANY APPROPRIATION, FUND, OR AUTHORITY PROVIDED IN THIS JOINT RESOLUTION UNLESS SUCH PROVISION SHALL HAVE BEEN INCLUDED IN IDENTICAL FORM IN SUCH BILL AS ENACTED BY BOTH THE HOUSE AND THE SENATE.'

IT IS THE CONCLUSION OF THE GENERAL COUNSEL OF YOUR DEPARTMENT THAT THIS EXCEPTION APPLIES TO THE $20,000 PAYMENT LIMITATION AND THAT THE PAYMENT LIMITATION IS, THEREFORE, NOT APPLICABLE TO THE APPROPRIATIONS PROVIDED IN THE JOINT RESOLUTION.

THE $20,000 PAYMENT LIMITATION IS CONTAINED IN H.R. 11612 (AS PASSED BY THE HOUSE), WHICH IS A BILL "MAKING APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1970, AND FOR OTHER PURPOSES.' THE LIMITATION WAS NOT IN THE BILL AS PASSED BY THE SENATE. THE BILL WHEN ENACTED INTO LAW WILL BE THE DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATION ACT, 1970. THE LIMITATION IN QUESTION READS AS FOLLOWS: "PROVIDED FURTHER, THAT NO PART OF THE FUNDS APPROPRIATED BY THIS ACT SHALL BE USED TO FORMULATE OR CARRY OUT ANY PRICE SUPPORT PROGRAM (OTHER THAN FOR SUGAR) UNDER WHICH PAYMENTS AGGREGATING MORE THAN $20,000 UNDER ALL SUCH PROGRAMS ARE MADE TO ANY PRODUCER ON ANY CROP PLANTED IN THE FISCAL YEAR 1970.'

THE $20,000 PAYMENT LIMITATION BY ITS TERMS IS APPLICABLE TO EACH APPROPRIATION IN THE ACT PROVIDING FUNDS THEREIN FOR WHATEVER PURPOSE. INDICATED ABOVE, H.R. 11612, THE BILL IN WHICH THE PAYMENT LIMITATION APPEARS, MAKES "APPROPRIATIONS" FOR THE DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1970 . IT CONTAINS SEPARATE SPECIFIC APPROPRIATIONS FOR THE VARIOUS SERVICES, CORPORATIONS, ADMINISTRATIONS AND OFFICES OF THE DEPARTMENT, AS WELL AS AN APPROPRIATION FOR A RELATED AGENCY. ALSO, AS POINTED OUT IN OUR DECISION OF JUNE 19, 1969, B-142011, TO YOU, RELATING TO THE APPLICABILITY OF THE $20,000 LIMITATION, SEVERAL OF THE APPROPRIATIONS WHICH ARE CONTAINED IN H.R. 11612 -- E.G., THE SPECIFIC APPROPRIATIONS MADE TO THE OFFICE OF THE SECRETARY AND OFFICE OF THE GENERAL COUNSEL - PROVIDE FUNDS FOR THE PAYMENT OF SALARIES OF OFFICIALS AND EMPLOYEES OF YOUR DEPARTMENT WHOSE SERVICES ARE UTILIZED IN FORMULATING OR CARRYING OUT A PRICE SUPPORT PROGRAM. SINCE THE $20,000 PAYMENT LIMITATION APPLIES TO EACH OF THE SEVERAL APPROPRIATIONS CONTAINED IN H.R. 11612, IT IS CLEARLY APPLICABLE TO MORE THAN ONE APPROPRIATION. THEREFORE, SINCE THE LIMITATION WAS NOT INCLUDED IN THE APPLICABLE APPROPRIATION ACT FOR 1969 AND HAS NOT BEEN ENACTED BY BOTH THE HOUSE AND SENATE, PARAGRAPH (4) OF THE JOINT RESOLUTION EXPRESSLY MAKES THE LIMITATION INAPPLICABLE TO ANY APPROPRIATION, FUND, OR AUTHORITY PROVIDED IN THE RESOLUTION.