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## Congress of the United States

### House of Representatives

Washington, DC 20515-0304

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The Honorable Peter King  
Chairman  
House Committee on Homeland Security  
176 Ford House Office Building  
Washington, DC 20515

The Honorable Bill Shuster  
Chairman  
House Subcommittee on Emergency  
Management  
591 Ford House Office Building  
Washington, DC 20515

Dear Chairman King and Chairman Shuster:

First, let me thank both of you for your respective visits to Southwest Louisiana and the areas hit by Hurricane Rita. Your presence, along with Speaker Hastert, made clear to the residents and local officials that their hard work has not gone unnoticed, and that this Congress has not forgotten about Hurricane Rita.

As Chairman King will recall, much of the discussion during the recent Congressional Delegation visit to Cameron centered on President Bush's decision to exclude Rita-affected parishes from an extension of full federal funding for debris removal. As you heard from the parish officials, this action has forced many local governments to foot a bill they do not have the resources to pay.

This week, the Federal Emergency Management Agency (FEMA) again denied requests from the Louisiana Congressional Delegation to reverse this unfortunate decision. This comes as an added disappointment for the people of Southwest Louisiana, but it is one we have come to expect from this federal agency that has repeatedly let us down.

You both know as well as I do that the people of Southwest Louisiana, though disappointed, will not let this decision hamper their spirit and determination to rebuild. Time and time again, they have dealt with unacceptable decisions and punishments throughout their recovery. In every instance, they have overcome the disappointment and resolved to continue to rebuild their homes and communities, with or without help from the federal government.

As their representative in Congress, however, I do not take these actions by FEMA lightly, nor will I soon forget them.

While I have now accepted the fact that the debris removal decision will not be reversed, I write to inform you of information that FEMA has been withholding from both Congress and the people of Southwest Louisiana.

Following the June 29, 2006 debris removal decision, my staff inquired on my behalf about the criteria and conditions FEMA used to make this recommendation to the President. My staff was told that the information is exempt from release under the Freedom of Information Act (FOIA) Exemption 5, 5 U.S.C. § 552(b)(5), "in that it is a part of the deliberative process and is pre-decisional in nature."

Exemption 5 of the FOIA applies to internal government documents, specifically from one government department to another regarding a joint decision that has *not yet been made*. Protection for the decision-making process is appropriate only for the period while decisions are being made. Since the President's decision *was made* public on June 29<sup>th</sup>, I have no reason to explain how the documents are still "pre-decisional in nature."

Additionally, while Exemption 5 protects the policymaking process, it does not protect purely *factual* information related to it. Since the criteria and conditions for determining this debris removal extension are assumed to be factual in nature, once again, the information should be disclosed under a FOIA request.

On July 18<sup>th</sup>, I filed a formal appeal under the FOIA to Homeland Security Secretary Chertoff for the documents related to the debris removal decision. As of today, I have only received acknowledgement of this appeal from the Privacy Office of the Department of Homeland Security (DHS).

I find it troubling, as a Member of Congress, that FEMA would continually deny these simple requests for documents, all the while using little legal reasoning.

As Members of Congress, we have an oversight responsibility to ensure that the Executive Branch disclose any and all information available, as permissible by law and national security. Therefore, I write to both of you, as chairmen of committees with oversight of DHS and FEMA, to bring this issue to a close. I offer any assistance I can provide in the way of hearings, or necessary legal action, that can accomplish this goal. Attached, you will find relevant correspondence between my office and these agencies.

The fact that Southwest Louisiana was excluded from the debris removal decision is contemptible enough. The least that FEMA and DHS can do is provide Congress with the documents that reveal how they came to this determination. Most important of all, the people of Southwest Louisiana who were left out of this extension have a right to know how and why their federal government let them down.

Sincerely,

  
Charles W. Boustany, Jr., M.D.  
Member of Congress

Cc: The Honorable Michael Chertoff, Secretary of Homeland Security  
The Honorable David Paulison, Director of FEMA  
Don Powell, Federal Coordinator for the Office of Gulf Coast Rebuilding  
The Honorable J. Dennis Hastert, Speaker of the House  
The Honorable Michael McCaul, Chairman, House Homeland Security  
Subcommittee on Investigations