



Western States Petroleum Association
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Catherine Reheis-Boyd
Chief Operating Officer and Chief of Staff

February 8, 2008

Bob Fletcher
Chief, Stationary Source Division
California Air Resources Board
1001 I Street
Sacramento CA 95814

Re: Low Carbon Fuel Standard (LCFS); Life Cycle Analysis – Land Use Change

Dear Mr. Fletcher:

The Western States Petroleum Association (WSPA) requests the California Air Resources Board (ARB) to address the effects of land use change (LUC) on the feasibility, design, and implementation of the Low Carbon Fuel Standard (LCFS).

Recent research on this issue, including information presented by the University of California at the January 17, 2008 LCFS Life Cycle Analysis Workgroup meeting, indicates that policies involving the increased use of currently available biofuels may undermine the LCFS and may actually increase the green house gas (GHG) intensity of California transportation fuel supplies.

We believe that ARB needs to resolve basic Life Cycle Analysis (LCA) questions raised by this research before proceeding with other LCFS policy recommendations.

Current Biofuels May Increase Fuel GHG Intensity

The University of California's presentation preliminarily reported on the GHG impacts of direct and indirect land use change resulting from increased cultivation of many biofuels. When these impacts are included in the life cycle analysis, those biofuels have substantially higher GHG intensity than that of the current fuel pool.

The refined analysis that is expected over the next few months should provide more reliable estimates of land use impacts on GHG intensity. It is possible the results will still show that biofuels produced from many biofuel technologies have higher GHG intensity than the current fuel pool.

Implications for LCFS Policy Decisions

Clearly, the LCFS anticipates the eventual development and commercialization of fuels from cellulosic feedstocks and other sources that are hoped not to have significant LUC effects associated with them. While it is well known that these fuel sources are a number of years away from being broadly available in the commercial market, the LUC effects potentially limit the role of these breakthrough technologies as well.

We believe that the true significance of this information relates to the initial scope of the LCFS, and to the interim compliance targets established under the LCFS. It is critical that land use change be sufficiently understood both to enable accurate assessment of the program and to provide regulatory certainty.

California Environmental Quality Act (CEQA) – LCFS, Predictive Model, and Federal RFS

The University of California report contains significant new information. We believe the Board must take this information into account under CEQA in the development of the LCFS, to the extent that scope decisions and compliance targets result in increases in the use of currently available corn-based ethanol.

Also, recent federal fuels legislation further complicates the current situation. The Energy Independence and Security Act of 2007 increases the national Renewable Fuel Standard mandate from 4.7 billion gallons in 2007 to 9 billion gallons in 2008 and to 13.95 billion gallons by 2011.

Through at least 2015, most of this mandate is expected to be met from corn-based ethanol. The ongoing rulemaking to update the Predictive Model will encourage a portion of the federal requirement to be satisfied in California, since ARB staff and the California Energy Commission (CEC) have projected that additional ethanol will be blended into gasoline in order to mitigate permeation emissions.

Prior to January 17, it was thought that the federal RFS might help achieve LCFS objectives. Should that prove not to be the case, a full accounting of the impact must be incorporated into the development of the LCFS program.

USEPA is attempting to incorporate life cycle analysis and GHG elements into the federal Renewable Fuels Standard. This reinforces our view that the Board's Predictive Model rulemaking is connected to the development of the LCFS and the federal Renewable Fuel Standard, and that both state rules should be coordinated in their development with the federal RFS.

Relation of LCFS to Food Supply and Prices

We also note the presentation made by ARB staff to the AB 32 Environmental Justice Advisory Committee at its January 28 meeting in Sacramento, particularly the

confirmation that both direct and indirect land use impacts of biofuels would be accounted for in the LCA, and ARB's inclusion of a food supply impact analysis in its LCFS development.

Questions for ARB and Need for Meeting

We want to meet with you and your staff in the very near future to discuss the implications of this information for the development of the LCFS. We believe that there are several specific questions that need answers:

- What further LCA work on land use change is ARB expecting to receive during the LCFS rule-development, and when is that work expected to be complete?
- What is ARB staff's assessment of the University of California's preliminary report on land use change?
- Which LCFS policy issues does ARB staff consider to be influenced by the outcome of land use change evaluation in the life cycle analysis?
- How does ARB staff propose to consider food supply and prices, as indicated in its presentation to the EJAC?

Besides the issue of land use changes, there are some other issues we would like to discuss with you. The earlier UC Report on the technical feasibility of the LCFS detailed many challenges and uncertainties that need to be addressed surrounding the feasibility of the 10% goal for reduction of the carbon intensity of California fuel.

As we have worked with ARB staff over recent months during the initial design of the LCFS, we have become concerned that many of these challenges and uncertainties are being overlooked. Examples include the setting of a separate intensity reduction target for diesel fuel and ARB's apparent intention to disallow the role that light duty diesel fuel and vehicles can play in providing real GHG emission reductions in the transportation sector.

WSPA Implementation Proposal

WSPA is committed to work with the Administration, agencies, and stakeholders to achieve a workable LCFS. We are scheduling an LCA Collaborative meeting and are hoping this will provide a productive forum for a discussion of land use change issues.

Also, WSPA staff, consultants, and members have invested significant time, effort, and intellectual capital in order to develop a coherent and comprehensive implementation proposal for the LCFS. This implementation proposal should have reasonable targets and flexibility to deal with the material existing uncertainties.

The proposal will also be designed to maximize the potential to achieve the intended underlying goals of the LCFS. We are striving to have this proposal ready to share with you and your staff in the near future. However, we believe that the implications of the information presented by the University of California related to land use change impacts must be addressed immediately.

This will help ensure that WSPA's proposal and any other proposed approaches can be accurately evaluated on the feasibility, efficiency, and likelihood of achieving the LCFS' objectives.

Recommendation

WSPA believes that the decision-making implication of this recent LUC information is important. Before issuing draft recommendations on scope, interim targets, and related policy elements of the LCFS, ARB should focus on LCA issues and the further research that is expected to be available over the next few months on land use effects and GHG emissions. We look forward to discussing these matters further in the upcoming Life Cycle Analysis Collaborative.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine A. Boyd".

cc: Dan Dunmoyer, Deputy Chief of Staff, Governor Schwarzenegger
David Crane, Special Advisor to the Governor
Linda Adams, Secretary for Environmental Protection
Mary Nichols, Chairman ARB
Cindy Tuck, Undersecretary, CALEPA
James Goldstene, Executive Officer, ARB
John Moffatt, Deputy Legislative Secretary
Darren Bouton, Deputy Cabinet Secretary
Chuck Shulock, Assistant Executive Officer, ARB
Dan Pellissier, Assistant Secretary for Energy Policy
Joe Sparano, President WSPA