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Western States Petroleum Association

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Catherine H. Reheis-Boyd
President

May 23, 2011

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-IEP-1L
1516 Ninth Street
Sacramento, CA 95814-5512

Re: 2011 IEPR – Transportation Fuels and Infrastructure
Docket No. 11-IEP-1L

Dear Docket:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide some general comments relative to the Commission's Transportation Committee Workshop on May 11 on transportation fuel infrastructure issues that may affect the adequacy of California's petroleum and alternative fuel supplies. WSPA is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, and five other western states.

Overall, WSPA continues to advocate for a realistic, science based, and apolitical approach to establishing future requirements for California's transportation fuel supplies. We believe such an approach will recognize the role of petroleum-based fuel products, and provide a realistic, technologically feasible and cost-effective portfolio of alternative fuels. California needs adequate, reliable, affordable, and clean supplies of energy to serve its citizens and maintain a strong economy.

We are encouraged the CEC has begun to study the entire transportation fuels system in the state – including petroleum fuels - and is no longer merely focused on the introduction of alternative and renewable fuels which is what we observed in the years prior to the 2009 IEPR. Until new vehicle technologies and alternative fuels are commercialized, petroleum will continue to be the primary fuel source for California's vehicles. The state can assist in the enhancement and expansion of the existing petroleum infrastructure, particularly at marine ports, while at the same time working to develop an alternative fuel infrastructure.

WSPA provided testimony at the CEC workshop held on May 11, however, we anticipate the majority of our comments will be provided when staff produces the draft report for review. The questions posed by staff in the "Attachment to Notice" are all excellent and need to be asked, but need significant detailed input from individuals, companies and stakeholders. WSPA is happy to assist where possible.

We would like to highlight a few issues at this point in time for further consideration in this year's IEPR:

- WSPA strongly encourages the staff to include the challenges or barriers associated with all fuels to be identified in the executive summary and recommendations. These sections are the ones focused on by policymakers. Past documents have tended to gloss over these issues in these key sections.

- We believe the CEC can play a vital role in addressing these transportation fuel challenges and energy supply implications, and suggest the issues identified in the transportation report be highlighted in the 2011 IEPR. Three specific areas we believe the Commission can engage in to ensure energy considerations are included are: the ARB's LCFS Periodic Review Advisory Panel for this year, the ARB's ongoing work on crude oil treatment, and the year-end ARB Board hearing where revisions to the LCFS regulation are going to be considered.

- The critical synergy amongst the three elements: the vehicles, the fuels, and the consumer, needs to be more fully addressed this year. The advent of RFS2 and the LCFS, and the structure of each, means there should be additional discussion about how these three elements are going to converge. It does the state no good to have plentiful supplies of a certain fuel but no vehicles to run it in, as well as vice versa. It also does the state no good, for example, for the vehicles and fuels to be available, but the consumer refuses to engage in purchasing the vehicle/fuel due to a variety of reasons such as cost or convenience.

- We continue to encourage the Commission to ensure that the observations we anticipate in the Transportation Fuels Forecast are matched by recommendations that address the challenges facing all transportation fuels, including petroleum-based fuels. Although the forecast may project a flat demand for petroleum-based fuels, this does not indicate any less of a need for attention and assistance relative to the challenges being faced by the petroleum industry.

- The Commission needs to highlight the problems and complexities inherent in the state's implementation of the Low Carbon Fuel Standard (LCFS) on top of the federal RFS2 program. WSPA continues to be concerned about the challenges facing our member companies in achieving the ambitious goals of these regulations within the timeframes provided. WSPA agrees with the Commission's statements that there are no feasible solutions to LCFS compliance without the significant caveats mentioned. We would encourage the Commission to investigate whether there are plausible LCFS compliance scenarios through to 2020.

- The ARB's LCFS crude oil treatment approach is a significant problem for our industry – the regulated party. The current approach creates huge challenges for certain countries' crude oil, such as Canadian oil sands, which are an important, reliable and secure energy supply source. Canada is one of the largest exporters of crude oil to the U.S., second only to Saudi Arabia. The LCFS can lead, for example, to crude shuffling. This can result in associated increased GHG emissions, a shift in the amount of crude processed or the amount of fuel retained in the state, and an increased need for certain alternative infrastructure due to the need to compensate the high carbon intensity crude oil designation with lower CI blendstocks. WSPA clearly indicated over the past three years that ARB's crude differentiation process is very problematic and should revert to a regulatory approach that treats all crudes equitably via a global crude oil average value that is updated periodically. We would ask the Commission to review this issue and provide commentary in the IEPR as to what some of the negative consequences of this approach might be to the state's fuel adequacy, reliability and affordability.

- The ARB's LCFS program may result in some significant changes in California's infrastructure needs – even in the petroleum arena. For example, staff asked in the Marine Terminals list a question related to the importation of fuel import requirements. We believe there are a number of plausible scenarios relating to the need for additional marine facilities that may include greater importation of crude oil, greater importation of blendstocks or intermediates, greater importation of finished fuel, as well as even an exportation of finished fuel.

- WSPA would like the Commission to review the ARB's LCFS program and assess the scenarios being relied on for compliance – both those portrayed in the original regulation as well as any other scenarios the CEC believes to be plausible. The volumes of low carbon intensity fuels needed to comply with the LCFS program in the 2015 plus timeframe are not yet available, and the projections do not support the volumes needed to comply.

  We request the CEC provide comments on how the regulated industry will be able to comply with the entire program's compliance schedule, and whether truly innovative, low CI fuels will be available in the timeframe required and in the volumes needed. In addition, WSPA requests the CEC indicate whether the needed infrastructure will be in place and the vehicles to use the fuels will be available in significant numbers in the existing market at the time.

- In the Commission's evaluation of Brazilian sugarcane ethanol production, there is a need to review whether the price of sugar inhibits the production of ethanol, along with a forecast of what this might mean for this country's ethanol production and exportation to the U.S.

- Ethanol – Cellulosic: As an example of the need for realistic analyses of low CI fuel availability, we've included a discussion by our contractor, Turner, Mason Inc. on cellulosic ethanol below:

  "The process for producing cellulosic ethanol is primarily a batch process, rather than a continuous process like refining, and involves biochemical agents that must be tailor-made for individual feedstocks. In 2008, there were a few operational plants in the U.S. with a capacity of only 3.2 million gallons per year and plans for 26 new plants with a capacity of only 21 million gallons per year, far below any reasonable level of commercial scale. As with corn based ethanol, the economies of the process dictate that the plant be located close to a source of its feedstock, and logistics for providing the feed to the plants will be a major hurdle to their development.

  Cost is also a factor. In 2007, the U.S. Department of Energy issued $385 million in grant funding for 6 cellulosic plants to cover 40% of the projected investment costs. Therefore, a total investment of $1 billion was necessary for a total production of 140 million gallons. In this basis, capacity of 100 MBPD, for 10% blends in California, would cost approximately $10 billion.

  Without the availability of cellulosic ethanol, raising the required levels of corn based ethanol is not a feasible option for attaining compliance with the California LCFS using the carbon intensities calculated by the California Energy Commission. The only viable option is cane based ethanol which from the above analysis would be needed in quantities of approximately 320 MBPD by 2020. This would require a 70% increase in production from Brazil."

- Ethanol – E15 – Comments from our contractor Turner, Mason Inc. are provided below:

  "One issue raised in this section concerns the potential use of E15. At the present time the main problem with offering E15 is that it may subject suppliers and marketers to substantial liability. Auto makers have stated that consumers who introduce E15 into non flex fuel vehicles may have their car warranties voided. Until absolute liability protection is afforded those in the supply chain, we do not believe it is a viable option. In addition, offering E15 based on corn ethanol in California makes it more difficult to comply with the Low Carbon Fuel Standard. Offering such a blend based on cane ethanol would require even more imports of this product from Brazil, which in the short term do not seem available."

- Ethanol – E85 – Comments from our contractor Turner, Mason Inc. are provided below:

  "According to our analysis, cane based E85 will need to be introduced into the California market in 2015 in order to comply with the requirements of the LCFS regulation. Initially, E85 would only represent 2% of the traditional gasoline market in the state but would grow to almost 40% of the market by 2020. This presents many challenges not only to suppliers but to marketers of the fuel as well.

  According to U.S. Department of Agriculture Secretary Tom Vilsack, it can cost about $120,000 to install tanks and distribution systems to handle E85 at retail sites. In addition, he stated the industry estimate for the cost of blending pumps is around $25,000 per pump. Based on these costs and our analysis of the amount of E85 required to meet the LCFS in 2020, the total cost to retailers for this conversion is approximately $2.1 billion. In addition, there will be issues with customer acceptance and education on this new fuel. Due to the lower energy content of E 85 versus traditional gasoline, customers will find that they must fill their cars more often, from an average of once every 10 days to once every 8 days. This will require approximately 12 more visits per year to the service station, an increase of 34%. Pricing of E85 presents challenges to marketers as well. With E85 at 40% of the market, traditional gasoline blends (E10) will still represent the majority of sales but the two products may be priced differently to reflect their differing energy contents. In Brazil, where fuels range from hydrocarbon based gasoline to 100% ethanol, consumers have learned to differentiate the pricing issues and radio stations in some areas broadcast the most economic choice on a daily basis. This education, however, has taken years to develop."

- Renewable Diesel – WSPA disagrees with statements made during the California Biodiesel Alliance presentation (slide 8) that renewable diesel needs terminal access to enter the fuel supply. One of the benefits of renewable diesel is that it can be transported via pipeline. This would allow blending at refineries without the need for additional infrastructure at terminals.

- We noted during the May 11 workshop that a number of fuels, including biodiesel and E85, are receiving waivers or exemptions from certain state requirements (such as air quality provisions) or where there are no existing state requirements. This appears to have been the case for a substantial amount of time – several years at this point, and we request the state assess what possible environmental implications there may have resulted and are resulting from these waivers/exemptions (e.g. additional criteria or GHG emissions). We understand the AB118 program is required to assess the results of the program including criteria and GHG impacts, and for this assessment to be incorporated in the IEPR. There seems to be an expectation that all of the impacts are going to be beneficial, however, due to the waivers/exemptions we believe this assumption may need to be altered. We request the

Commission investigate the environmental impacts from these waivers/exemptions, include this analysis in the IEPR, and provide recommendations to the state on actions needed.

Policy makers must ensure that while we develop and deploy future renewable and alternative fuels for California consumers, state policies do not result in an energy supply gap. Government policies should be balanced and should not cause a reduction in available supplies of cleaner burning gasoline and diesel fuels before there are sufficient, commercial quantities of renewable and alternative fuels to fill the gap.

California consumers and our state's economy must have access to abundant, reliable and affordable future supplies of <u>all forms</u> of energy.

WSPA and its members look forward to assisting Commission staff in the coming months with additional comments and data in order to ensure a realistic depiction of the transportation fuels arena is in the IEPR. We also look forward to reviewing the draft staff report this summer and request at least three weeks review time prior to the scheduled next workshop.

Please contact me at this office or my staff Gina Grey at (480) 595-7121 if you have any questions.

Sincerely,

Catherine H. Reheis-Boyd

c.c. Commissioner James Boyd – CEC
Commissioner Carla Peterman - CEC
Lynette Green – CEC
Gordon Schremp – CEC
Richard Corey – CARB
Mike Waugh - CARB
Gina Grey - WSPA