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California Energy Commission

**DOCKETED**

**13-IEP-1A**

**TN 72287**

**OCT 29 2013**

**Catherine H. Reheis-Boyd**  
President

October 29, 2013

California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 13-IEP-1A  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: **WSPA Comments on CEC's Draft 2013 IEPR Workshop: Docket No. 13-IEP-1A**

Dear Docket:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide comments on the Draft IEPR Workshop held on October 15, 2013. WSPA is a non-profit trade association representing twenty-seven 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.

While we appreciate the complexity of electricity and natural gas issues in the State, we would like to remark that having only 2 slides out of 28 in staff's October 15<sup>th</sup> workshop presentation that discussed the transportation portion of the IEPR, seems inadequate given the importance of the topic. WSPA would like to see the Commission put more focus on the emerging and important transportation energy issues in the State.

WSPA has consistently recommended more CEC analysis of transportation issues within the IEPR in order to increase the relevance of the Commission in this energy oversight arena. In 2011, WSPA requested that transportation issues be updated annually by the CEC in the IEPR process just as electricity issues are, since the State's goal to transform the transportation energy system in California has begun to have both positive and negative consequences that need to be

identified and addressed. We see no movement in this direction, and in fact we see a move away from addressing these issues in depth by the Commission – which is disappointing.

Evidence of this erosion in analysis depth is painfully obvious when the transportation section in this draft IEPR is compared to what was in the 2011 IEPR; which still lacked sufficient analysis in WSPA's opinion. The draft 2013 analysis is woefully inadequate – filled with aspirational goals and broad, unsupported conclusions. Many of these are highlighted below. Pages have been filled with summaries of all the alternative fuel programs, and what these programs are intended to accomplish, with almost no analysis about how or whether these programs will realistically be accomplished.

Furthermore, CEC staff committed to provide follow-up on several issues, particularly related to the advancement of biofuels in the 2011 IEPR. However, analysis related to this follow-up is not evident in this draft IEPR. Frankly, the lack of analysis, supporting documentation, and critical review of supply impediments in this draft does a disservice to California consumers; as well as, stakeholders in both the petroleum and alternative fuel industries.

Until new vehicle technologies and alternative fuels are commercialized, petroleum will continue to be the primary transportation fuel source for California's vehicles. As part of the IEPR, the state can assist in addressing issues to support 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 in the State.

#### Comments

We included below in **blue print** some of the comments from WSPA's January Scoping Order comments and our July 12th set of comments, since we believe they continue to be relevant and important, and they were largely unaddressed during the 2013 IEPR process. Below each of the **blue print** sections we have provided any current updates to our comments as they relate to the draft IEPR document and the process this year.

#### January 24, 2013 WSPA Comment Letter to CEC

We have identified three issues with the Scoping Order as follows:

- 1) Nowhere in the Scoping Order is there reference to subsidiary documents that will be developed within each of the identified topics. The Order merely states the IEPR itself will contain information on each of the subject areas. For example, in the Transportation section it does not refer to a separate Transportation Report which normally is produced by the CEC staff working through the transportation sector updates and issues (with the exception of the 2011 Transportation Report that was never finalized to our knowledge). We are unsure if this is an omission due to the brevity of the Scoping Order which was more detailed in prior years, or if the Commission has decided to not produce such documents for this IEPR – which we believe would be a significant mistake.

WSPA requests the Commission provide feedback on whether IEPR subject sectors will be producing their own reports, and if not, the reason for this.

#### Current WSPA Comment

It appears there will be no separate Transportation Report produced as background to the IEPR document and we continue to believe this is a significant omission. Based on the lack of detail contained in the draft IEPR on the entire transportation sector, it seems we have regressed from prior years in having the Commission produce a thorough analysis of the transportation issues that are contained in a reference piece.

- 2) The 2011 IEPR Scoping Order included mention of issues staff was tasked with studying which we believe to be important, but which were not mentioned in this year's Order. This year strictly discusses only two items: fuel demand and evaluation of the AB118 program regarding alternative fuels.

The 2011 Scoping Order stated in the "Transportation Fuel Supply, Demand, and Infrastructure" section that the following issues would be addressed:

- Effects of economic growth trends on transportation fuel demand and supply.
- Analysis of petroleum, alternative, and crude oil demand and supply trends.
- Barriers to and progress toward meeting California's transportation energy goals, including the Low Carbon Fuel Standard, achieving 26 percent alternative fuel use by 2022, and producing a minimum of 40 percent of the state's biofuels within California by 2020.

In particular, the last issue WSPA believes is important to update and requests this be specifically stated in the Order.

#### Current WSPA Comment

During our many years of testifying at the Commission's IEPR proceedings, we have continued to support fuel diversity and a portfolio approach. In fact, WSPA coined the term early on of "Petroleum Plus" to reflect this approach – petroleum plus all forms of alternative and renewable fuels to meet transportation demand and diversify the transportation fuel portfolio.

It is also well known that WSPA does not view CARB's LCFS program as feasible within the timeframe provided, and that by around 2015 there will begin to be compliance problems due to a lack of low carbon intensity fuels at sufficient volumes as well as a lack of sufficient credits. Figures 27 and 28 in the draft IEPR are misleading, since they are merely reflecting on the level of carbon intensity of the fuels rather than adequacy of fuel volumes and whether the two aspects combined, along with deficits, will allow for LCFS program compliance. The Figures also don't discuss the impact of the 10% blendwall. Despite some data and analysis reflecting the above subjects presented at the August 21<sup>st</sup> workshop by CEC staff, it seems limited final analysis and conclusions ended up in the final IEPR document.

WSPA thought there would be clear statements by the Commission in the IEPR relating to the availability (volumes and timing) of sufficient low carbon intensity (not just alternative) transportation fuels and matching vehicles that would project compliance or not with the CARB LCFS regulation and compliance schedule. For example, the

alternative fuel growth estimates in Table 17 are not linked with the vehicle estimates to provide readers with a clear Commission analysis.

On pages 188+ the draft IEPR discusses the CEC's July 31<sup>st</sup> workshop by saying it was meant to "*obtain insights on transportation energy scenarios from fuel developers, automakers, truck and bus experts, fueling infrastructure developers and owners, utilities, public interest groups, and industry associations. The participants provided growth projections to at least 2020 for all of the alternative fuels and diesel vehicles, presented key factors substantiating the growth, identified challenges that might impede growth, and recommended government actions needed to achieve the transportation energy goals. Energy Commission staff evaluated the information provided by the participants and summarized the scenarios in Table 17.*" After participating in this workshop, we don't recall this level of rigorousness and analysis being applied to stakeholder statements of robustness for their fuel's future, and found the August workshop to be more helpful, balanced and based on data versus obviously optimistic projections in the July workshop.

Statements that do appear in the draft IEPR are very vague and obtuse, such as [we have capitalized certain words, and have bolded/underlined certain words]:

- "**SEVERAL** industry experts conclude that **MULTIPLE FACTORS** increase the **PLAUSIBILITY** of alternative fuel growth within the next ten years in North America and particularly in California." We are confident there are several industry experts that could conclude just the opposite and do not find this statement persuasive or definitive. What is the definition of "growth" in this statement? What is the context?
- "Existing government incentives and regulations combined with alternative fuel price advantages, expected economy of scale vehicle manufacturing, and technology advances **COULD** lead to at least three-fold increase in alternative fuel growth by 2020. **IF** this happens, California will achieve goals for petroleum displacement, in-state biofuel production, and LCFS compliance."

Interestingly, in the Executive Summary portion of the IEPR on page 20, this last sentence has been altered to say, "...increase in alternative fuel growth by 2020." It then goes on to say, "This progress **SHOULD** allow California to fulfill 2020 goals to reduce transportation related greenhouse gas emissions, displace petroleum and develop in-state biofuel projects." Obviously if all of these things align then things **SHOULD** occur, however there does not appear to be any realism inserted into these statements – just vague optimistic causality.

- "There has been a **SIGNIFICANT INCREASE** in in-state biofuel production. In 2013 in-state **capacity** was roughly **220MM gallons per year.**" [Note: Our in-state petroleum refineries produced in 2012 **42 million gallons of gasoline per day, 14 million gallons of diesel per day, and 11 million gallons of jet fuels per day**] We don't see in any of the IEPR discussion an inclusion of these petroleum

production facts to provide policymakers with some perspective on the relative contributions of various fuels to the transportation fuel market.

Also, it is important to note the difference between capacity quotes and actual production quotes which is not highlighted in the Executive Summary. In the draft IEPR on page 63 it states, “*Initial estimates show that in 2012 there was an installed capacity of over 80 million gallons per year of bio- and renewable diesel production in California. There was approximately 19.5 million gallons of actual production.*” We believe the CEC staff should either divulge production amounts or at a minimum include the production with the capacity numbers throughout the document, so there isn’t a false sense of availability of fuel volumes left with the reader.

- “*While petroleum accounts for more than 90% of California’s transportation energy sources, there COULD be SIGNIFICANT changes in the fuel mix by 2020 as a result of technology advances, market trends, consumer behavior, and government policies.*” Our overriding concern is that the vast number of assumptions and models being employed will drive the conclusions. Quite often real data and experienced opinion is missing from the forecasts. In addition, unrealistic statements of the anticipated time it will take for the transportation system to evolve are not helpful, and are not supported by any reflection back to what has occurred in the state to date which has been a slow transformation despite significant incentive programs.
- “*While these California trends have shown strong initial progress, new circumstances are poised to push SIGNIFICANT ADVANCES.*” It is interesting that in other areas of the document, for example, it states, “*Progress has been difficult to track for biodiesel. Improvements in estimates of biodiesel data suggest that earlier estimates overstated its use, including estimates reported in the 2011 Bioenergy Action Plan. While estimates continue to improve, verifiable data sources on California biodiesel production remain unavailable.*” WSPA believes the second statements need to be moved into the Executive Summary to provide balance to the vague statements on significant increases in alternative fuel volumes.

3) The Climate Change section states there will be “consideration of the potential vulnerability of California’s energy supply and demand infrastructure to the effects of climate change.” Unfortunately this narrow scope does not seem to satisfy the Commission’s charge which is:

“to prepare a biennial integrated energy policy report that contains an assessment of major energy trends and issues facing the state’s electricity, natural gas, and transportation fuel sectors and provides policy recommendations to conserve resources; protect the environment; ensure reliable, secure, and diverse energy supplies; enhance the state’s economy; and protect public health and safety.”

WSPA contends the vulnerability of the state's energy resources comes not only from climate change, but from the policies already implemented by the state to attempt to address climate change. We believe the regulations by the California Air Resources Board, for example, for the cap and trade regulations, fuels under the cap, plus the Low Carbon Fuel Standard have, and will continue, to place the state's energy system at risk and will lead to detrimental unintended economic impacts. We have attached a report by the Boston Consulting Group that investigates some possible consequences from the sum total of the AB32 regulations on the petroleum industry.

WSPA requests that the Commission include in the 2013 IEPR effort an equal level of study of the impacts of current climate change regulations on the state's energy sector and possible negative consequences of those regulations on the state's ability to ensure a reliable, secure and affordable energy sector in the future.

#### Current WSPA Comment

We continue to stand behind our January comments and think it is unfortunate the Commission did not include these issues in the IEPR. In fact, one of the recommendations in the transportation portion of the IEPR states the "CEC should evaluate potential refining industry and retail consolidation stimulated by a decline in gasoline consumption." There seems to be an assumption here that a decline in consumption is THE factor that has led to industry consolidation, and no mention is made of studying other factors that might be leading to consolidation or negative changes in the industry.

As follow-up to the Boston Consulting Group's (BCG) first report for WSPA on the LCFS's feasibility, we are currently working on additional analysis looking realistically at the compliance pathways that ARB and others have outlined, given what we know now versus what we thought we knew when the regulation was adopted. It is unfortunate the CEC did not include a full range of viewpoints in its workshops and did not invite BCG to discuss its analysis – instead of only inviting ICF to discuss theirs.

#### July 12 WSPA Comment Letter to CEC

##### General Issues:

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

- CEC's Role and Full Insertion of Transportation Issues in Main IEPR: We believe the CEC can play a vital role in addressing future transportation fuel challenges and energy supply implications, and suggest the issues identified in the transportation report be highlighted in the 2013 IEPR. WSPA also strongly encourages the staff to include the challenges or barriers associated with all fuels in the executive summary and recommendations of the IEPR document itself. These sections are the ones focused on by policymakers. Past documents have tended to gloss over these issues.

#### Current WSPA Comment

The IEPR appears to establish a new level of inadequacy – especially in the Executive Summary - of information and recommendations on potential transportation energy issues for policymakers.

- Three-Part Transportation Solution: 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.

#### Current WSPA Comment

Although the transportation workshops indicated staff had done a fair bit of analysis on all these facets, it is not melded together for the final IEPR and the three elements remain separate in the discussion. Much of the focus in the recommendations section should be on how to help ensure all three of these aspects will come together at the same time to help ensure a transformation takes place.

- CARB LCFS Program: 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. We also do not see any mention in the staff documents or during the workshop of a commitment this year (as there was in 2011) to provide an analysis of CARB's LCFS program. WSPA continues to be concerned about the challenges facing our member companies in achieving the ambitious goals of the LCFS regulation within the timeframe provided. WSPA believes there are no feasible solutions to full LCFS compliance in the short-term.

WSPA has consistently asked the Commission to review the ARB's LCFS program and assess the ARB scenarios being relied on for compliance as to whether truly innovative, low CI fuels will be available in the timeframe required and in the volumes needed. 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. 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 enough numbers in the existing market at the time.

#### Current WSPA Comments

Some analysis of general alternative fuel demand/supply scenarios, projected capacity versus actual, availability of certain vehicles, consumer choice, etc. was included in the August 21<sup>st</sup> workshop. It is unfortunate the vast majority of this analysis has not been included in the draft IEPR document.



Both the RFS2 and the LCFS programs had more detailed discussions in the 2011 IEPR regarding both their opportunities and obstacles. There is no similarly detailed update provided this year despite the maturing of these programs, and the fact CEC staff committed to continue to monitor the development of these programs. Similarly, there was a discussion in the 2011 IEPR about the high carbon intensity crude oil provisions in the LCFS and the impact these could have on crude oil supply. CEC staff committed in 2011 to continue to monitor this aspect of the LCFS as it developed, but has not included any discussion of this issue in the 2013 IEPR.

- Full Identification of Challenges, Recommendations on Solutions: The IEPR is clearly the vehicle for an in-depth discussion of what needs to be done to grow a domestic alternative and renewable fuels industry as well as address factors hindering modernization of the petroleum infrastructure. We continue to encourage the Commission to ensure there are recommendations in the IEPR documents that address the challenges facing all transportation fuels, including petroleum-based fuels. Although the forecast may project a flat or lower short-term 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, and it may be short-sighted relative to longer-term trends.

There are previously identified government-imposed barriers that fuels providers encounter doing business in California. These barriers include complicated and difficult permitting processes, regulatory uncertainties, infrastructure capacity limitations, and individual port policies that are intended to restrict or eliminate petroleum bulk storage and handling facilities. The barriers not only restrain petroleum infrastructure development but also may impair timely alternative and renewable fuels development. WSPA would like the IEPR to address the difficult issues of permitting and local decision-making for all types of fuels.

Further, the IEPR needs to provide recommendations and a specific plan for more marine facilities/cargo handling capacity, and how to address previously identified specific deficiencies in the state's fuels infrastructure.

#### Current WSPA Comments

WSPA continues to ask that these issues be discussed and highlighted in the IEPR document since they are issues that pose challenges for both the petroleum and the alternative fuel industries alike.

#### Page-Specific Concerns

P. 182: CEC staff provides projected volumes for gasoline, but does not do the same for diesel.

P. 190: CEC staff claims that cellulosic ethanol production will grow from 20,000 gallons in 2012 to 5 million gallons in 2013. How much has been produced in 2013 year-to-date and is there truly an expectation that 5 million gallons will be produced (again not just capacity) by year-end ? How much is available in California based on demand for RFS2 purposes?



P. 190: Based on CEC staff analysis, CA corn ethanol production accounts for about 10% of the ethanol blended into gasoline in the state. This is an increase from 4 % in 2010 based on prior staff analyses. How was this increase accomplished?

P. 190: CEC staff asserts that sugar-cane ethanol will displace other imported ethanol barrels, but neglects to examine how this may also displace in-state corn ethanol in the blending pool. Sugar-cane ethanol does have a lower CI than in-state corn ethanol making it more desirable for LCFS compliance. CEC staff mentions that CA corn ethanol producers are lowering their CI, but does not elaborate as to what changes they are making to accomplish this.

P. 191: CEC staff discusses available volumes of biodiesel and renewable diesel and availability of feedstocks for these fuels, but fails to discuss what blending levels are needed to accommodate these volumes; and the related fungibility and logistical hurdles to achieve these blend levels. Also, CEC staff fails to discuss the current sole source supply of renewable diesel to the state and the vulnerability this creates for reliable supply.

P. 194: Discussion on hydrogen potential lacks meaningful analysis regarding consumer choice, vehicle cost, etc.

#### Draft IEPR Recommendation – Page 201

- **Support national RFS goals. Confer with the U.S. DOE, U.S. EPA, and Congress to advocate for a balance of stricter adherence by obligated parties to advanced, low carbon, RFS goals, ....**

What does this recommendation mean? Why is it that CEC staff believes the obligated parties are not adhering to the RFS requirements, after staff has hopefully analyzed the status of appropriate renewable fuels in the market? As you know EPA just released the new proposed blending requirements for 2014. To focus on two:

- Cellulosic ethanol's obligation is proposed to be at 23MM gallons – well below the statutory mandate of 1.75 Billion gallons originally envisioned in the law,
- Advanced Biofuels obligation is 27% less than the original amount in the law.

It is clear that the RFS targets have had to be adjusted downwards annually as the alternative, low GHG fuels have not been produced at the volumes initially projected by EPA and the alternative fuels industries. The reality of the situation for the coming year is clear in the proposed volumetric adjustments just made in EPA's announcement. WSPA is not clear on what the CEC believes it can do to overcome this reality.

#### Draft IEPR Recommendation – Page 202

- **Evaluate factors affecting California's crude oil production and refining.**  
The Energy Commission shall consult with the California Environmental Protection Agency and California Department of Conservation to evaluate several factors that might reduce international imports of crude oil and change California's production and refining of crude oil and refining of crude oil from other states. The findings should be reported to the Governor and Legislature and include:
  - The Energy Commission shall consult with the California Environmental Protection Agency and California Department of Conservation to evaluate the

magnitude, cost, and environmental impacts of producing crude oil from the Monterey shale formation and existing heavy oil fields in the San Joaquin Valley.

- The Energy Commission should evaluate demand from other states and other countries for crude oil and petroleum products developed in California.
- The Energy Commission should evaluate potential oil refinery industry and retail consolidation stimulated by a decline in gasoline consumption and increase in diesel and aviation fuel consumption.
- The Energy Commission and California Environmental Protection Agency should evaluate reconfiguration of energy security goals to fuel diversity objectives if the trend continues toward a greater percentage of crude oil produced from domestic sources.

WSPA will be very interested in participating and monitoring the CEC's activities laid out in this recommendation. We have already commented on the third bullet above earlier in our comments. In terms of crude oil assessment, we would like to indicate at this juncture that crude oil selection by our refineries is not only regarded as one of the most competitive/sensitive issues and is specific to refinery configuration, but is also something we do not believe the government should regulate. WSPA has consistently advocated for no crude differentiation in the LCFS program.

#### Conclusion:

WSPA believes there is a real possibility the state's public policy decisions may create future transportation fuels supply problems for the state, its businesses and consumers. The LCFS program, in particular, is highly problematic and will likely be creating difficulties very shortly for the fuels market. WSPA continues to advocate for continued dialogue on alternative approaches to achieve transportation-related GHG reductions without unintended consequences and potential impacts to the market and the consumer. The draft transportation section of the IEPR does nothing to analyze impacts or propose mitigation for these unintended consequences.

As indicated by staff, there are many state laws, policies and executive orders that are being implemented to increase the use of renewable and alternative fuels and vehicles, and accelerate the adoption of low carbon fuels through regulatory and funding mechanisms, as well as to improve the state's energy supply infrastructure. These laws and policy initiatives are in addition to federal laws and policies, most notably the federal renewable fuels standard. With so many policy initiatives driving alternative fuels, there is a real risk of the state sending confusing or conflicting signals to the market. In responding to so many alternative fuels initiatives, state agencies are sending anti-petroleum signals that could seriously impact transportation fuel supplies before alternative and renewable fuels can fill the gap.

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 all forms of energy.

Please contact me at this office or my staff Gina Grey at (480) 595-7121 if you have any questions. We are looking forward to meeting soon with both of the Commissioners to further discuss our viewpoints.

Sincerely,

c.c.      Commissioner A. McAllister – CEC  
            Commissioner J. Scott – CEC

Stephanie Bailey – CEC