



GOVERNORS' BIOFUELS COALITION

• **North Dakota** Gov. John Hoeven, Chair • **Iowa** Gov. Chet Culver, Vice Chair

Alabama Gov. Bob Riley
Arizona Gov. Jan Brewer
Arkansas Gov. Mike Beebe
Colorado Gov. Bill Ritter
Hawaii Gov. Linda Lingle
Idaho Gov. Butch Otter
Illinois Gov. Pat Quinn

Indiana Gov. Mitch Daniels
Kansas Gov. Mark Parkinson
Kentucky Gov. Steven Beshear
Louisiana Gov. Bobby Jindal
Maryland Gov. Martin O'Malley
Michigan Gov. Jennifer Granholm

Minnesota Gov. Tim Pawlenty
Mississippi Gov. Haley Barbour
Missouri Gov. Jeremiah Nixon
Montana Gov. Brian Schweitzer
Nebraska Gov. Dave Heineman
New Mexico Gov. Bill Richardson

New York Gov. David Paterson
North Carolina Gov. Bev Perdue
Ohio Gov. Ted Strickland
Oklahoma Gov. Brad Henry
Oregon Gov. Ted Kulongoski
South Carolina Gov. Mark Sanford

South Dakota Gov. Mike Rounds
Tennessee Gov. Phil Bredesen
Texas Gov. Rick Perry
Virginia Gov. Tim Kaine
Washington Gov. Christine Gregoire
Wisconsin Gov. Jim Doyle
Wyoming Gov. Dave Freudenthal

• **International alliances with Brazil, Canada, Mexico, Queensland, Australia, Sweden and Thailand** •

September 24, 2009

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-2403

Subject: EPA Docket ID No. EPA-HQ- OAR-2005-0161

Dear Administrator Jackson:

In working with Congress on the passage of the *Energy Independence and Security Act of 2007*, the Governors' Biofuels Coalition took great care to ensure that environmental performance standards were included in the expansion of the Renewable Fuel Standard (RFS). We believe that policies promoting continued reductions in lifecycle greenhouse gas emissions associated with biofuel production are essential to enhancing the long-term value of this renewable resource. However, as your agency considers questions regarding the implementation of the RFS, we have increasing concerns about lifecycle greenhouse gas emissions measurement issues associated with International Indirect Land Use Change (IILUC), including:

- ***International Indirect Land Use Change Data and Modeling Transparency.*** The information available to our states to comment on the proposal pertaining to EPA's IILUC lifecycle analysis is inadequate. The data and information presented do not permit us to replicate EPA's IILUC findings. The ability to reproduce EPA's findings is an essential part of ensuring the quality of the findings and the transparency citizens of our states expect from their government.
- ***Peer Review Status.*** The Coalition recommended and supports the use of a peer review approach to guide IILUC theory. However, some of the reviewers selected by EPA lack scientific training and are primarily anti-biofuel advocates. This casts doubt on a process that included many qualified expert reviewers who provided valuable input in a good faith effort to reach a reasonable consensus on this issue.
- ***Adjusted Net Corn Use.*** EPA's view of net corn use thus land use change for ethanol production is wrong. Corn used in ethanol plants does not "disappear" as does exported corn. As we have pointed out earlier, only the *starch in corn is used for ethanol production*, and the distillers' grain by-products go directly into the livestock feed chain where they displace the need for bulk corn and soybean meal. Because the U.S. Department of Agriculture reports corn supply and demand in a way that does not reflect this well documented fact, the underlying corn use assumptions are flawed. This leads to outside organizations erroneously suggesting that all the corn used for ethanol is "lost." For example, in 2008-2009 the U.S. ethanol industry will consume 3.7 billion bushels of corn to produce an estimated 10.5

billion gallons of ethanol, while approximately 1.8 billion bushels of corn animal feed equivalent in the form of distillers' product will be returned to the livestock feed chain to displace the need for corn and soybean meal.

As distillers' grains reduce demand for soybean meal farmers shift acres from soybeans to corn. One acre of corn equals approximately three acres of soybeans on a yield basis. Consequently, the net price effect of the year-to-year increase in cornstarch utilization by ethanol plants will be relatively small as reflected in recent low corn prices even as ethanol production rises. These real world results suggest little, if any, land use change as a result of the RFSII production schedule. Finally, EPA's models appear to have entirely overlooked the availability of the 34 million CRP acres, which were at one time cultivated and planted to crops; a small portion of which could be farmed for biofuels feedstocks, thus not forcing the conversion of land outside the United States to biofuels feedstock crops.

- **Existing Biodiesel Production Meets Greenhouse Gas Emission Requirements.** Congress recognized that existing biofuel production — both ethanol and biodiesel — met the greenhouse gas emission requirements it set forth in the RFS. Lifecycle greenhouse gas emissions modeling, including EPA's own modeling, shows over a 50 percent reduction in greenhouse gas emissions for biodiesel from existing feedstock sources. There is scientific data and support for EPA to grandfather existing biodiesel production. However, EPA's proposed rule eliminates a substantial portion of U.S. biodiesel production from the Biomass-based Diesel category on the basis of estimated emissions and international indirect land use. This approach, if included in the final rule, will make it difficult if not impossible to meet the modest volume goals for Biomass-based Diesel provided for in statute. In addition, we respectfully ask the EPA to issue an interim final rule that will ensure that the 2009 and 2010 volume requirements for Biomass-based Diesel are met.
- **Technology Advances.** Finally, we are disappointed by EPA's failure to adequately recognize the impacts of the impressive technology advances that have already been implemented, and will continue to occur, at both the direct and indirect level. The vast majority of U.S. ethanol production now comes from plants built after 2005, and their improvements in energy and water efficiencies are well demonstrated. Similarly, both corn and soybean yields will continue to increase because of technological innovations. There is no question that biofuels will get cleaner in the years to come, and conventional and unconventional oil will get dirtier, but EPA's static modeling does not capture these trend lines in any way.

As you move to implement the expanded RFS, we urge your consideration of the above issues. The Coalition believes it is critical to create a clear path for the growth of biofuels utilizing policies that ensure both protection of the environment and a level playing field for all transportation fuels. We urge EPA to defer IILUC related decisions until the science is reasonably well understood and reliable, data transparency and modeling errors are addressed, and adjusted net corn use factors are adopted.

Sincerely,



John Hoeven, Chairman
and Governor of North Dakota



Chet Culver, Vice Chairman
and Governor of Iowa