

**TESTIMONY OF BRIAN JENNINGS, EXECUTIVE VICE PRESIDENT
AMERICAN COALITION FOR ETHANOL (ACE)**



**HEARING OF THE AGRICULTURE COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
LOW CARBON FUELS STANDARD POLICIES
MAY 21, 2009**

Thank you Chairman Peterson, Ranking Member Lucas, and Members of the Committee. My name is Brian Jennings and I am the Executive Vice President of the American Coalition for Ethanol (ACE), the largest grassroots biofuels advocacy organization in the U.S. uniting businesses and individuals that support ethanol production and use. Nearly 1600 ethanol producers, prospective ethanol producers, commodity and farm organizations, farmers and ranchers, investors, and businesses that supply goods and services to the U.S. ethanol industry comprise the grassroots membership of ACE.

I am honored with the opportunity to discuss the timely and controversial issue of “indirect land use change” (ILUC) and how the indirect effects ideology is getting policy ahead of science with regard to many low carbon fuels initiatives, including the California Air Resources Board’s (CARB) Low Carbon Fuels Standard (LCFS), the Renewable Fuels Standard II (RFS2) rule recently proposed by the U.S. Environmental Protection Agency (EPA) pursuant to the Energy Independence and Security Act of 2007 (EISA), and historic climate change legislation working its way through the U.S. House of Representatives this week.

Today agriculture plays an integral role in providing income opportunities and energy security for all Americans. ACE is grateful for the leadership of Congressmen Peterson and Lucas and others on the Committee to explore how agricultural biofuels can play a role in America’s clean energy future as well. We thank you for holding this hearing to examine the ramifications of a LCFS for the American biofuels industry and agricultural producers.

We believe climate change is a real and significant threat that needs to be addressed through efforts to reduce greenhouse gas (GHG) emissions and sequester carbon. ACE members are committed to making certain that biofuels from all feedstocks make meaningful contributions to our nation’s clean energy economy and understand a LCFS will likely be part of the policy shift that leads to that clean energy future. ACE supports the concept of a LCFS and we believe that an appropriately designed and implemented LCFS can complement a national cap and trade policy to help reduce emissions from the transportation sector. The American biofuels industry looks forward to playing a central role in the development of low carbon fuels to meet a LCFS.

However, because of the selective enforcement of the controversial and untested theory of ILUC against biofuels by CARB and EPA, we cannot express our support for these policies as they stand today.

On behalf of ACE, I want to highlight specific issues related to the lifecycle assessment aspect of a LCFS that need to be addressed if such a policy is to be implemented in a fair and scientifically defensible manner:

- Get the science right then move forward on the policy. In other words, insist upon scientific consensus and real-world data of so-called indirect effects before moving forward on low carbon fuels policy;
- If comparing indirect effects, compare indirect effects for all fuels. Undertake a complete lifecycle assessment of the indirect emissions associated with petroleum;
- Ensure that the scope of lifecycle GHG assessments are consistent among all regulated activities under any greenhouse gas emission control regime.

Direct Effects are Widely Accepted while Indirect Effects Lack Scientific Consensus

It is instructive to take a step back and contemplate that there are direct effects and indirect effects that contribute to today's debate about how truly low carbon a source of transportation fuel may be. Direct effects are time-tested, peer-reviewed, reliable and verifiable scientific determinations about the lifecycle carbon footprint of fuels or sources of energy that enjoy broad scientific consensus. Various models, including those developed by scientists at the U.S. Department of Energy, are widely accepted to do a verifiable job of calculating the carbon intensity of various forms of energy, including biofuels and petroleum.

So-called "indirect effects," such as ILUCs attributable to biofuels, are new, untested, unreliable, and controversial computer-generated predictions that are being selectively applied to corn ethanol only at this time. According to scientists, there are no peer-reviewed or published scientific models that accurately calculate the potential indirect carbon intensity of forms of biofuels today.

The architect of the ILUC theory, as it applies to biofuels, is not a scientist or economist who has studied the complicated causes of land clearing in the tropics throughout his career to develop a more complete understanding of this concept. The architect of the ILUC theory is Mr. Tim Searchinger. Mr. Searchinger is not a scientist or an economist. He is an attorney, who for most of his career worked at the environmental organization Environmental Defense, consistently attacking American farmers and ranchers and the public policies that ensure our stable supply of food, fiber, and fuel. During the last Farm Bill, Mr. Searchinger worked with the infamous Left-Right Coalition on behalf of Environmental Defense to convince Congress to eliminate key commodity programs. After failing to convince Congress to axe these programs during the Farm Bill debate, he left Environmental Defense to invent and promote his theory of ILUC, which is now being applied by some regulatory bodies in order to stop the growth in America's use of biofuels.

Simply put, as Mr. Searchinger devised it, ILUC is a market-induced change, or ripple effect, that is predicted to occur from using increasing volumes of corn ethanol. The theory is that if more corn is used for ethanol in the U.S., somehow less corn is available for livestock feed rations, causing land

owners literally halfway around the world to plow virgin grasslands or slash pristine rainforests to plant soybeans to replace the “lost” opportunity to feed the corn used for ethanol.

(In reality, ethanol is distilled from just one-third of a bushel of corn, the starch, and that another one-third of that corn bushel, the fat, fiber, and protein, is processed into a high-protein source of feed, a coproduct of the ethanol production process called distillers grains. This distillers animal feed product has proven to successfully replace corn and soybean meal in livestock feed rations, therefore mitigating the need to expand the global crop base as Mr. Searchinger would suggest).

Mr. Searchinger surmises that the resulting carbon emissions from the cultivation of these virgin lands should be ascribed to the carbon intensity of U.S. ethanol production. ACE is concerned that regulators are using rather arbitrary and naïve assumptions that biofuels are the cause of indirect land use changes without a sophisticated appreciation for the fact that socio-economic, political, trade, and other factors may also result in land use changes. Today, agricultural markets are affected by global factors, and land use changes continue as a result of a wide variety of reasons, including but not limited to global economic growth, developing nations acquiring wealth and desiring the lifestyle of Americans, population growth, internal land use and land tenure policies, and weather factors.

Nevertheless, in order to make these computer-generated predictions, ILUC models assume that biofuels are the driving factor causing a land use change. There is no effort to determine the proportional charges or effects of other variables or factors that might be responsible for land use changes. ILUC models provide for interesting discussions, but they are not reliable enough to be used for determining policies with national and consequential ramifications.

Models for Estimating Indirect Land Use Impact are Unreliable

In theory, computer models can be used to help understand and predict phenomena, whether it is focused on human behavior or the reaction of natural systems to the manipulation of independent variables like the concentration of GHGs in the atmosphere. For example, the International Panel on Climate Change (IPCC) has marshaled the efforts of hundreds of scientists over a long period of time to develop what most consider good, albeit imperfect models of how the world climate will change over time as GHG concentrations increase. Once a relatively high degree of confidence in these models was achieved, national governments appropriately began to act and establish policies to reduce emissions of those gases. That is how modeling and public policy should interact; first you get the science right and then you apply it in a policy context.

Computer models are entirely dependent on the assumptions that are employed by those who develop them. You or I could write a computer model that demonstrated that the Earth was flat or that gravity does not exist. We would be wrong, but we certainly could develop computer models to demonstrate those results. It all depends on what assumptions we want to use. Ultimately the only meaningful test of whether a computer model is sound is whether its predictions can be corroborated by actual on-the-ground measurements. Without these real-world substantiations, models are more theory than science. That is where we stand today.

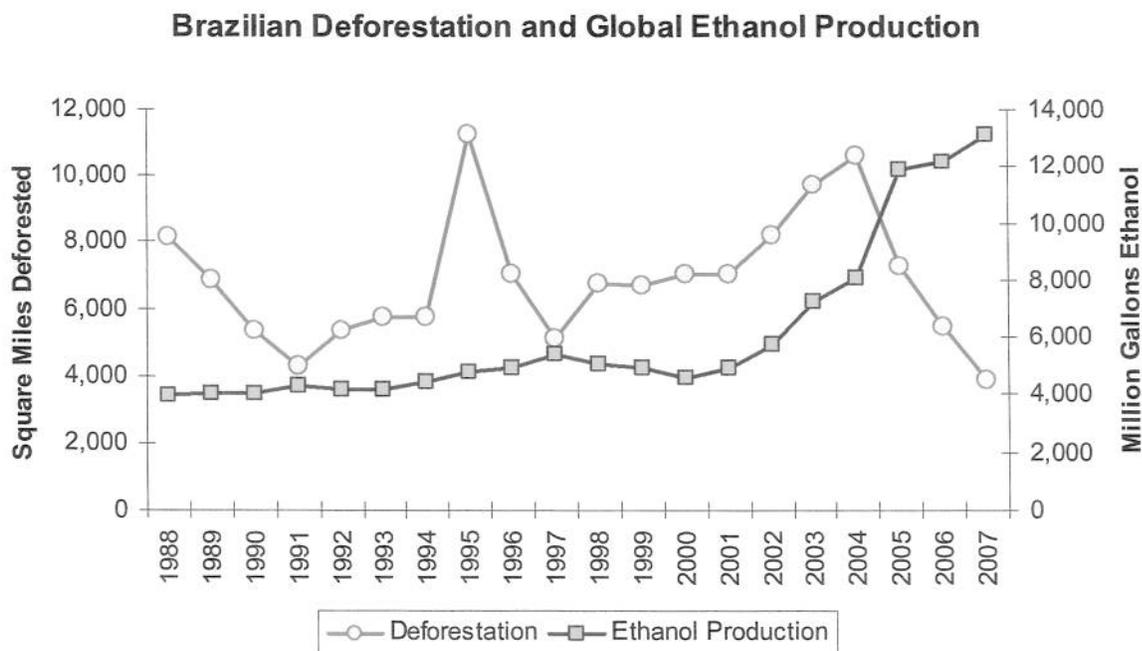
In the case of ILUCs from biofuels, the measurements of on-the-ground land clearing do not corroborate the predictions of existing models. To wit, according to testimony before the House Agriculture Subcommittee on Conservation, Credit, Energy, and Research recently, Mr. Brooke

Coleman noted that in an analysis of the impact of biofuels on U.S. land use patterns, researchers at Purdue using the GTAP model (EPA relied upon the GTAP model for some of their RFS2 analyses) concluded the harvested area for coarse grains such as corn would increase 8.3 percent from 2001 to 2006, harvested area for oilseeds such as soybeans would decline 5.8 percent, and forested area would decline 1.5 percent during the same period. In reality, coarse grain harvested area declined by just 2 percent, oilseed area increased by .5 percent, and forested area increased by .6 percent from 2001 to 2006. Simply put, the model predicted changes in land use between 2001 and 2006 that were actually the opposite of the real-world changes observed over time.

Yet, this model and those like it are being used by CARB and EPA to ascribe to biofuels enormous amounts of GHG emissions that will in many respects determine how and to a degree whether biofuels will be used in America's transportation system. In no case should computer models be used to ascribe GHG emissions to biofuels or any other energy source until those models have been shown through years of corroborative data to accurately predict real-world changes in emission rates.

To reinforce that ILUC models predict an outcome that in fact does not occur, it is instructive to review deforestation rates in Brazil. Real-world data shows that deforestation of the Amazon Rainforest actually declined from 2004-2008, the same period of time in which U.S. ethanol production enjoyed its most aggressive compounded average growth rate. Figure 1 illustrates that Brazilian deforestation has declined at the same time ethanol production has expanded.

Figure 1.



Deforestation Sources: IEA; Butler, Mongabay.com (FAO, NISR).

Ethanol Production Sources: American Coalition for Ethanol and Renewable Fuels Association.

Study Indicates ILUC Requires More Analysis and Gets Policy Ahead of Science

Last year, in an effort to better understand lifecycle analysis and indirect effects, ACE commissioned a study by Global Insight entitled “Lifecycle Analysis of Greenhouse Gas Emissions Associated with Starch-based Ethanol.” Key findings from that report include:

- Changes in land use have always occurred and are not new, nor are biofuels the primary driver of them. Global population growth cannot be ignored as a factor.
- The scientific literature available to date shows a huge variation in estimates of carbon release from land clearing in general, on the order of 50 percent plus or minus – a huge margin of error that should not be relied upon to make policy.
- *If* some land use change is due to increased biofuels production, the overriding challenge is to quantify which changes can indeed be directly attributed to biofuels.
- If the indirect GHG emissions of biofuels are counted toward the carbon footprint, so should be the indirect emissions associated with petroleum production.

The Global Insight report determines that computer-generated lifecycle predictions about indirect land use changes require considerably more analysis. According to the report, it is virtually impossible to accurately ascribe greenhouse gas impacts to biofuels based on indirect land use change. The report also discusses how technology innovations are making both corn and ethanol production more efficient and carbon-friendly, developments that have clearly not been captured not quantified adequately by CARB in its analysis and modeling for the proposed LCFS nor by EPA in measuring the carbon intensity of future sources of biofuels against future sources of petroleum.

The California Low Carbon Fuel Standard

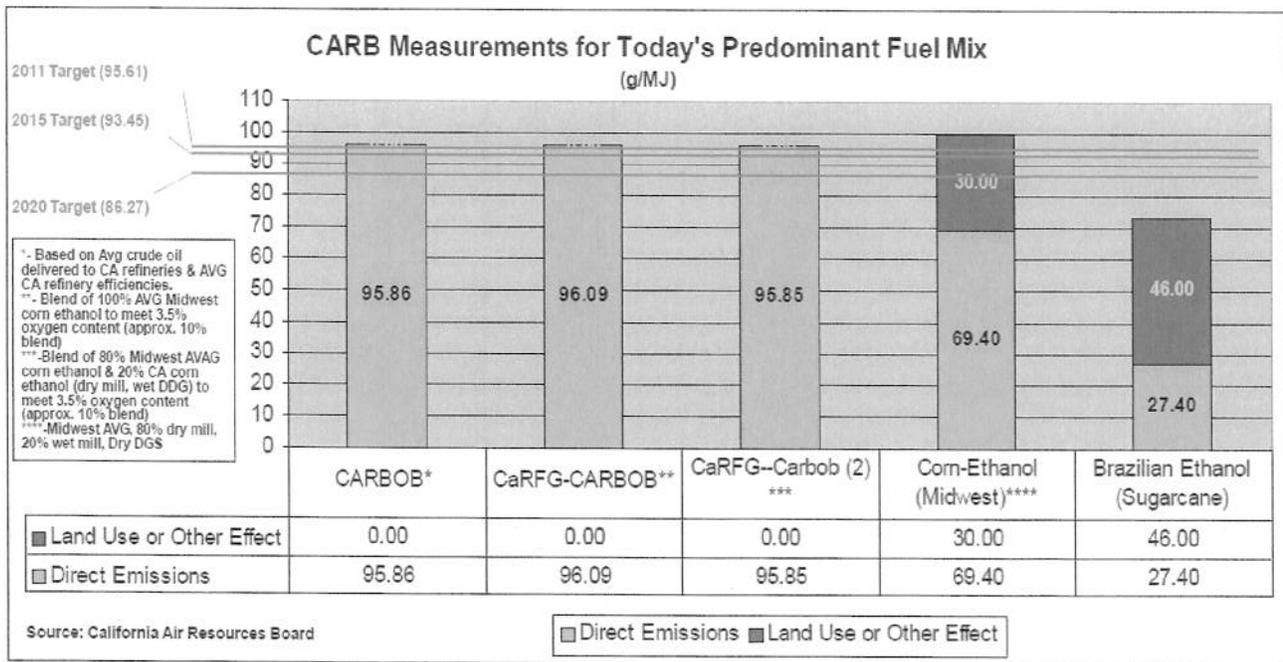
The California Air Resources Board (CARB) is moving forward with an initiative which seeks to reduce emissions from the transportation sector by 10 percent by 2020. In formulating its estimates to determine which fuels can qualify for the LCFS, CARB calculated the direct GHG carbon intensity of gasoline and corn ethanol, and converted their findings to grams of carbon dioxide (CO₂) emitted per mega joule of energy (one mega joule equals about 950 British Thermal Units of energy).

CARB determined that gasoline results in nearly 96 grams of CO₂ per mega joule of energy while average corn ethanol results in just 69 grams of CO₂ per mega joule. Indeed, comparing direct GHG emissions from gasoline and ethanol, CARB found that ethanol is a lower-carbon source of transportation fuel.

However, because CARB subscribed the controversial ILUC theory to their LCFS policy, the board added a penalty of 30 grams of CO₂ per mega joule to the carbon intensity of corn ethanol to derive a total carbon “score” of just over 99 grams of CO₂ per mega joule. Inexplicably, CARB made extreme assumptions about the indirect effects of corn ethanol, assumed there are zero indirect effects from petroleum, and remarkably concluded overall that corn ethanol is a more carbon-intensive source of fuel than gasoline. Figure 2 below illustrates that CARB will penalize biofuels, particularly corn ethanol, for ILUCs, while petroleum will be held harmless, as CARB has chosen to largely ignore indirect emissions from those fuels. This selective enforcement will place biofuels at an unfair competitive disadvantage in the California fuels market, the largest in the U.S.

We encourage Congress to learn from the mistakes that CARB is making and establish a fair, workable and scientifically defensible framework for comparing the lifecycle emissions of biofuels and petroleum in any LCFS that it may chose to enact in the future.

Figure 2. CARB makes corn ethanol appear more carbon intensive than gasoline by assuming there are extreme indirect emission impacts from ethanol but zero indirect emission impacts from petroleum. Carbon intensity of fuels is expressed in grams of CO2 per Mega joule of energy (1 Mega joule equals 948 BTUs).



Graphic Credit: Tom Waterman, Publisher, The Ethanol Monitor.

A group of more than 100 scientists and academics wrote a letter to Governor Schwarzenegger in March concerned by CARB’s proposal. Their letter warns that “indirect effects have never been enforced against any other product in the world. California should not be setting a wide-reaching carbon regulation based on one set of assumptions with clear omissions relevant to the real world.”

RFS2 Rule

The RFS2 schedule also bases program eligibility with GHG reduction targets, and sets forth various categories for renewable fuels based on their ability to reduce lifecycle GHG emissions. Conventional biofuel is ethanol from corn starch which must achieve a 20 percent reduction in lifecycle GHG emissions compared to gasoline.

Consistent with the law, we believe it is appropriate that EPA’s proposed rule determines that ethanol plants that commenced construction before the EISA enactment date are grandfathered into the GHG reduction provisions, and that for calendar years 2008 and 2009, any ethanol plant that is fired with natural gas, biomass, or any combination thereof is deemed to be in compliance with the 20 percent

threshold. As a result, there is a strong likelihood that the 15 billion gallons of corn ethanol per year called for under the RFS2 program will be deemed to comply with the GHG reduction requirement.

However, by breathing life into the controversial ILUC theory, EPA, like CARB, is setting a dangerous precedent for future sources of biofuels. For example, under EISA, “advanced biofuel,” from biomass (non-corn starch) must reduce GHGs by 50 percent compared to gasoline and “cellulosic biofuel” derived from cellulose, hemicellulose, and lignin must achieve a 60 percent reduction in GHG emissions compared to gasoline. If indirect effects are calculated to cause these “next generation” sources of fuel to fall short of the thresholds, these promising technologies will not be commercialized.

On Table VI.C.1-1 of the RFS2 rule, EPA breaks out the emissions estimates for corn ethanol and gasoline by lifecycle stage, including domestic and international agricultural production, domestic land use changes, international land use changes, fuel production, fuel and feedstock transport, and tailpipe emissions stages. It is instructive to note that if the ILUC penalty ascribed to corn ethanol is subtracted out, but all other direct lifecycle emissions and stages are calculated, the carbon intensity of corn ethanol is 61 percent better than that of petroleum. In other words, when comparing the direct lifecycle emissions of corn ethanol and gasoline, EPA determined that corn ethanol reduced GHG emissions compared to gasoline by 61 percent. When the ILUC penalty is added to the carbon intensity calculation for corn ethanol, it still is found to reduce GHGs compared to gasoline by 16 percent – better than gasoline, but failing to meet the arbitrary 20 percent threshold prescribed in EISA.

What has been largely overlooked is that EISA does not direct EPA to estimate the impact of *international* land use changes in its calculation of the greenhouse gas impact of biofuels. The law specifically compels EPA to examine significant direct and indirect land use changes, but EPA alone, with the strong backing of groups who do not want to see biofuels succeed, has loosely interpreted the law and unfortunately given credence to this controversial and untested theory of international ILUC.

Some steps that should be taken to remedy these problems:

1. Undertake a Complete Lifecycle Assessment of the Indirect Emissions Associated with Petroleum

CARB and EPA have put forth estimates of the GHG emissions of biofuels that purport to reflect both direct and indirect emissions. Those agencies compare these estimates of GHGs from biofuels with estimates of only the *direct* lifecycle GHG emissions of petroleum. Both agencies have chosen to ignore entirely the substantial indirect GHG emissions associated with protecting oil supplies and oil transportation routes around the world, when such data exists.

Clearly a significant percentage of the oil used in the U.S. is imported from nations such as Saudi Arabia, Iraq, and Columbia. These sources of oil have both direct and indirect effects. It has been pointed out that the direct effects include pumping seawater into the oil wells of Saudi Arabia to increase pressure and powering shipping vessels during transport of Middle East oil to the U.S. According to Tom Waterman, publisher of “*The Ethanol Monitor*,” a weekly oil and biofuels newsletter, the distance from the Persian Gulf to California is about 9000 miles by sea. Even with the most efficient turbocharged engines to power sea-going vessels, shipping cargoes carrying Persian Gulf oil to the U.S. will consume about 1660 gallons of heavy oil per hour. At maximum fuel economy (which is just 50 percent thermal efficiency for the most efficient engines) a single cargo

vessel will burn about 625,000 gallons of heavy fuel oil en route to California. Even this direct effect seems to be too difficult for CARB to include in its carbon intensity calculus for petroleum. Further, indirect activities, such as military operations to protect oil supplies and shipping lanes with ships, aircraft, tanks, jeeps, and trucks powered by oil are not accounted for by CARB or EPA in their analysis on the carbon intensity of petroleum.

2. Ensure that the Scope of Lifecycle GHG Assessments are Consistent Among all Regulated Activities under any GHG Emission Control Regime

Furthermore, ascribing GHG emissions from land clearing in developing countries to biofuels production in the U.S. would hold the domestic ethanol industry to a uniquely punitive standard, one that no other U.S. industry would face under any existing or proposed GHG control program. Under existing cap and trade proposals pending in Congress, including the one recently negotiated by Congressman Waxman, and those introduced in the House and Senate last year, certain U.S. industries such as oil companies and electric utilities will be responsible for obtaining permits for the fossil fuels that they introduce into commerce. Users of fossil fuels and products derived from the use of fossil fuels will be indirectly affected by such regulation as costs for those fossil fuels increases in response to annual rationing of carbon credits under the cap. In no case would a U.S. industry be responsible for indirect effects of its activities on GHG emissions in other nations.

In a global economy, virtually all economic activity in the U.S. will have direct and indirect economic and environmental impacts around the world. Thus, to consistently apply the principle that U.S. entities should be accountable for GHGs emitted in foreign countries, one would need to hold U.S. businesses and individual consumers responsible for all direct and indirect GHG emissions from foreign factories used to produce the goods consumed in the U.S., because those businesses or individuals create the market demand that leads to the foreign economic activity. Similarly, we would need to demand that foreign nations that import grain from the U.S. be responsible for our domestic emissions generated in the cultivation or manufacture of those goods. This makes no sense, yet, if this ill-conceived theory is allowed to apply to biofuels, it could set a dangerous precedent that could be applied to other industries and sources of energy, such as new public transport on rail, wind, solar, and new factories that will product electric vehicles and their parts.

3. The President's Interagency Biofuels Working Group should be encouraged to insist that EPA get the science right before applying it in a rule.

President Obama should be thanked for creating the Interagency Biofuels Working Group on May 5, which, among other key priorities, will peer review the assumptions made by EPA in the RFS2 rule regarding the lifecycle carbon footprint of ethanol. We encourage Members of Congress to urge the Biofuels Working Group to insist that fossil fuels undergo rigorous and regularly updated lifecycle analyses as well. We believe if fossil fuels are held to the same standards as biofuels in this peer review, it will be demonstrated that future sources of petroleum are going to be more expensive to extract and more harmful for the environment, while future sources of biofuels will be more cleaner, more sustainable, more efficient, and less expensive.

4. The RFS2 comment period should be extended.

EPA should extend the comment period for the RFS2 rule, which is over 1000 pages long and contains many complicated assumptions from various models, some of which have not been made public or

available yet to peer-review, from the current 60 days to something that gives stakeholders a realistic opportunity to analyze the rule and provide meaningful and helpful comments to the agency.

5. EPA needs to more carefully consider the value of ethanol coproducts (distillers grains) that are returned to the feed supply and the fact that corn yields are not fixed but are constantly improving thanks to improved farming methods and biotechnology.

ACE believes that if proper credit is provided to distillers grains coproducts, which replace the need for corn and soybean meal in livestock feed, and if increased corn yields are considered, the 15 billion gallons of corn ethanol called for under RFS2 can be produced without any land use penalties.

On April 30, 2009, five leading university professors with expertise in agronomy, animal nutrition, agricultural economics and engineering wrote a letter to EPA Administrator Jackson, USDA Secretary Vilsack, DoE Secretary Chu, and White House Energy and Environment Advisor Browner, to point out that corn is a highly efficient feedstock for the simultaneous production of feed, food, and fuel. They stated that the recent accusations about ethanol ethanol's carbon footprint and alleged food versus food tradeoffs have been unfairly exaggerated.

This letter, sent by Dr. Ken Cassman and Dr. Terry Klopfenstein of the University of Nebraska-Lincoln, Dr. Robert Kratochvil of the University of Maryland, Dr. Kevin Kephart of South Dakota State University, and Dr. Robert Brown of Iowa State University states "Only the starch portion of the kernel [corn] is converted to ethanol, with the remaining protein, oils, and minerals concentrated into a valuable animal feed. Leading animal nutritionists confirm that for every two bushels of corn processed in an ethanol facility approximately one bushel of corn equivalent is used to displace bulk corn as livestock feed. Far too many of the recent studies and media reports on corn ethanol's land use effect either ignore, or incorrectly downplay, the importance of this coproduct's value and the role in the feed and food chain."

The professors also point out that more bushels of corn can be grown on the same or less land, mitigating the need to expand the global crop base. "The number of acres planted to corn in the U.S. has declined by approximately 30 percent since its peak in 1932, when more than 110 million acres were planted to corn and mostly used to feed draft animals (in other words, as transportation fuel). While acres dedicated to corn have declined significantly, U.S. farmers' productivity has soared, achieving nearly a 400 percent increase in yields since World War II. Today, more than 80 percent of the 84-85 million acres planted to corn in the U.S. are used to feed animals."

Dr. Jerry Shurson, professor of Animal Science at the University of Minnesota, has also pointed out the lack of attention and understanding given to the use of distillers grains in animal feeds, explaining that in its LCFS policy, CARB assumes distillers grains replaces corn on a pound-for-pound basis, not the 1.24 pounds of base livestock feed he calculates. This miscalculation could reduce CARB's calculated ILUC for corn ethanol by around 50 percent.

In reality, net corn use for ethanol is dramatically lower than current USDA reports indicate. We believe USDA should consider methods to more accurately report on corn usage by sharing data about the percentage of U.S. corn bushels do not "disappear" into ethanol but instead are used to replace corn and soybean meal in livestock feed rations, and that the availability of these distillers grains coproducts

from corn ethanol production eliminate the need to expand the crop base here and abroad to supply feed for livestock. If USDA helps ensure more accurate reporting of these facts, ethanol will no longer be unfairly and habitually criticized for somehow removing “food” from the food supply and for ILUCs.

Recently-Introduced Legislation to Address these Problems

I would like once again to express my profound thanks to Chairman Peterson and Ranking Member Lucas and your staffs for holding this hearing and for developing legislation to address the application of ILUC by EPA in the RFS2 rulemaking. ACE supports your legislation and looks forward to working with you to enact it. ACE also appreciates the fact that the low carbon fuel standard provisions have been stripped from the House energy bill, since this will allow more time to design a program and associated lifecycle analysis protocols that are fair, scientific and thus more universally accepted.

I think you would agree that we shouldn't need legislation to fix this problem. Rather, EPA and other regulatory bodies should instead subject their assumptions to greater scrutiny, peer-review, and more carefully examine the scientific evidence or lack thereof before embarking on the use of ILUC. As you know, there are efforts underway to ensure greater peer review and scientific scrutiny through the establishment of the President's Interagency Biofuels Working Group, co-led by USDA Secretary Tom Vilsack. The establishment of this working group demonstrates that key officials within the Obama Administration understand ILUC is getting politics ahead of science, and the working group and peer review will be the perfect place to address this problem. However, legislation from Congress is also helpful because it empowers Secretary Vilsack and others to make a more compelling argument that ILUC needs to be remedied during the peer review. ACE believes the provision in the Chairman's legislation that ensures all federal agencies, particularly USDA and DoE, are allowed to exercise authority in the regulatory process of determining the carbon intensity of biofuels and other energy sources would be helpful in returning rational thought to this policy.

We are especially supportive of provisions in Chairman Peterson's legislation to require the petroleum baseline which biofuels are compared to from a GHG reduction standpoint to be updated every three years. Currently, EISA freezes in time, based on 2005, the GHG impact of petroleum, and it is this baseline upon which biofuels must reduce GHG emissions by various percentages. But the law does not consider the practical reality that future sources of oil, such as Tar Sands and oil shale, are going to be much more carbon and emission intensive than 2005 oil. Requiring the oil baseline to be updated is good public policy and ensures a more fair comparison for GHG calculations.

The E10 Blend Wall and the E15 Waiver

While it is not a topic of this hearing, I want to highlight that the top priority for the U.S. biofuels industry today is to scale the E10 blend wall and gain EPA approval of our waiver for up to E15.

For nearly 30 years the Clean Air Act has imposed an arbitrary regulatory cap on the volume of ethanol permitted in a gallon of gasoline to just ten percent, commonly referred to as an E10 blend. Motor vehicles have been approved to use E10 for decades and E10 comprises more than 75 percent of the gasoline used by American motorists today. According to our estimates, this year, biofuel use will collide with the “E10 blend wall,” a mathematical and practical limit on the use of ethanol in gasoline.

In other words, every gallon of gasoline that can contain ten percent ethanol will contain ten percent ethanol this year. If the EPA does not authorize up to E15 pursuant to the waiver request, demand for biofuels will come to a standstill in the near-term. In the long-term, failure to overcome the blend wall will put the future of cellulosic biofuel in grave jeopardy. While there are many reasons why this waiver should be approved by EPA, ACE endorsed the E15 waiver application for two basic reasons.

First, ACE has reviewed the scientific literature and evidence available on higher ethanol blends and believes that the testing that has occurred on ethanol blends above E10 justifies this waiver. Specifically, Section 211(f)(4) of the Clean Air Act provides authority to the Administrator to waive the prohibitions of that section if it is determined that such a fuel will not cause or contribute to a failure of any emission control device or system to achieve compliance by the vehicle or engine with the emission standards to which it has been certified pursuant to sections 206 and 213(a) of the Act. We believe that the testing demonstrates that these criteria can be met with blends up to E15 and indeed by ethanol blends considerably higher than E15.

Second, ACE endorsed the waiver application because it has become clear that such a step is necessary if the nation is to meet the schedule for biofuels use set forth in the Energy Independence and Security Act of 2007 (EISA). The existing E85 and the E10 markets are not able to absorb the volumes of biofuels sufficient to allow regulated entities to meet the annual biofuels blending levels established in EISA. Moreover, the E85 fuel dispensing infrastructure, while growing, is not sufficient to allow that market to expand at a rate that will allow the EISA biofuels targets to be met in the coming years. As a result, to meet these legislated targets, mid-level ethanol blends clearly are needed. We are grateful to the many members of this Committee who have expressed support for the E15 waiver.

ACE also applauds the President's vision in making biofuels market development a new national priority. The Presidential Directive on Biofuels issued May 5 contains an historic retail marketing effort which can best and most immediately be served through the use of ethanol blender pumps, which allow petroleum marketers the flexibility to offer unleaded gasoline plus a variety of ethanol blends from just one pump. The blender pumps provide more clean-fuel choices and therefore more meaningful choice to motorists.

Conclusion

In closing, ACE is genuinely concerned about the impact of global warming and the effects of climate change and wants to see low carbon energy policies implemented successfully throughout the U.S. and indeed the world.

At the same time, the politicization of lifecycle analysis – in this case to attack biofuels – undermines confidence in this emerging tool, which will become an increasingly important aspect of all state and national efforts to reduce GHG emissions. By insisting on arbitrarily ascribing GHG emissions to biofuels that cannot in fact be shown empirically, and which depend upon tortured use of computer models that lack the confidence of so many reputable scientists, CARB and EPA invite cynicism about their motives, about the basic veracity of their work, and about the potential use of this tool as a political weapon against other energy sources or products in future GHG control programs. As society embarks on this enormously important mission to reinvent the way humans produce and consume energy, this is a very dangerous precedent to set. Further, any low carbon policy that would preclude conventional biofuels from a fair shake in fuels marketplace may unnecessarily and irreversibly

jeopardize promising advanced biofuel technology innovations that will depend upon entrepreneurial investment to be realized.

I appreciate the chance to offer our views today, and, on behalf of the members of ACE, I commend your leadership on ethanol issues. Biofuels have the potential to revolutionize American agriculture by ensuring rural communities can be a source of income generation, jobs, and energy security for all Americans for years to come. Importantly, agriculturally-derived biofuels will also continue to reduce our dependence on foreign oil and dramatically reduce emissions of GHGs from the transportation sector. But we must strive carefully to put in place biofuels policies that are scientifically defensible. I look forward to your questions. Thank you.

Updated July 2008

Brian Jennings is the executive vice president of the American Coalition for Ethanol (ACE). He manages legislative, market development, public relations and advocacy strategies on behalf of the nearly 2000 ethanol producers, farm and commodity groups, businesses, and individuals that comprise ACE's grassroots coalition of ethanol supporters. Jennings has played a role in U.S. agricultural and energy policy issues for more than 10 years, including service on Capitol Hill as a legislative advisor to U.S. Senator Tim Johnson and as a lobbyist with the South Dakota Farmers Union. He has presented testimony to Congress, federal government agencies, and state legislatures, and has represented the U.S. ethanol industry before major newspaper editorial boards and national television and radio media. Jennings grew up on a cattle ranch and grain farm that his family has owned and operated for more than 100 years, and he is a graduate of South Dakota State University. Jennings and his wife, Sarah, have two children.

Committee on Agriculture
U.S. House of Representatives
Required Witness Disclosure Form

House Rules* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2006.

Name: BRIAN JENNINGS
Address: 5000 S. Broadband Lane #224
Telephone: 605-334-3381
Organization you represent (if any): American Coalition
for Ethanol

1. Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2006, as well as the source and the amount of each grant or contract. House Rules do **NOT** require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:

Source: NIA Amount: _____

Source: _____ Amount: _____

2. If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2006, as well as the source and the amount of each grant or contract:

Source: NIA Amount: _____

Source: _____ Amount: _____

Please check here if this form is NOT applicable to you: _____

Signature: [Handwritten Signature]

* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*