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Gina Grey, Director of Policy & Fuels, Southwest Manager

March 14, 2006

California Energy Commission Dockets Unit
Attn: Docket No. 06-BAP-1
1516 Ninth St., MS-4
Sacramento, CA 95814-5512

Re.: Bioenergy Action Plan – Docket No. 06-BAP-1

Please find attached, the Western States Petroleum Association's submittal regarding the above docket item. Our attached submittal is a copy of our original oral testimony that was provided during the actual workshop in a shortened format due to time constraints. If you have any questions, please contact me.

Sincerely,

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Western States Petroleum Association's Testimony at the California Energy Commission Public Meeting and Workshop Thursday March 9, 2006 – Docket 06-BAP-1
Navigant's Draft Report for a Bioenergy Action Plan for CA

My name is Gina Grey, WSPA's Director of Policy and Fuels. For those who may not be familiar with WSPA, we represent energy companies that explore for, produce, refine, transport and market petroleum and petroleum products, natural gas, and other energy products.

Let me state at the outset that our organization is NOT opposed to bio-energy. WSPA applauds efforts to formulate a consistent, integrated and coordinated state strategy for California. We agree there is a potential for recovering and using biomass resources in the state. However, we disagree with some of the methods the state proposes, to tap into those resources.

WSPA has been dealing with energy issues for a long time. Some of you on the Interagency Working Group may not be aware of our industry's current views on the energy path the state should take into the future, so I'll provide you with a short summary.

We are supportive, and believe the state should be supportive, of a transportation energy approach that embraces continued support for clean-burning petroleum products as a baseline of supply, during transition to an alternative fuels-based future economy. WSPA calls this approach Petroleum Plus.

We acknowledge the state should pursue alternative energy options as long as they are scientifically sound, technically viable and economically feasible. WSPA strongly believes that a realistic plan for meeting future fuel demand should include a significant base of gasoline and diesel supplies, coupled with an aggressive promotion of energy conservation and efficiency.

In order for this state to secure the energy supplies needed to keep our economy growing and strong, government policies must create a level

playing field for U.S. companies to ensure international supply competitiveness. The imposition of new controls, new or expanded mandates, allocation schemes, new taxes on industry, or other obstacles, would be counterproductive to this goal.

Now I'd like to provide you with WSPA's specific feedback on the draft Navigant report. Most of our comments relate to the biofuels part of the bio-energy discussion.

First, WSPA supports the sections in the report dealing with additional bio-energy research, development and demonstration projects. WSPA believes there are issues that need to be addressed with biofuels before there is widespread implementation. Unless these issues are addressed, there is a potential to introduce problems into the distribution system – including fuel supply reliability, or cause problems for consumers. We also believe a multi media evaluation should take place, similar to what was originally performed on ethanol.

WSPA also supports government engaging in an outreach program to educate the public on the potential benefits and opportunities of this resource. The outreach must be complete and balanced, including the possible negative consequences of the fuel.

For example, bio-diesel and ethanol have very low sulfur and other favorable properties, but they also have reduced energy content and resulting lower miles per gallon for the consumer. The public outreach might also reference: air quality impacts; issues with quality, stability and standards; potential operability and material compatibility problems; and, vehicle warranty issues.

Also, if the state wishes to emphasize GHG reduction opportunities in all of its initiatives, use of clean-burning, ultra low sulfur diesel should be promoted to the public alongside other alternatives as an energy efficient way to reduce GHG emissions.

On another important issue, the federal government is in the process of implementing a Renewable Fuel Standard (or RFS) that involved a lot of

multi-stakeholder input and will result in an increase of ethanol use to 7.5 billion gallons a year by 2012. The intent of Congress was to grow renewable fuel use in the nation in the most economically feasible way.

Our industry is preparing to implement this RFS and its multi-year increasing renewable fuel standards. The benefit of the federal RFS is the needed flexibility it provides to enable renewable fuels to be initially utilized in the areas where it makes sense while the program ramps up. The fact that states may now adopt their own RFS or biofuels programs eliminates this important flexibility.

We therefore oppose the consultant's first recommended Tier 1 Action for 2006, which establishes a RFS for CA's transportation sector. Quite simply, our industry opposes state mandates requiring certain percentages of conventional fuels including biodiesel or ethanol, or as coined in the report – the consumption of certain quantities. We aren't aware of any way to successfully mandate consumption, except possibly through rationing and limiting consumer choice.

Moreover, we question the need for a mandate since the report mentions that 5 million gallons of biodiesel and 900 million gallons of ethanol were consumed in the '04 and '05 timeframes respectively. Reportedly, there are 29 biodiesel distributors and 23 retail outlets.

Interestingly, the report states there are four biodiesel production facilities with a capacity of 16 million gallons/yr (even though only a third of that is being consumed). It is not clear from the report whether the consultants have investigated what the fundamental reasons are for this disconnect, and why forcing a mandate will be in the best interests of CA consumers.

It is also interesting to note on page 19 of the report that there is a very long list of biomass initiatives underway within CA as well as in surrounding states, which underscores our concern about the magnitude of proposed market intervention.

Biodiesel

One point in the report about biodiesel impacts on air quality needs clarification. It mentions that NOx tailpipe emissions may be increased, but also mentions that toxics emissions are lowered and that this is a significant advantage compared to diesel.

The consultant should research the toxicity aspects further since the literature indicates biodiesel can have elevated toxic exhaust emissions such as styrene, depending on the feedstock and blend level. Another problem is that biodiesel can vary greatly in its emissions characteristics depending on the feedstock.

On a positive note, WSPA is pleased to see in the report mention of advanced renewable diesel fuels that produce greater volumes and higher quality biodiesel. Our industry wants to ensure that any legislation or other efforts that move forward include a broad definition of biodiesel, such that it includes these advanced renewable diesel fuels that are based on a broad range of feedstocks.

In addition, our industry is involved in some instances with Fischer-Tropsch liquid production. We hope this option is not excluded from the list of potential alternative fuels for the state.

Ethanol

For E-85, the consultant appears to have concluded that because there is a relatively significant number of existing FFV's in the CA market, FFV's will continue to come into the market at a rapid rate, further concluding there is a need for E-85 at retail. Other than GM and perhaps limited interest from a few other manufacturers, there is a real question about the future market penetration of these vehicles beyond the current 1-2%, based on vehicle manufacturers reports.

The Federal Energy Bill includes R&D dollars for cellulosic ethanol. WSPA believes the state should support this kind of research, which appears to have greater benefit from an energy cycle perspective than corn-based ethanol. It also involves the creation of value added products from existing CA unutilized or waste products.

On the other side, however, is a concern about using choice arable portions of the state to grow feedstocks for biofuels versus growing food stocks for the population inside and outside the state. This research needs to be done before launching a major program, since there are indications in the report that some of the traditional cellulosic sources – such as sawmills – are on the decline.

The petroleum industry has used ethanol for many years and for many reasons. These include use as an octane enhancer, a volume extender and as a replacement for MTBE.

CARB, the oil industry and the auto industry have been investigating whether low level blends of ethanol such as those we see in CA are an air quality problem due to increased permeation of VOC's from vehicle soft components. Our industry is working with CARB on an update to the Predictive Model used in the blending of gasoline, to determine how this permeation effect can be incorporated.

There are several references in the report to a supposition that, due to the RFS and the waived federal oxygenate mandate, ethanol use in CA will decrease. This seems to be a questionable conclusion since the CEC's own November 2005 analysis (Ethanol Market for CA) states that our industry has shown no inclination to dramatically vary its ethanol use.

Since we are a trade association we have no direct knowledge about any of our individual company plans for the renewable market, but we believe the CEC's analysis is based on input from our industry, and is reasonable.

Here are a few final thoughts. The question today seems to be, "what can CA agencies or state government do?" WSPA's response is that you should ensure that artificial barriers to implementation are addressed. This includes: simplifying permitting; assisting with infrastructure issues; setting standards and test methods for new fuels; revising inconsistent regulations; and, working out definitional issues so viable fuels aren't excluded.

What government should NOT do is propose grand schemes for increasing a certain segment of the market such as biofuels, and then recommend that the funding for those enterprises should be obtained from the existing business base in the state.

WSPA opposes the consultant's proposal to institute excise taxes on non-renewable motor fuels. We also oppose the proposal to institute carbon taxes. We would, however, need to review carefully the proposed financial incentives and mechanisms in order to weigh in with opinions on those ideas.

Page 23 of the Navigant report discusses policy and regulatory impediments and leads with an outline of the bio-energy industry. It states that each segment of the industry has competing interests and faces differing regulations that make it difficult for the industry to address common issues or speak in a uniform manner on regulatory issues.

This competition, as already exists in the petroleum industry, is healthy in a normally functioning market system. Government should not view it as something that needs to be "fixed".

Finally, on January 25 this year, Navigant's presentation to the Executive Board of the CA Biomass Collaborative included preliminary prioritization criteria for the Action Plan work. The presentation indicates, "How can the State support technology innovation and development without "picking" winners and losers?"

We hope this criterion is still very much a part of the Bioenergy Action Plan that the state decides to adopt. That concludes our comments, and I'd be happy to answer any questions.