December 16, 2008

Mary D. Nichols, Chairman
California Air Resources Board
Headquarters Building
1001 "I" Street
Sacramento, CA 95812

Dear Chairman Nichols,

I am writing today on behalf of Green Earth Fuels, LLC, to comment on the prospect of including indirect land use change (ILUC) in the California Low Carbon Fuel Standard (LCFS). Green Earth Fuels is a vertically integrated biodiesel company representing end-to-end production of environmentally clean biodiesel. We operate production and distribution sites that are independently located within petrochemical infrastructures in key U.S. coastal locations. Consistently high in product quality, Green Earth Fuels biodiesel fuel meets the stringent specifications of the American Society of Testing and Materials (ASTM). It favorably exceeds biofuel carbon and energy balances, and supports both America's agricultural economy and its national energy security.

We are actively developing and investing in the production of new feedstock crops and adhering to best practices farming of current crops to promote feedstock sustainability and maximize processing benefits. For example, Green Earth Fuels recently launched a joint venture with Targeted Growth, Inc., a renewable energy bioscience company, to create Sustainable Oils, Inc. a producer and marketer of renewable, environmentally clean, and high-value Camelina-based biodiesel fuel.

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Green Earth was established based on environmental principals and we operate our business in a manner that protects natural resources while producing the highest grade biofuels product. As such, we are supportive and encourage research that provides greater understanding of the impact of biofuels in the transportation marketplace.

The facts make plain that at this time including ILUC in any assessment of biofuels is a premature and a misguided step that will result in harming a fledgling industry that deserves encouragement and support. Accuracy and fairness are at issue here, and are at the heart of our comments.

No one doubts that an assessment of ILUC requires an understanding of a complex interplay of economic, institutional, technological, cultural and demographic variables. It is equally true that models developed to date that attempt to understand that interplay are flawed for use in regulation. This should come as no surprise. The models being offered to quantify ILUC were not designed for regulatory use. They are far too general and non-specific. They were designed to analyze the impacts of policies in more general terms and argue policy direction. Certainly we can agree that using a model to publish a paper is very different than using a model to assign specific values that could fundamentally change the business landscape for alternative energy companies.

ILUC is being unfairly applied, and fundamental and detrimental changes could result. To date, indirect impacts have not been used anywhere in the world to regulate fuel. They have not been applied ***nor is there a threat of their application*** in the regulation of petroleum based fuel. Yet in a bizarre twist of fate, ILUC is being proposed for use in regulating renewable alternatives to petroleum based fuels but is not even considering its use in regulating petroleum that has monumental negative indirect impacts not the

least of which is geopolitical warfare instigated by unending worldwide demand for gasoline and diesel. How, indeed, would the ILUC models calculate the impact of the casualties of war if applied to petroleum based fuel?

We believe ignoring the indirect impact at this time is more appropriate than using flawed models that skewer public policy, particularly when petroleum fuel alternatives are not assigned any impact. It is not enough to defend the use of ILUC simply because it exists and there is episodic evidence of indirect impacts from the development of alternative fuels. Regulations, but their very nature, punish or encourage behavior based on the evaluative tools used by regulators. Commerce is directly impacted by such decisions. For that reason alone, regulatory tools must be accurate and they must be applied and used fairly. ILUC meets neither of these tests. In fact, the assertion by proponents of ILUC that is should be considered in the LCFS simply because it exists poses a serious threat to intentions of LCFS given the uncertain effectiveness and unproven accuracy of ILUC as proposed by CARB. Furthermore, CARB Staff comments from the October 16, 2008 LCFS Workgroup made a strong case against using ILUC. Senior CARB Staff clearly stated the importance of accuracy in the ILUC modeling, noting that it would be equally damaging to LCFS to get ILUC wrong by either over-stating or under-stating indirect effects. In addition, CARB Staff responsible for the model development stated that the accuracy of current CA-GREET values could not be known for ~20 years. Therefore, it is difficult to comprehend how ILUC can be seriously considered in something as important as the LCFS in its current form. How can something that is so important to be accurate while incapable of being validated today, according to it's the experts developing it, even be considered in a regulatory decision?

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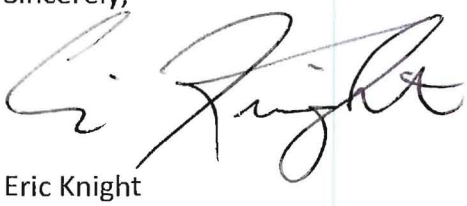
The California Biodiesel Alliance strongly supports promulgation of a LCFS. We want to contribute positively so as to ensure that development of biofuels is conducted in the most environmentally responsible manner. We urge you to consider the fairness, accuracy and impact of each tool used in biofuels' development and regulation. In doing so, we believe you will determine that ILUC is not ready, yet, to be applied, and when ready, it must be applied fairly to all products in a marketplace.

Thank you for consideration of our views.

Sincerely,



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