

December 11, 2013

By Electronic Mail

**Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, California 95812**

**Re: Proposed Regulation for Commercialization of Alternative Diesel Fuels**

Dear Madam:

On behalf of POET, LLC (“POET”), I write to endorse the Comments being submitted today by Growth Energy on the proposed regulatory action concerning alternative diesel fuels to be considered at the Board’s two-day hearing this week. POET is a member of Growth Energy and agrees with Growth Energy that the CARB staff’s proposal requires significant, but feasible, revisions. POET is a strong supporter of biodiesel fuels as part of a national strategy to achieve energy independence and sustainable transportation fuels. The key point in Growth Energy’s comments is that simple changes are needed in the proposed regulation to protect against unintended increases in smog-forming emissions. As one of the Nation’s leading suppliers of ethanol, POET seeks only to ensure that all alternative fuels are required to appropriately mitigate any increases in emissions of any pollutant with adverse health effects associated with the use of those fuels.

Three points in the Growth Energy comments warrant emphasis.

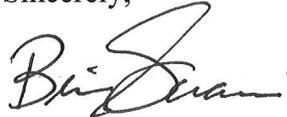
First, the available data demonstrate that, without mitigation, the increased use of biodiesel fuels that will result from implementation of the low-carbon fuel standard (“LCFS”) regulation can be expected to increase emissions of oxides of nitrogen (“NOx”). The California Environmental Quality Act (“CEQA”) requires mitigation of the risks of increased NOx emissions, in the locations and at the times when those emissions would occur. POET urges the Board to consider carefully its obligations under CEQA, as recently clarified by the Fifth District Court of Appeal in *POET LLC et al. v California Air Resources Board*, (2013) 218 Cal. App. 4th 681.

Second, POET shares Growth Energy’s concern that the Board not adjourn the important task of assessing the environmental aspects of the proposed regulation to a *post hoc* process, after the Board has committed itself to the proposed ADF regulation. The Court of Appeal has addressed the relevant requirements of CEQA and CARB’s implementing regulations in its recent decision. *See* 218 Cal. App. 4th at 719-32.

Finally, like Growth Energy, POET is skeptical that all required materials have been placed in the “rulemaking file” for this proposed regulatory action. *See* Growth Energy Comments at 5, 14-15. POET is particularly concerned by the absence of complete data from testing conducted on CARB’s behalf to characterize NOx emissions when engines are operated on biodiesel, as described in a report by Mr. Robert Crawford, which is included in Growth Energy’s Comments. CARB must ensure that the rulemaking file is complete and must allow the public adequate opportunity to study and comment on all relevant data. As Growth Energy explains in its Comments, the California Administrative Procedure Act would not permit the Board to take further action on this regulatory item until the defects in the rulemaking file have been addressed.

Thank you for considering our Comments and those of Growth Energy, as well as other stakeholders in this important rulemaking effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Guarraci". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping tail.

Brian Guarraci  
Senior Counsel  
POET, LLC