Approved: March 29, 2010
Date

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 3:30 p.m. on March 18, 2010, in Room 783 of the Docking State Office Building.

All members were present except:
Representative Johnson - Excused

Committee staff present:
Jason Thompson, Office of the Revisor of Statutes - Excused
Daniel Yoza, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:
Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas
Ken Peterson, Kansas Petroleum Council
Steve McNinch, CEO, Western Plains Energy LLC
Galen Menard, National Cooperative Refinery Association

Others attending:
See attached list.

Chairman Powell opened the meeting with an information meeting on ethanol blending.

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas (Attachment 1), commented that blending gasoline with ethanol has been an acceptable practice in Kansas for a long time and that the Kansas Department of Agriculture's Division of Weights and Measures oversees fuel quality in Kansas, and are unaware of any problems existing with the blending process. Mr. Palace further stated unblended fuel is critical to the creation of various blends of ethanol, which is the impetus behind the blender pump program and without the ability to purchase straight (unblended) gasoline, retailers will be unable to create various blends of fuel.

Ken Peterson, Kansas Petroleum Council (Attachment 2), advised fuel refiners are under a federal mandate from the Environmental Protection Agency (EPA) to annually sell huge volumes of ethanol and biodiesel, 36 billion gallons by 2022, or face a penalty of $32,500 per day. The mandate is so massive that virtually every gallon of gasoline sold in Kansas and the nation will contain ethanol. Fuel manufacturers are under legal obligation to sell ethanol and biodiesel. The supporters of this legislation are not obligated to sell renewable fuel. They will, however, be able to obtain marketable rewards and tax credits without any legal ramification if their concept becomes law.

Steve McNinch, CEO, Western Plains Energy LLC (Attachment 3), stated the ethanol industry is supportive of allowing petroleum retailers to blend fuel for two reasons: 1) the consumer is most likely to benefit from lower gas prices if the retailer blends the fuel; and 2) it is supportive of free trade. Under the Renewable Fuel Standard (RFS), there is a requirement that renewable fuels be purchased and distributed. To keep track of whether this is occurring, the federal government has required that a Renewal Identification Number (RIN) be attached to ethanol that is produced at a plant. The RIN travels with the ethanol so that at the end of the year, EPA can track the use of the ethanol and ensure that sufficient amount has gone into gasoline to fulfill the RFS. Kansas Association of Ethanol Processors supports allowing retailers to blend fuel because it is about giving a person or company the freedom to be able to buy clear gasoline and blend it themselves.

Galen Menard, National Cooperative Refinery Association (NCRA) (Attachment 4), advised NCRA is the largest farmer-owned refinery in the United States and has three farmer member-owners; CHS, Inc., GROWMARK, Inc., and MFA Oil Company, which in turn serve the needs of several hundred thousand farmer member-owners throughout the Midwest, Northwest and Great Plains. The bottom line is who should be responsible for blending ethanol into gasoline. The reason this is being questioned is the RIN's have value. Obligated parties must be able to sell gasoline blended with ethanol in order to meet standards. NCRA as a refiner and an obligated party would be more than willing to pass this liability or mandate on to someone else

but cannot. An obligated party is any refiner that produces gasoline or diesel fuel within the 48 contiguous states or Hawaii, or any importer that imports gasoline or diesel fuel into the 48 contiguous states or Hawaii during a compliance period.

Written Testimony: CVR Energy/Coffeyville Resources (Attachment 5)
Thomas Byers, Midstream Partners, L.P. (Attachment 6)
Kansas Department of Agriculture (Attachment 7)

After questions and comments by members of the Committee, Chairman Powell requested Raney Gilliland, Kansas Legislative Research Department, give an explanation on **SB 393**.

Action on SB 393:

Mr. Gilliland stated this bill would amend several sections of law that is administered by the Department of Agriculture (Agency), specifically where the Agency is required to have a hearing and this bill changes that requirement from having a hearing to having an opportunity for a hearing. In addition, there is a new provision that states in no case shall a temporary suspension of a license or permit under this section be in effect for a period of time in excess of 90 days.

Representative Moxley made a motion to pass the bill out favorably. Representative Svaty seconded the motion. The motion carried.

Action on SB 380:

A balloon amendment was distributed on SB 380 (Attachment 8), which includes technical changes as well as lodging inspection provisions and transient guest taxes.

Representative Fund made a motion to adopt the balloon amendment. Representative Hineman seconded the motion. The motion carried.

Representative Light made a motion to remove part (1) (d) from the balloon amendment. Representative Lukert seconded the motion. The motion carried.

Representative Lukert made a motion to remove part (1) (e) from the balloon amendment. Representative Light seconded the motion. On a show of hands of 10 nays and 7 yeas, the motion failed.

Representative Meier made a motion to move the contents of **HB 2646** into **SB 380**. Representative Maloney seconded the motion. The motion carried. Representative Moxley voted nay.

There is no meeting scheduled.

The meeting was adjourned at 5:25 p.m.

AG. & NATURAL RESOURCES COMMITTEE
GUEST LIST

DATE: 3-18-10

NAME	REPRESENTING
GINA BOWMAN	CVR ENERGY, INC
Ken PETERSON	KS Petroleum Council
Shawn Stratton	Fort Riley
Mark Stock	KDWP
Dick Koerth	KDWP
Chris Tymeson	KDWP
Tom [illegible]	PMA
John Dooley	KS Lusk Assn
John C. Rothrock	ETHANOL PRODUCERS
Leslie Kaufman	Ks Co-op Council
Mary Jane Stankiewicz	KAEP
JP Smith	ROCK INDUSTRIES

PMCA
of Kansas

Talking Points
Senate Bill 425
Ethanol Blending Bill

- The underlying bill will require all Kansas motor fuel terminals to offer all grades of fuel unblended. However, this does not prohibit the terminal from also offering blended fuel.

- Oil companies have stated that they will only provide blended fuel at Kansas terminals. This legislation allows blenders (licensed distributors) to continue blending their own product.

- This allows blenders the opportunity to control their own tax credits (blender credit) and RINs.

- SB 425 opens up the market for the sale of ethanol through Kansas-based ethanol plants.

- Weights and Measures checks for fuel quality in Kansas, and W&M reports that compliance rates exceed 98%.

- Blending gasoline with ethanol has been an acceptable practice in Kansas for a long time. The Kansas Department of Agriculture's Division of Weights and Measures oversees fuel quality in Kansas, and as of this date, we are unaware of any problems existing with the blending process. The accuracy of blending is important not only to the state of Kansas' enforcement agency, but also to our customers as well. They both hold fuel marketers accountable for the product that they sell.

- Currently motor fuel is purchased by independent motor fuel distributors throughout the state of Kansas at terminals or racks. The fuel sold may or may not be blended with ethanol. The purchaser has the option of buying clear or blended fuel at the terminal. SB 425 will allow this process to continue today and into the future.

- Unblended fuel is critical to the creation of various blends of ethanol, which is the impetus behind the blender pump program. Without the ability to purchase straight (unblended) gasoline, retailers will be unable to create various blends (i.e. E15, E20, E30) because currently the Kansas Department of Agriculture's Weights and Measures program does not endorse either the blending up from an E10 blend or down from an E85 blend to create some of these desirable mid-level blends.

- We have made some progress establishing a few blender pump stations in Kansas, but it the retailers are not able to buy straight (unblended) gasoline, then the future of the blender pump program in Kansas is in serious jeopardy.

- Opponents of the bill state that SB425 violates Interstate Commerce. The U.S. District Court of Eastern North Carolina **rejected** the claim that Interstate Commerce clause has violated on January 26, 2010.

Petroleum Marketers and Convenience Store Association of Kansas
115 SE 7th • Topeka, KS 66603
PO Box 678 • Topeka, KS 66601-0678
785-233-9655 • Fax: 785-354-4374

Ag & Natural Resources Committee
Date 3-29-10
Attachment 1

JERRY CHAPUT

From: sopus-starmail-delivery@shell.com
Sent: Thursday, February 11, 2010 9:56 AM
Subject: SCOTT CITY, KS MAGELLAN: ETHANOL CONVERSION SCHEDULED FOR APRIL 1ST

From: ROBERTS, SONJA L
Shell Oil Products US
Subject: SCOTT CITY, KS MAGELLAN: ETHANOL CONVERSION SCHEDULED FOR APRIL 1ST

ATTENTION CUSOTMERS:

Please note that Magellan has provided notice to Shell that the SCOTT CITY, KS terminal is in the process of transition from conventional clear gasoline without ethanol to conventional 10% ethanol gasoline.

Starting on April 1, 2010 conventional clear gasoline without ethanol will NOT be available for loading at SCOTT CITY, KS. The only gasoline fuel available at Scott City on April 1, 2010 and afterwards will be 10% ethanol gasoline.
All Shell sites loading from Scott City on April 1, 2010 and afterwards can only load Shell 10% ethanol gasoline.

As you aware, the management of ethanol blending gasoline requires the approved state dispenser decal, the correct dispenser filters for ethanol and proper water management practices at the service station. Please refer to the Shell documentation transmitted by your Area Wholesale Manager for details on ethanol introduction and ethanol instructions. This includes the topic of underground tank cleaning at sites. Please implement the necessary operational procedures and actions at your sites in accordance to the Shell documentation prior to ethanol site deliveries in order to transition to ethanol fuel at the proper product quality standards.

Please contact your Area Wholesale Manager to discuss this transition and the Shell documentation.

We thank you for your cooperation.

1-2

Kansas Petroleum Council

DON'T BE MISLEAD BY CLAIMS ABOUT THE BENEFITS OF ETHANOL BLENDING LEGISLATION

1. **IT IS A STATE MANDATE.** The proponents admit as much when they say the scheme *"will require all Kansas motor fuel terminals to offer all grades of fuel unblended."* The state mandate contemplated in this ill-advised, market-meddling approach interferes with a federal mandate to sell increasing volumes of renewable fuel.
2. **SIMILAR LEGISLATION IS UNDER FEDERAL COURT CHALLENGE IN TENNESSEE AND NORTH CAROLINA.** These are active cases awaiting a potential court date.
3. **THE IDEA DOES NOTHING TO EXPAND THE SALE OF ETHANOL OR BIODIESEL IN KANSAS, AND MAY ACTUALLY HINDER FUTURE GROWTH.** Contrary to the perception being pursued by proponents of the idea, **the use of ethanol and biodiesel could decline because decisions on the type of fuel available to motorists will be made based on economics that directly benefit the mandate's supporters – not your constituents or renewable fuels.** Their scheme addresses who does the blending, not how much ethanol is blended.
4. Fuel refiners are under a federal mandate from the EPA to annually sell huge volumes of ethanol and biodiesel, 36 billion gallons by 2022, or face a penalty of $32,500 per day. The mandate is so massive that virtually every gallon of gasoline sold in Kansas and the nation will contain ethanol. Fuel manufacturers are under legal obligation to sell ethanol and biodiesel. The supporters of this legislation are not obligated one iota to sell renewable fuel. They will, however, be able to obtain marketable rewards and tax credits without any legal ramification whatsoever if their concept becomes law.
5. Contrary to claims by proponents, blender pump stations are not endangered if their mandate fails to pass. Refiners have reported no problem with blender pumps, as long as the retailer follows contractual agreements. At least one refiner has three Kansas pilot projects involving stations with intermediate blends, E20 and E30 to be specific. Blender pumps are continuing to open across the state, and as long as fuel blends above E10 and below E85 are labeled – a requirement of the Kansas Department of Agriculture – the motoring public can choose to use them. Blender pumps work better when they start with a 10 percent blend, which the Agriculture Department allows.
6. Despite the argument by supporters of this state mandate, fuel quality and integrity should be a major concern if their notion becomes law. The proposal takes away the right not only of fuel manufacturers to ensure their product meets government specifications but also the public's right to buy a trusted and reliable trademarked fuel.

The supporters of this idea are asking the Legislature to take an unwarranted step that interferes with the efficient and continued success of the ever-expanding use of ethanol and biodiesel in today's fuel supply. The Legislature is being asked to get in the middle of a family argument on an issue that can be, and has in the past, been handled in contracts between the two sides.

House Agriculture Committee informational hearing 18 March 2010

SUITE 1005 ● 800 SW JACKSON STREET ● TOPEKA, KANSAS 66612-1224
PHONE: 785.234.0589 ● FAX 785.235.6179 ● E-MAIL: kansas@api.org

Kansas AEP

Ethanol - ***Made in Kansas***

Association Of Ethanol Processors

HOUSE AGRICULTURE COMMITTEE

MARCH 18, 2010

STEVE MCNINCH, CEO, WESTERN PLAINS ENERGY

INFOMATIONAL HEARING REGARDING BLENDING FUELS

Good afternoon, Chairman Powell and members of the House Agriculture Committee. My name is Steve McNinch and I am the CEO of Western Plains Energy LLC, which is a 48 million gallon ethanol plant near Oakley, Kansas. I am the chair or the Kansas Association of Ethanol Processors and I also serve on the board of the Growth Energy.

The ethanol industry is supportive of allowing petroleum retailers to blend fuel for a couple of reasons: 1) the consumer is most likely to benefit from lower gas prices if the retailer blends the fuel; 2) it is supportive of free trade. I would like to spend a little time on the impact to the current retail stations if this legislation is passed. The KAEP worked hard with the Kansas Department of Agriculture to allow retail gas stations to install blender pumps that allow the consumer to choose whether they would like to buy E10, E20, E30 or E85 blends of gasoline for their vehicle. Market research has shown that consumers are supportive of ethanol, but some would prefer to buy something in between E10 an E85. Because of this demand, the ethanol industry and the Kansas Department of Agriculture worked hard to provide the opportunity for retailers and consumers to have these options. Without the ability to buy clear gasoline and blend various levels of ethanol into the gasoline these stations will find it very difficult to stay in business.

One of the shining examples of a business that wants to market various levels of ethanol in their gas is the Zarco station in Lawrence. This station has undergone significant remodeling and installation of high tech equipment to allow the consumer to choose the gasoline that they want to purchase and this bill would protect this practice.

KAEP, 816 SW Tyler, Topeka, KS 66612, 785-234-0461, Fax 785-234-2930, www.ethanolkansas.org

Another component that I would like to discuss with you is the concept of Renewable Identification Numbers (RINs). Under the Renewable Fuel Standard, there is a requirement that renewable fuels be purchased and distributed. To keep track of whether this is occurring, the federal government has required that a RIN be attached to ethanol that is produced at a plant. The RIN travels with the ethanol so that at the end of the year, EPA can track the use of the ethanol and ensure that sufficient amount has gone into gasoline to fulfill the RFS. The RIN stays with the ethanol and normally goes to the person or company that blends the ethanol. Therefore, if a company (i.e. Exxon) has not blended enough ethanol, they can purchase RINs from another company that has blended ethanol, therefore, the RINs have market value. Typically the value of the RINs is expressed in the wholesale value of the ethanol blended into the gasoline. Currently, the 2009 value of RINs is approximately $.03/gallon and the 2010 value is $.02/gallon.

Once again, KAEP supports allowing retailers to blend fuel because it is about giving a person or company the freedom to be able to buy clear gasoline and blend it themselves.

Thank you for your attention. I would be happy to stand for questions at the appropriate time.

NATIONAL COOPERATIVE REFINERY ASSOCIATION

Testimony re: HB 2508 Unblended Motor Vehicle Fuels

Hearing of the House Agriculture and Natural Resources Committee
Presented by Galen Menard
on behalf of
National Cooperative Refinery Association
March 18, 2010

Mr. Chairman, Members of the Committee:

My name is Galen Menard and I am Vice President of Supply and Trading with National Cooperative Refinery Association (NCRA). NCRA, a petroleum refinery based in McPherson, Kansas, is a cooperative organized under the Cooperative Marketing Act.

First of all, NCRA wants to express appreciation to the Chairman of this Committee for the opportunity to provide input on ethanol blending.

NCRA was established in 1943 and is an energy company that purchases crude oil and refines it into finished fuels for farm equipment, trucks and automobiles. As a fuel producer, NCRA's roots and purpose is to provide fuel for the farms of Mid-America through our member-owners.

NCRA is the largest farmer-owned refinery in the United States and has three farmer member-owners- CHS, Inc., GROWMARK, Inc. and MFA Oil Company which in turn serve the needs of several hundred thousand farmer member-owners throughout the Midwest, Northwest and Great Plains.

Our refinery in McPherson has a capacity of 85,000 barrels per day of Crude Oil and 15,000 barrels per day of Natural Gasoline Liquids. Refinery crude runs in fiscal year 2009 totaled 31 million barrels. Net sales in 2009 of over 32 million barrels of refined petroleum products totaled $2.3 billion. We employ about 640 people in Kansas.

Unlike major oil companies, NCRA does not own any crude oil production or downstream marketing capacity as potential sources of revenue. NCRA is entirely dependent on revenues from its refined product sales to operate the refinery, including any and all costs of regulatory compliance.

NCRA continues to reinvest in our refinery. For example, as part of our ongoing Clean Fuels investment program, NCRA now produces ultra-low sulfur diesel fuel, due to an investment in excess of $400 million. NCRA is in the process of investing $82 million to complete a gasoline benzene

reduction project. NCRA's management and Board are evaluating a significant investment in a Heavy Crude Expansion Project. These investments will help produce cleaner fuel and provide significant environmental benefits, both at the refinery and during downstream consumption.

NCRA is concerned with the proposed HB 2508 (formerly SB 425) as it would complicate or hinder our ability with the mandate set by EPA's Renewable Fuel Standard program. The bottom line question here is what entity or entities should be primarily responsible for blending ethanol with gasoline to be sold into the marketplace. NCRA believes this has clearly been answered by the Renewable Fuel Standard.

The Renewable Fuel Standard (RFS) program was the implementation tool for the 2005 Energy Policy Act, to force the nation beginning in 2006 to use renewable fuel in motor vehicle fuels reaching 7.5 billion gallons by 2012.

When the Energy Independence and Security Act of 2007 was passed it called for a dramatic ramp up in the amount of renewable fuel in U.S. gasoline supplies to 36 billion gallons by the year 2022.

The U.S. Environmental Protection Agency has finalized revisions to the National Renewable Fuel Standard program (commonly known as the RFS program). This rule makes changes to the Renewable Fuel Standard program as required by the Energy Independence and Security Act of 2007 (EISA). The revised statutory requirements establish new specific annual volume standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that must be used in transportation fuel.

This action is also setting the 2010 RFS2 volume standard at 12.95 billion gallons. Further, for the first time, EPA is setting volume standards for specific categories of renewable fuels including cellulosic, biomass-based diesel, and total advanced renewable fuels. For 2010, the cellulosic standard is being set at 6.5 million gallons; the biomass-based diesel standard is being set at 1.15 billion gallons, (combining the 2009 and 2010 standards as proposed).

NCRA has been in and complied with the RFS mandate since it formally began in 1997.

Under the RFS and RFS2 programs the mandate for renewable fuel falls upon an entity called the Obligated Party. Definition of an **Obligated Party** as found in Title 40 CFR §80.1406 (a)(1):

An obligated party is any refiner that produces gasoline or diesel fuel within the 48 contiguous states or Hawaii, or any importer that imports gasoline or diesel fuel into the 48 contiguous states or Hawaii during a compliance period.

Compliance by an obligated party is by buying ethanol and blending it with gasoline. Each gallon of ethanol has a RIN (renewable fuel identification number). Obligated party submits quarterly and annual reports to EPA with the RIN numbers to show compliance.

The bottom line is who should be responsible for blending ethanol into gasoline. The reason this is being questioned is the RIN's have value. The cost to obligated parties to comply with the RFS2 program is significant and a fine of up to $35,000 per day for non-compliance from the EPA is possible if the standard fails to be met. Obligated parties must be able to sell gasoline blended with ethanol in order to meet the RFS2 standard. NCRA as a refiner and an obligated party would be more than willing to pass this liability or mandate on to someone else but cannot.

Quality controls – the ethanol blending bill being proposed would result in a significant volume of ethanol blending with gasoline occurring away from the terminals which have the best equipment and technology to handle the blending. Sometimes the off terminal blending of gasoline and ethanol can hit a problem and the miss blended gasoline must be brought back to the refinery for reprocessing.

NCRA has invested a significant amount of capital at the McPherson, Kansas terminal to allow for the automatic blending of ten percent ethanol into gasoline when the customer desires an E10 product. Product terminals also have the required containment dikes and drainage systems to take care of overloads or spills which can occasionally occur. Offsite locations away from the terminals which might be utilized for blending most often do not have proper containment areas to handle spills and could create possible environmental issues.

NCRA believes another misconception is that the requirement to force the sale of an unblended gasoline product will not have any significant impact on the quantity of ethanol blended and ultimately sold into the market. As previously stated obligated parties or refiners are federally mandated to blend ethanol into gasoline and have a greater impact on the volume of ethanol to be blended into gasoline. Retailers will purchase the lowest cost gasoline recipe which may or may not contain ethanol. Ethanol is a commodity just like gasoline and if priced too high the economics to blend will go away. Jobbers and retailers who are not obligated parties under the RFS2 regulations can simply walk away from ethanol when it is not favorable economically.

In summary, NCR strongly opposes any bill which mandates the sale of unblended gasoline in the state of Kansas. As a farmer-owned cooperative refinery it would be detrimental to complying with EPA's RFS2 mandate. At a minimum, the marketplace should be allowed to determine where and when the blending of ethanol takes place. NCRA respectfully asks the committee to prevent this bill from moving forward. Thank you very much for permitting me to testify and I will be happy to yield to questions.

Written Testimony
House Senate Agriculture & Natural Resources Committee
Topeka, KS

March 18, 2010

By

CVR Energy/Coffeyville Resources

Mr. Chairman and members of the Committee, thank you for granting an informational hearing on this legislation. While this legislation is well-intended to allow for greater use of ethanol at the pump, it causes serious concerns among the Kansas refiners, as well as the entire industry on the national level.

CVR Energy, Inc (Coffeyville Resources) is one of three refineries left in the state of Kansas. We are a small, independent Midwestern petroleum refiner and marketer of high value transportation fuels, with operations primarily in Coffeyville, Kansas.

Our company is also a producer and marketer of nitrogen fertilizer products – the only company producing crop nutrients from petroleum coke gasification in North America.

CVR Energy, a Fortune 500 company, employs more than 650 people and generated approximately $5 billion in net sales revenue in 2008.

On the refining side of the business, we refine 115,000 barrels of crude oil per day. CVR Energy currently purchases in excess of 30,000 bpd of crude oil from producers in Central Kansas, Oklahoma, Eastern Colorado, Western Missouri and Southwest Nebraska. We currently purchase a limited percentage of our crude from Canada as well. The balance of our supply is from a variety of sources depending on relative refining economics each month. These sources include East and West Texas, U.S. Gulf Coast and foreign waterborne barrels.

CVR Energy is part of a very sophisticated delivery system for refineries. Our trucks and pipelines are physically located in Kansas and Oklahoma. Our assets are also linked to other pipeline gathering systems in the Mid-Continent region.

We have been marketing ethanol blended fuel for nearly three decades.

HB 2508 (the former SB 425) is similar to legislation passed into law in two other states, and is being challenged in the federal courts. As you will learn during this hearing, there are serious legal concerns about this legislation.

Under the current Federal Renewable Fuel Standard mandate, most refiners are obligated to obtain renewable identification numbers (RINS.) Understandably, jobbers, retailers and wholesalers want to benefit by acquiring and selling RINS, but that was not the intent of the federal statute.

It is highly likely that if this legislation passes, it is possible that less, not more biofuel blending could occur in Kansas. Blending will be driven by the economics of biofuels

and RINS versus the economics of unblended fuel. The blending decision would be driven by jobbers, wholesalers and retailers instead of being driven by the RINS requirements of refiners (obligated parties) under the Federal RFS mandate.

In order to comply with the Renewable Fuels Standard mandate, refiners shall blend 100% of their fuel at company owned terminals and/or sell only ethanol and biodiesel blended fuels at common carrier pipeline terminals such as on the Magellan and NuStar pipelines.

This legislation requires refiners to sell unblended gasoline to jobbers who may decide not to blend the gasoline with ethanol. The jobbers are not responsible for the quality standards or the liability issues that comes with refiners' distribution of gasoline. Actually, this legislation would allow jobbers to blend their own fuel – without the legal responsibility.

The pending legislation would allow jobbers, wholesalers, and retailers to decide whether or not to blend biofuels, depending on the cost of biofuels and the value of RINS versus the cost of straight gasoline and diesel fuel. If unblended fuels are cheaper than blended fuels less the value of RINS, then jobbers, wholesalers and retailers could very well blend less biofuels.

Another serious issue with this legislation: If a refinery, as an obligated party, is out of compliance with the federal mandate, it is fined $32,500 per day.

On another point, if this legislation passes into law, then the state of Kansas could very well find itself in a federal court battle, like the two other states. We believe it is advisable for the Kansas legislature to take no action at this time and to monitor closely the court cases being reviewed.

We strongly advise that the Committee table this measure and study further real opportunities to enhance the use of renewable and alternative fuels without adversely impacting the refineries that must comply with federal regulations.

Thank you for your serious consideration.

If you should have questions, please do not hesitate to contact Gina Bowman, VP of Government Relations, CVR Energy. 816/769-7125 or gmbowman@cvrenergy.com.

MAGELLAN
MIDSTREAM PARTNERS, L.P.

Testimony of Magellan Midstream Partners, L. P. On Possible Changes in Ethanol Blending

Thomas L. Byers

March 18, 2010

My name is Tom Byers and I am the Senior Government Affairs Representative for Magellan Midstream Partners. Magellan owns and operates refined product terminals in Kansas City, Olathe, Topeka, Wichita, Wathena, Scott City and Great Bend and approximately 2,800 miles of refined product pipeline in the state of Kansas. We also own and operate a refined products terminal in Carthage, Missouri that serves the southeast portion of Kansas. We do not own the gasoline, ethanol or diesel fuel distributed from our terminals. We would, however, be directly affected by what is now HB 2508 and therefore we want to express our opposition to the bill.

Magellan has a long history of blending ethanol into gasoline. We initially invested in ethanol blending infrastructure at our terminals in Iowa in the early 1980's and today, we have ethanol-blending equipment at 59 of our 85 terminals.

Section 2 (a) (1) of HB 2508 provides that businesses that offer motor fuel at terminals or bulk-storage plants in the state "...shall offer for sale at such terminal or bulk-storage plant or through delivery by motor vehicle, each grade of motor-vehicle fuel which is not preblended with ethanol and which is suitable for subsequent blending with ethanol...." This provision is designed to promote a method of blending ethanol into gasoline referred to as "splash blending". Splash blending ethanol at off-site bulk plants leaves the quality control of the finished blend in the hands of delivery truck drivers. Terminal blending infrastructure, on the other hand, provides superior quality, computer controlled, ethanol-blended gasoline and ensures that it meets all required specifications.

The ethanol blending infrastructure at Magellan's facilities cost approximately $2 - 4 million per location. It utilizes sequential blending in which the ethanol is injected into the truck storage compartment followed by the gasoline. For example, if there is a 1000 gallon load of E10 gasoline, 100 gallons of ethanol would first be injected into the trailer, immediately followed by 900 gallons of gasoline. Because the two components are thoroughly mixed through the injection process, they do not stratify once they are unloaded at the retail location. And, because the gasoline blend is selected using computer software at the terminal's truck loading rack, the accuracy of the blend is assured. Such precise measurement of the ethanol does not exist where splash blending is done by the driver at an off-site bulk plant.

Another advantage of terminal blending is that the gasoline and ethanol components can be documented on a single bill of lading (assuming the supplier is the same for both components). This provides a better paper trail for tax, accounting and auditing purposes, an advantage that usually does not exist when the gasoline is taken to an off-site splash blending bulk plant.

In addition, Magellan has implemented a quality control program, the level of which will probably not be found at an off-site splash blending bulk plant. Suppliers go through a stringent approval process before they are allowed to deliver ethanol into our terminals. In addition, Magellan takes a sample from each ethanol truck that enters our terminal. A portion of these samples are tested at our world-class laboratory in Kansas City, Kansas. It is also imperative that the off-site splash blending plants be subject to the same fire safety requirements which cover terminals.

In the near future, refiners, marketers and other shippers may deliver a "sub-octane" gasoline into Kansas terminals via pipeline. This product must be blended with ethanol for it to be suitable for use by motorists. Sub-octane gasoline is typically less expensive than conventional gasoline and this bill would present unnecessary market barriers which may reduce the availability of sub-octane fuel from being available in the state since many fuel suppliers will not be comfortable loading trucks with a fuel that is not compliant with state and federal product quality specifications.

Blending ethanol at terminals before the fuel leaves the facility ensures the blended product will meet specifications and provide the performance that motorists have come to expect. This legislation will cause unnecessary market intrusion which will in turn lead to questionable product quality, inefficiencies, increased air emissions and higher costs for motorists. For these reasons and in order to avoid unintended consequences being passed on to unsuspecting motorists, we respectfully request that you vote in opposition to HB 2508. Thank you.

KANSAS DEPARTMENT OF AGRICULTURE

Ethanol

The Kansas Department of Agriculture conducted a pilot project throughout 2008 that allowed fuel stations to use blender pumps to dispense gasoline mixed with ethanol at rates ranging from 10 percent to 85 percent. Data collected through the pilot project verified that blender pumps can consistently and accurately dispense a range of ethanol blends based on selections made by the consumer at the pump The project was made permanent in January 2009. To learn more, see the Guidelines for Blending Flex Fuels.

Facts About Ethanol

Ethanol is a clean-burning, domestically produced fuel usually made with corn or sorghum. Ethanol production and consumption benefit Kansas agriculture, the Kansas workforce, the economy and the environment. Ethanol is most often found in E10 (10 percent ethanol and 90 percent regular gasoline) or E85 (85 percent ethanol) blends.

Flexible fuel vehicles, which can run on regular gasoline and mixtures up to 85 percent ethanol, are now available from all American automakers. There are more than five million flexible fuel vehicles on the roads now. Having more flexible fuel vehicles in service means we need more E85 fueling stations. The National Ethanol Vehicle Coalition keeps an online list of E85 refueling locations in Kansas and across the United States.

The energy balance of ethanol, according to the most recent USDA and Department of Energy studies, is between 1 to 1.35 and 1 to 1.67. That means that ethanol produces more energy than is used to produce the fuel. Continued efficiencies in agriculture and ethanol processing have been steadily improving that positive net energy ratio. It is good to remember that energy is used to harvest other forms of energy, such as oil, too. To learn more, read USDA's study, "The 2001 Net Energy Balance of Corn-Ethanol."

Governors' Ethanol Coalition

Governor Kathleen Sebelius chaired the 37-state Governors' Ethanol Coalition in 2006. Members of the GEC have a long-term vision for renewable fuels, not just ethanol but also biodiesel and the promise of other fuels made from biomass, such as corn stover, switchgrass, or even manure from feedlots.

Teaching Children About Ethanol

The Governors' Ethanol Coalition helped create a teaching packet with information and activities designed to teach students in grades 4 through 12 about ethanol as a transportation fuel. Transportation Fuels: Ethanol is available on the coalition's website.

Fueled by Kansas Farmers

Ethanol production in Kansas is increasing. Kansas corn and grain sorghum are the primary grain sources for up to 504.5 million gallons of ethanol produced in Kansas each year. There are now 13 dry mill ethanol plants in Kansas and more are proposed to be built.

- Kansas Ethanol LLC, Lyons, has the capacity to produce 55 million gallons of ethanol a year from 19.6 million bushels of grain.
- Nesika Energy LLC, Scandia, has the capacity to produce 10 million gallons of ethanol a year from 3.6 million bushels of grain.
- Arkalon Energy, Hayne, has the capacity to produce 110 million gallons of ethanol a year from 39 million bushels of grain.
- Gateway Ethanol, Pratt, has the capacity to produce 55 million gallons of ethanol a year from 19.6 million bushels of grain.
- Bonanza Bioenergy, Garden City, has the capacity to produce 55 million gallons of ethanol a year from 19.6 million bushels of grain.
- U.S. Energy Partners, Russell, has the capacity to produce 48 million gallons of ethanol a year from 17.2 million bushels of grain.
- Prairie Horizon AgriEnergy, Phillipsburg, has the capacity to produce 40 million gallons of ethanol a year from 14.3 million bushels of grain.
- Western Plains Energy, Campus, has the capacity to produce 45 million gallons of ethanol a year from 16.1 million bushels of grain.
- East Kansas Agri Energy, Garnett, has the capacity to produce 35 million gallons of ethanol a year from 12.5 million bushels of grain.
- Abengoa Bio-Energy, Colwich, has the capacity to produce 25 million gallons of ethanol a year from 8.9 million bushels of grain.
- Reeve Agri-Energy, Garden City, has the capacity to produce 15 million gallons of ethanol a year from 5.4 million bushels of grain.
- MGP Ingredients, Atchison, has the capacity to produce 10 million gallons of ethanol a year from 3.6 million bushels of grain.
- ESE Alcohol, Leoti, has the capaicty to produce 1.5 million gallons of ethanol a year from 500,000 bushels of grain.

Ethanol plants increase the price paid for corn and sorghum raised by local farmers. The plants also provide jobs and related economic activity in rural communities. Many plants are farmer-owned and contribute substantial revenue to local areas. Byproducts from ethanol plants are used for animal feed and carbon dioxide is recovered for use as a crop nutrient or in oil recovery.

You can learn more about Kansas ethanol from the Kansas Grains website.

109 SW 9th St. Topeka, KS 66612 -PH: (785) 296-3556

Ag & Natural Resources Committee
Date 3-29-10
Attachment 7

INFORMATIONAL SHEET
On
ETHANOL BLENDING

The Kansas Department of Agriculture's petroleum inspection program inspects all the gas stations in the state. During those inspections, a sample of fuel is taken and analyzed at the station to determine if the correct blend of ethanol is being sold. Additionally, other fuel samples may be taken and sent to our contracted laboratory for analysis which includes determining if the fuel meets ASTM standards for motor fuel. This includes, but is not limited to octane and ethanol blends.

The percentage of fuel meeting ASTM standard and sold at Kansas gas stations is very high; compliance averages 97%.

The petroleum inspection program is entirely funded by fees paid by the petroleum industry.

Methods of Blending Allowed by Kansas Law

- Blending by meter at terminal
- Blending without meter in the truck at the terminal
- Blending by meter at the retail gas station
- Blending without meter in storage tank at retail gas station

The Kansas Department of Agriculture's petroleum inspection program recommends that unblended fuel stock be used to blend gasoline and ethanol. Using blended stock (E10 or E85) introduces variables into the blending equation which creates greater opportunity for achieving an improper blend. This, however, is only a recommendation and is not required by law.

What is required by law is that the blend be accurate. Inaccurate blends violate Kansas law and depending on the severity of the inaccuracy, may pose a danger to the vehicle's engine. Ethanol blends are allowed by law a tolerance of ± 1 percent. E85 is allowed a seasonal variance ranging from 70-85 percent ethanol.

Again, the Kansas Department of Agriculture's petroleum inspection program routinely checks fuel both at the retail level and the wholesale level for compliance with ASTM standards.

The Kansas Department of Agriculture's petroleum inspection program worked with the industry to develop guidelines for the use of blender pumps at retail. The guidelines are intended to minimize inaccuracies in blending while allowing the consumer a wider range of choice in ethanol blends.

GUIDELINES FOR BLENDING FLEX FUELS

Below are listed guidelines for the blending of Flex Fuels. E10 and E85, whether blended or not, must meet the appropriate ASTM standards. Blends between E10 and E85 must be able to meet the content that is labeled. The following requirements must be met:

1. **Suitability of equipment.**
    a. Device must have NTEP certificate.
    b. Must operate within flow rates established by manufacturer.
    c. Dispenser and meter must be compatible for flex fuels.
    d. Comply with all applicable requirements of NIST Handbook 44.

2. **Labeling of dispenser and Storage Tanks.**
    a. E-10 and unlead 87 must be labeled with octane rating (yellow background).
    b. Flex fuels E20-, E30, and E-85 no octane rating allowed on device.
    c. Flex fuel blends must be labeled with "orange" labels and warning labels. "Warning" Contains 20% Ethanol. **For Use in Flexible Fuel Vehicles (FFV) only.**
    d. Storage tanks must be permanently labeled identifying the fuel contained in the tank. Storage fill lid should also be color coded. White lid unlead 87, orange lid E-100.

3. **Proper dispensing of fuels.**
    a. E-100 should only be used as a blend stock with E-20 or greater ethanol blend. It should not be offered as a fuel itself.
    b. Flexible Fuel that is greater than 10 percent Ethanol should be dispensed from a hose separate of the E10 or unlead. Equipment normally used is 3 plus 1 blenders or 4 plus one blenders.
    c. c. All dispensers must be accurate and the blend ratios correct.

4. **Ethanol Issues.**
    a. Flex fuel dispensers must be equipped with an ethanol rated filter (10 micron).
    b. Storage tanks and lines used to store E-100 must be cleaned prior to start up.

5. **Fuel Quality Standards.**
    a. Unlead 87 octane and E-10, must meet ASTM standards, D-4814.
    b. E-85 must meet ASTM standards, D-5798.
    c. E100 must meet ASTM D-4806.
    d. E-20, E30 or other blends will be monitored for percent of blends.

Stations will be subject to frequent inspections for accuracy and fuel quality

Session of 2010

SENATE BILL No. 380

By Committee on Natural Resources

1-14

AN ACT concerning wildlife, parks and recreation; relating to public use of cabins on state land.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The secretary ~~of the department~~ of wildlife and parks is authorized, with the approval of the Kansas wildlife and parks commission, to establish fees for the public use of cabins owned or operated by the department. At a public meeting, the secretary, with ~~consideration by~~ the commission, shall set an amount for each fee that encourages use of such cabins and that enables the department to maintain and operate such cabins.

(b) Such fees as described in subsection (a) shall not exceed:

(1) A maximum of $250 per night;

(2) a maximum of $1,500 per week; and

(3) a maximum of $5,000 per month.

(c) Fees for the use of cabins owned or operated by the department of wildlife and parks shall be exempt from the provisions of K.S.A. 77-415 through 77-437, and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Balloon Amendment prepared for the House Agriculture and Natural Resources committee March 18, 2010

approval of

Balloon #1

(d) Public cabins owned or operated by the department shall be subject to the lodging inspection provisions of K.S.A. 36-501 et seq., and amendments thereto.
(e) Public cabins owned or operated by the department shall be subject to the transient guest taxes of K.S.A. 12-1692 through 12-16,100 and amendments thereto.

Balloon #2

(d) Any time a public cabin owned or operated by the department is reserved, the department shall disclose any extra taxes, fees, charges or surcharges that will be added to the price of the reservation. If the exact amount of any tax, fee, charge or surcharge is not known, an estimate shall be provided.

Daniel Yoza, Assistant Revisor

Ag & Natural Resources Committee
Date 3-29-10
Attachment 8