December 9, 2021

The Hon. Nancy Pelosi
Speaker of the U.S. House
1236 Longworth HOB
Washington, DC 20515

The Hon. Charles Schumer
Senate Democratic Majority Leader
322 Hart SOB
Washington, DC 20510

The Hon. Kevin McCarthy
U.S. House Republican Leader
2468 Rayburn HOB
Washington, DC 20515

The Hon. Mitch McConnell
Senate Republican Minority Leader
317 Russell SOB
Washington, DC 20510

The Hon. Richard Neal
Chairman, Ways & Means Committee
1102 Longworth HOB
Washington, DC 20515

The Hon. Ron Wyden
Chairman, Senate Finance Committee
221 Dirksen SOB
Washington, DC 20510

The Hon. Kevin Brady
Ranking Republican, Ways & Means Committee
1011 Longworth HOB
Washington, DC 20515

The Hon. Mike Crapo
Ranking Republican, Senate Finance Committee
239 Dirksen SOB
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader Schumer, Minority Leader McConnell, Chairmen Neal and Wyden, and Ranking Members Brady and Crapo,

As Congress develops legislation to meet the nation's climate goals, we ask that you ensure a level playing field for emerging technologies by excluding fuels made by co-processing biomass and non-biomass feedstocks from eligibility for proposed Sustainable Aviation Fuel (SAF) tax incentives.

Co-processed fuel is already excluded from eligibility for the current biodiesel and renewable diesel blenders' tax credit. Congress determined more than a decade ago that making co-processed diesel at a conventional oil refinery does not generate the same economic, environmental and societal benefits as producing renewable diesel at a stand-alone, greenfield facility. Today, there is considerable data that suggests co-processing biomass at a refinery does not generate an equivalent amount of renewable fuel – much of the renewable content and associated greenhouse gas savings are lost in the process.

If U.S. oil refiners are incentivized to co-process even minimal amounts of biomass feedstock, they could potentially divert available biomass feedstock from standalone biofuel producers. In addition to potentially diminishing environmental benefits and cutting production or stranding existing biofuel facilities, oil refiners could foreseeably undercut the economics of and preclude the building of new biofuel facilities with all of the economic activity, employment, and supply chain benefits that would accompany them. Subsidized co-processed fuels will almost certainly crowd out new investments by innovative biomass-based fuel producers and therefore will not create a reliable, durable renewable diesel or sustainable aviation fuel industry.

Congress should clarify in the Build Back Better legislation that all transportation fuels – including aviation fuels – made by co-processing biomass with non-biomass feedstocks are ineligible for incentives. Additionally, Congress can provide more certainty regarding which fuels will be eligible for federal tax credits. The definitions of Sustainable Aviation Fuel in the legislation appear to allow eligibility for the federal tax incentives to expand as ASTM further develops SAF and aviation fuel specifications. For these reasons, it is not clear what the post-enactment revenue, environmental and feedstock consequences would be if the SAF tax incentives are enacted as currently drafted.

To prevent stranding investments in existing and emerging environmentally beneficial biofuels facilities in rural America, and to ensure that any new SAF incentives are consistent with other tax incentives in driving economic, employment and environmental benefits, we respectfully request that lawmakers amend the definitions of SAF in both the Sustainable Aviation Fuel and the Clean Fuel Production Credit to clarify that eligible SAF does not include fuels derived by co-processing biomass with a feedstock that is not biomass.

We look forward to working with Congress to ensure the continued emergence of sustainable aviation fuels as part of the overall growth of the renewable fuels industry.

Sincerely,

Growth Energy

National Biodiesel Board

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