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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

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* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)



State Governmental Affairs
St. Paul Office

MARATHON PETROLEUM COMPANY LLC

400 Robert Street North, Suite 1560
St. Paul, MN 55101
Telephone 651 / 310-0600
Fax 651 / 310-0598

Testimony on Senate Bill #0450

Presented by Richard S. Kadansky

Manager, State Governmental Affairs - Minnesota, Wisconsin, Illinois

Senate Special Committee on Clean Energy

February 10, 2010

Senator Miller and Senator Plale, members of the committee, my name is Richard Kadansky, Manager of State Governmental Affairs for Marathon Petroleum Company covering the states of Wisconsin, Minnesota and Illinois. Thank you for this opportunity to comment on Senate Bill 450.

Marathon Petroleum is heavily invested in the refining, transportation and marketing of petroleum products for the state of Wisconsin and throughout the Midwest and Southeast states. Specific to Wisconsin, we operate an oil refinery and terminal facility in St. Paul Park, Minnesota (about twenty miles over the border) that services western Wisconsin, and three other product terminals that provide fuels for the state in Milwaukee, Green Bay and Rockford, Illinois. Marathon has interests in pipeline operations throughout the Wisconsin, and also supplies approximately 90 independently-owned Marathon gas stations retailing under the Marathon brand, and owns and operates 69 Speedway and SuperAmerica stations throughout the state. Overall, our company employs nearly 1,000 people in Wisconsin.

Marathon is proud of its support of renewable fuels and is one of the largest blenders of ethanol and biodiesel in the nation. Last year in Wisconsin alone we sold approximately 237 million gallons of ethanol-blended gasoline through our two terminals, and sold 30 million gallons of biodiesel-blended fuel from outside the state for transportation into Wisconsin. Marathon has invested millions of dollars into upgrading our Wisconsin, Minnesota and Illinois terminal infrastructure to accommodate the marketing of renewables over the past few years. We also have interests in ethanol plants in Ohio and Indiana, as well as a partnership with Mascoma Corporation, a leading biofuels development firm specializing in cellulosic ethanol production.

Though the goals of SB #450 are commendable, after our considered review I am appearing today to voice Marathon's opposition of the Low Carbon Fuel Standard contained within the proposal.

Marathon's primary concern centers on the practical aspect of manufacturing a low carbon fuel. At present, there is no technological or practical way in the manufacturing process to reduce the carbon intensity of our fuel. In simplified terms, carbon is the element that puts the "spark" in the gasoline. The intensity *can* be lowered by blending with biofuels – as we are doing – but cannot be lowered or eliminated via the manufacturing process itself. Also, there is great uncertainty as to when technology may develop that will allow our industry to meet any types of carbon intensity reductions as part of the production phase. *If* and when such technology develops, I would anticipate both significant time and financial commitment would be needed to allow for proper infrastructure development. The economic viability of producing and selling such a fuel would no doubt be a key driver in any decision to do so.

A major flaw in a Low Carbon Fuel Standard is that it only reduces greenhouse gas emissions in the geographic area where it is applied. Other states' emissions will no doubt negate any progress Wisconsin intends to make and, on a global basis, places with growing emission levels such as China and India *will* still have an effect on North America. The global environment does not recognize Wisconsin's borders.

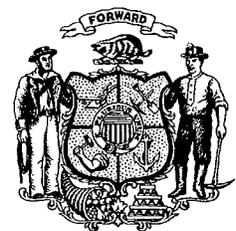
Also of significant concern, a Low Carbon Fuel Standard in essence discourages the use of crudes from Canada which would no doubt be problematic for Wisconsin, since the state now gets approximately half of the oil it uses from this North America trading partner. Should this type of standard be enacted, the state would inevitably prohibit the use of these feedstocks and be almost totally reliant on crude oil from other areas including foreign sources. Let me also state that Marathon's Minnesota refinery, which services much of Wisconsin, currently uses about 80% Canadian crude.

We also share the belief that a Low Carbon Fuel Standard has the potential to unnecessarily complicate fuel distribution in Wisconsin, and seriously threaten an effective response to supply disruptions. We contend that this legislation will undoubtedly result in increased consumer costs with the creation of boutique fuels specific only to Wisconsin. It is anticipated that it will significantly reduce the flexibility of the petroleum infrastructure and therefore new costs may eventually surface for consumers at the pump.

Marathon feels it is important for Wisconsin to recognize that Congress has already acted with respect to setting fuel standards by including a Renewable Fuel Standard (RFS) through 2005's Energy Policy Act and the Energy Independence and Security Act of 2007. At this time, we oppose any state-specific Low Carbon Fuel Standard that would further complicate the existing Federal RFS. Proper time should be taken to assess the results of the Federal RFS, as well as California's LCFS program.

Our recommendation for both Wisconsin and the Midwest in general is to avoid creating a patchwork of fuels in the region, as the Midwest is already product-short and does not need to exacerbate this situation. Creating a fuel such as a low carbon fuel is not in the best interest of consumers and can negatively impact both Wisconsin's petroleum product supply and consumer economics surrounding these products.

Thank you for your attention and the opportunity to comment on Senate Bill #450.



WISPIRG

**Standing Up
To Powerful Interests**

To: Select Committee on Clean Energy
From: Johanna Lathrop, WISPIRG
Date: February 10, 2010
Re: The Clean Energy Jobs Act (SB 450/AB 649)

Good morning Chairman Miller and Chairman Plale and members of the committee. Thank you for the opportunity to speak today. My name is Johanna Lathrop, and I am an Advocate with the Wisconsin Public Interest Research Group (WISPIRG). WISPIRG is a statewide non-profit, non-partisan public interest advocacy organization that stands up to powerful interests.

I am here in strong support of the Clean Energy Jobs Act (SB 450). This essential bill aims to reduce the threat of climate change while rebuilding our troubled economy. Specifically, I am here in support of the transportation provisions of the bill. The transportation sector is the second leading source of carbon emissions in Wisconsin. In addition, transportation is the fastest growing source of carbon emissions in the state. In fact, Wisconsin's transportation system alone produced 25 percent more carbon dioxide in 2005 than it did in 1990.

Wisconsin must move toward a new transportation future for the 21st century that enhances our economy, national security, public health, environment, and quality of life. WISPIRG believes that the transportation provisions in the Clean Energy Jobs Act are a step toward creating this transportation system.

The Clean Energy Jobs Act contains provisions that will encourage more effective planning of our transportation systems. The bill would ensure that transportation projects are evaluated for greenhouse gas emissions. These analyses will provide critical information that will directly result in less greenhouse gas intensive projects.

The bill contains provisions that will reduce emissions per mile driven. The bill would allow Wisconsin to join about a dozen other states in adopting California's motor vehicle tailpipe standards. Wisconsinites deserve access to the cleanest cars on the market, and this bill would provide them that.

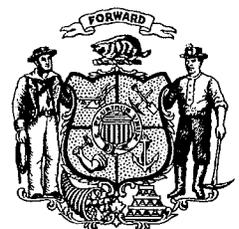
Finally, the bill directs the Department of Transportation (DOT) to establish statewide goals for reducing greenhouse gas emissions from surface transportation in the state. The bill also directs each Metropolitan Planning Organization (MPO) in the state, in consultation with DOT, to establish goals for reducing emissions that are consistent with DOT's statewide goals. The bill requires each MPO to report its progress in achieving its emission reduction goals to DOT.

Setting needed and achievable performance targets for our transportation system will enable us to meet our challenges and develop a 21st century transportation system.

We urge you to support the transportation provisions in the Clean Energy Jobs Act. Thank you for the opportunity to speak.



WISCONSIN STATE LEGISLATURE



February 10, 2010

TO: Members of Senate Select Committee on Clean Energy
FROM: Jeff Lyon, Director, Governmental Relations
RE: Opposition to SB 450 – The Clean Energy Jobs Act

On behalf of the Wisconsin Farm Bureau Federation, I want to thank you for the opportunity to comment on SB 450, the Clean Energy Jobs Act. WFBF policy adopted by delegates at our last annual meeting “opposes climate change legislation at the state level that would increase costs to production agriculture.” Further, our members believe that the climate change issue needs to be addressed at the national and international levels. They are extremely concerned that passage of this bill will make Wisconsin a regulatory island and negatively affect our businesses and job creation.

As you know, the Clean Energy Jobs Act is based on some of the recommendations from Governor Doyle’s Task Force on Global Warming. The bill sets goals for state GHG emission reductions, energy conservation, the generation of electricity from renewable sources, and new building energy use. There is no cap and trade program.

While WFBF opposes SB 450, we believe farmers can play an integral part in moving Wisconsin and the U.S. toward greater energy independence, but, we are concerned that the majority of provisions in SB 450 if implemented will lead to higher fuel, fertilizer and electricity costs. Unlike other businesses farmers cannot just relocate to another state. We need land and nearby processing facilities.

The Energy Crop Reserve Program, which would allow DATCP to enter into contracts, not to exceed 10 years, with farmers to receive payments for the establishment and production of eligible energy crops, could have some potential benefits. The ECRP could increase farmer income, become another cropping alternative and assist in energy independence. Still, we have several concerns and questions.

- 1) The program is not funded and no source of funding has been identified. To my knowledge no program cost estimates have been made by DATCP. Will funding come from GPR or will ratepayers be assessed to fund the program?
- 2) The market for biomass is relatively nonexistent. What does the future hold for biomass? The program will have to compete against other crops. Why would farmers make capital investments in machinery and other equipment to receive a subsidy payment when they don’t know how long the program will be in existence?
- 3) To grow biomass such as switch grass, farmers, to be profitable, will have to manage the crop like any other which means applying nutrients to the crop. Will farmers be able to

apply nitrogen and phosphorus at levels that will allow for maximum yields and production? Some studies say yes while others say no.

The Renewable "Feed In" Tariff provisions sometimes known as Advanced Renewable Tariffs (ART), which require electric utilities to purchase electricity generated from a renewable resource under standard, predefined purchase terms and conditions could benefit a few farmers that have methane digesters or wind turbines and could encourage more renewable electricity generation.

Obviously, if electric utilities have to pay more for renewable electricity generation, other ratepayers will have to foot the bill. What will the additional costs be to ratepayers? WFBF believes ARTs need to be more fully analyzed.

When reviewing an all encompassing bill like SB 450, WFBF had to weigh the provisions that could be good for production agriculture against the negatives. There are too many unknowns and we are opposed to the bill.

With respect to cost, a fiscal estimate with costs to the state as well as a detailed analysis of costs to businesses and individuals has not been completed. The Public Service Commission is basically given taxing power in the form of increased rates to meet the bill's stated goals.

Further, there has not been a detailed government analysis or estimates of GHG reductions versus the cost to achieve them.

With respect to jobs lost versus jobs created, it is interesting that the state Office of Energy Independence reports that 15,000 green jobs will be created by 2025, while a study commissioned by the Wisconsin Policy Research Institute indicates that 43,000 jobs will be lost. Before passing a comprehensive bill like SB 450, state citizens need more certainty with respect to jobs especially during the recession we are now experiencing.

As I mentioned before, WFBF believes climate change is an issue both national and international in scope and should be dealt with accordingly. Wisconsin cannot become a regulatory island.

The reasons for our opposition to SB 450 mirror the reasons we oppose the climate change legislation at the federal level. The major reason national climate change legislation has stalled is because Senators from both parties from states that rely heavily on coal for electricity generation have seen the adverse economic impact that bill will have on their states and constituents. This isn't surprising since the bill was crafted by legislators from the East and West Coasts which rely less on coal for electricity generation and stand to benefit.

According to the U.S. Department of Energy, energy costs, under the federal climate change bill, could grow by \$1,870 per household. Combined with higher costs for food, the additional yearly hit on families would total about \$2,300 per household.

With nearly 70 percent of electrical generation in Wisconsin coming from the use of inexpensive coal, we are concerned that the emission reduction goals in SB 450 will require utilities to find other sources of more expensive energy to "fill in the gap" without any realistic alternatives to meet the bill's goals by the target dates.

Farmers are generally price takers and have limited ability to pass increased production costs on to consumers. We are concerned that increased fuel, fertilizer and energy costs will shrink Wisconsin's nearly \$60 billion agriculture industry.

Other issues that cause concern for WFBF include the adoption of a low carbon fuel standard (LCFS) and California vehicle emission standards.

Under a low carbon fuel standard GHG emissions are determined for all steps in the production, distribution and use of the fuel (a life cycle analysis). The LCFS would be set by an advisory group established by the Midwest Governor's Association.

The LCFS could potentially be a disadvantage to Canadian crude because it could have a higher carbon-intensity than conventional crude from the Middle East or Venezuela which would result in higher prices since more than half of Wisconsin motor fuels are refined from Canadian crude. Further, the LCFS could also adversely affect biofuels production if a full cycle analysis (which includes land use changes) is used in calculations.

The California vehicle emission standards are more restrictive than federal laws and Wisconsin would be delegating authority to California to determine our emission standards. Further, the California standards treat ethanol unfavorably.

Again thank you for the opportunity to comment on SB 450. With all the unknown costs and limited benefits to business and the environment, the WFBF respectfully requests that you oppose SB 450, which is "getting the cart ahead of the horse."





WISCONSIN'S BUSINESS VOICE SINCE 1911

TO: Members, Senate Select Committee on Clean Energy
FROM: Scott Manley, Environmental Policy Director
DATE: February 10, 2010
RE: Senate Bill 450 – Wisconsin Global Warming Legislation

Wisconsin Manufacturers & Commerce (WMC) is opposed to a number of transportation-related provisions in Senate Bill 450 (SB 450) that would increase fuel costs for consumers, cede Wisconsin's regulatory authority to California, and unnecessarily burden our transportation infrastructure planning process. The transportation policies discussed below are costly from an economic standpoint, and will not result in meaningful reductions in Wisconsin greenhouse gas emissions.

WMC is the state's largest business trade association, with roughly 4,000 members in the manufacturing, health care, retail, energy, banking, insurance and other service sectors of our economy. WMC is dedicated to making Wisconsin the most competitive state in the nation to do business, and toward that goal, we support consistent, cost-effective and market-driven regulatory approaches that recognize a balance between environmental protection and the competitiveness of Wisconsin's jobs and economy.

Unfortunately, misguided policies which seek to implement California-style global warming regulations in Wisconsin fail to achieve the critical balance between economic cost and environmental benefit. Specifically, the proposed Low Carbon Fuel Standard (LCFS) and California vehicle emission standards will significantly increase both fuel and vehicle costs for Wisconsin citizens, without achieving a meaningful reduction in Wisconsin greenhouse gas (GHG) emissions.

Low Carbon Fuel Standard

A Low Carbon Fuel Standard (LCFS) picks winners and losers in the fuel market. The proposed LCFS seeks to reduce the carbon content of transportation fuels based upon a "lifecycle" GHG emissions analysis. Calculating the lifecycle GHG emissions of a given transportation fuel depends significantly upon the assumptions used in the analysis, and those assumptions may be very specious and subjective. In essence, the process of assigning a lifecycle GHG emission "score" to transportation fuels allows regulators to pick winners and losers in the fuel market based upon the assumptions they use for each fuel. California regulators, for example, chose to penalize Midwest corn ethanol by assigning to it a lifecycle GHG emission score that is worse than many petroleum-based gasoline fuels.

The LCFS targets Canadian crude oil. WMC is concerned that the subjectivity inherent in scoring transportation fuels for GHG emissions, coupled with the broad authority given to the DNR under SB 450, will result in a bias against Canadian crude oil. Both nationally and locally, the proponents of a LCFS have very transparently indicated their opposition to the use of Canadian crude oil in Wisconsin, often referring to it as "dirty gas." It was clear during the Global Warming Task Force deliberations on this policy that Canadian crude oil was the target of this proposal, despite the best efforts of supporters to declare the policy as "fuel neutral."

Penalizing Canadian crude oil with a LCFS would harm Wisconsin consumers with significantly higher fuel costs. Canadian oil is Wisconsin's dominant source of motor fuel, with more than half of our gasoline derived from this product. In fact, our state's only oil refinery in Superior utilizes Canadian

501 East Washington Avenue, Madison, WI 53703-2914 • P.O. Box 352, Madison, WI 53701-0352
Phone (608) 258-3400 • Fax (608) 258-3413 • www.wmc.org

WMC is a business association dedicated to making Wisconsin the most competitive state in the nation.

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crude oil as its primary feedstock. Additionally, Canadian crude oil is the predominant source of oil for the refineries that surround Wisconsin in Minnesota, Illinois and Indiana – all of which serve as suppliers to Wisconsin’s fuel market.

A LCFS could result in fuel supply shortages and disruptions. If Wisconsin creates a boutique fuel standard with a LCFS, and thereby makes it less economical to supply Canadian crude oil to our marketplace, refiners are likely to send gasoline derived from Canadian crude oil to other states. If that occurs, it will leave a significant gap in Wisconsin’s motor fuel supply, leading to higher prices and gasoline shortages. Worse yet, the alternative to friendly Canadian oil is likely to be lighter crude oil products from unfriendly and unstable regimes in the Middle East. Making Wisconsin more reliant upon fuel from the Middle East will not enhance our energy security.

Higher gas prices from a LCFS will harm Wisconsin consumers. Assessing the cost of a Wisconsin LCFS is difficult because we do not have commercially available alternative fuels or other technologies at a scale that would allow Wisconsin to reduce GHG emissions to meet a LCFS. A massive shift to ethanol, for example, was found to achieve a 1.5% reduction in transportation GHG emissions according to a recent study published by the Wisconsin Policy Research Institute (WPRI). While falling well short of the 10% mandatory reduction in SB 450, the shift to ethanol was projected to increase costs to Wisconsin motorists by \$3.2 billion over a ten year period.

Another study of the economic impact of a LCFS was conducted by the George Marshall Institute in April of 2009. Their study concluded that a LCFS would increase ethanol use and demand, resulting in a 46% increase in ethanol prices. *The price of blended gasoline would therefore increase by 61-cents per gallon under a LCFS.* Generously assuming a 25% GHG benefit from ethanol use, which is inconsistent with recent findings by California and EPA regulators, the study found that ethanol could achieve a net 7% GHG emission reduction – significantly less than the 10% reduction target.

At a reduction cost of \$457 per ton, the study found that a LCFS is among the most costly and least economical means to reduce GHG emissions. Rather than adopting expensive new global warming policies that penalize certain fuels to pick winners and losers in the marketplace, Wisconsin should focus on incentives for the research and development of clean energy technologies.

A LCFS threatens Wisconsin manufacturing jobs. In addition to the enormous consumer costs associated with a LCFS, WMC is concerned the policy will adversely impact Wisconsin manufacturing jobs at companies who supply the Canadian oil industry with heavy equipment. Manufacturers like Bucyrus International and P&H Mining Equipment are exclusive suppliers of the enormous mining machinery used to extract Canadian oil. These pieces of mining equipment cost millions of dollars, and their manufacture is a source of family-supporting jobs and income for many Wisconsin workers. In addition, the Canadian oil sands have been a significant market for other state manufacturers like the Manitowoc Co. and Rockwell Automation. Fuel policies that seek to reduce demand for Canadian oil will result in reduced demand for equipment manufactured by Wisconsin employees.

Wisconsin should not create a boutique fuel for our state. Earlier this year, the U.S. Congress had the good sense to reject a national LCFS, recognizing it would harm consumers. The go-it-alone LCFS proposed in SB 450 would trigger mandatory DNR rulemaking to implement a LCFS in Wisconsin based upon the political whim of neighboring Governors who merely indicate their “support” for the policy. In all likelihood, Wisconsin may find itself as the only state in the Midwest that actually implements this expensive fuel policy – which has already been rejected in Minnesota. Wisconsin consumers simply cannot afford to pay higher prices for gasoline, nor can our economy bear the burden of Wisconsin-only boutique fuel prices. We therefore respectfully ask that you reject a Low Carbon Fuel Standard in Wisconsin.

California Vehicle Emission Standards

SB 450 proposes to opt Wisconsin into California's vehicle emission standards, and thereby reject federal tailpipe and fuel economy standards. As a general matter, WMC believes that aligning our regulations with those of national standards is preferable to ensure that we remain on a level economic playing field with our national competitors. Furthermore, national standards are written by federal lawmakers and federal agencies that are accountable to Wisconsin citizens. Voters can voice their concerns through elected officials at the federal level of government, including U.S. Senators, U.S. Representatives and the President.

By contrast, SB 450 would place regulatory decisions regarding motor vehicles into the hands of unaccountable bureaucrats in California, who likely do not have the best interests of Wisconsin citizens at the forefront of their decision-making. As a policy matter, WMC believes it makes no sense to cede Wisconsin's regulatory authority on these matters to unelected bureaucrats in another state. This unprecedented and permanent abdication of legislative authority is troubling and should be rejected.

Adopting California's emission standards will be expensive for Wisconsin motorists. Automobile manufacturers estimate the additional regulations will increase costs between \$2,000 and \$3,000 per vehicle. Even if California regulators' assumptions regarding fuel savings are accurate, consumers would face a net cost increase of at least \$1,000 per vehicle. The WPRI study estimated Wisconsin consumers would pay higher costs for vehicles under this proposal of \$353 million per year. These are avoidable costs that Wisconsin should not layer on top of consumers at a time when our state is struggling to emerge from a deep economic recession.

The California vehicle emission standards could also result in the rationing of pickup trucks and sport utility vehicles (SUVs) in Wisconsin. Because of their larger size, these vehicles simply cannot meet the aggressive emission standards proposed by California. This will necessarily force automakers to shift sales of pickup trucks and SUVs to other states that have not adopted California's standards. In addition to significantly limiting consumer choice for Wisconsin citizens, this policy will economically disadvantage Wisconsin automobile dealers who are likely to lose truck sales to neighboring states. For these reasons, we respectfully urge you to reject California vehicle emission standards in Wisconsin.

Carbon Audited Transportation Planning

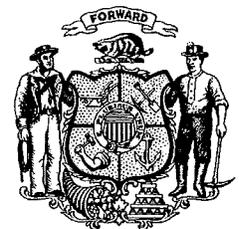
SB 450 would require the Wisconsin Department of Transportation (DOT) to conduct an evaluation of the GHG emissions and energy use that will result from proposed transportation projects that require an environmental analysis or impact statement. The audits would require DOT to calculate the monetary value of the GHG emissions and energy use that will result from the project. In addition, DOT would be required to consider greenhouse gas emissions and energy use in identifying, prioritizing, evaluating, or assessing transportation facility or service needs for the statewide transportation system.

We are concerned that these prescriptive requirements will hamper efforts to expand the capacity of Wisconsin's transportation infrastructure in the future. Moreover, we believe the DOT lacks the expertise to estimate GHG emissions associated with a transportation project, as well as the ability to assign a dollar value to GHG emissions. While the purpose and benefit of this proposal is unclear, we believe it would likely lead to significant uncertainty in the transportation planning process. The subjective nature of the analysis required in this policy is likely to invite lawsuits intended to stifle road building projects in the future. We therefore ask that you reject carbon audited transportation planning requirements.

Thank you for your thoughtful consideration of our concerns with this legislation. Please feel free to contact me if you have any questions, or if I can provide you with additional information at (608) 258-3400 or smanley@wmc.org.



WISCONSIN STATE LEGISLATURE



**Prepared Remarks
CEJA Testimony
Wednesday, Feb. 10, 2010**

Thank you to the co-chairs, Senators Plale and Miller, and members of the committee for the opportunity to appear before you today to discuss the Clean Energy Jobs Act. My name is Rod Nilsestuen and I am the secretary of the Department of Agriculture, Trade and Consumer Protection.

DATCP supports the Clean Energy Jobs Act as a critically important way to advance our agricultural economy and address climate change.

We believe that the stakeholders on the Governor's Global Warming Task Force worked very hard to reach a comprehensive strategy to confront one of the most significant challenges of our time, and we'd like to thank chairs Plale and Miller in the Senate and Chairs Black and Soletski in the Assembly for taking that strategy and carefully crafting it into the legislation before us today.

Across the state, the Clean Energy Job Act is imperative because it will create at least 1,800 jobs within the first year of its passage and 15,000 jobs over the next 15 years, according to the most serious analysis of the bill.

To illustrate how the legislation will help Wisconsin farmers, I would like to begin with the example of anaerobic digesters, which are getting considerable federal attention. USDA Secretary Tom Vilsack has committed to 1,000 additional digesters built in the U.S. Wisconsin now leads the country in the number of farms running these digesters, which take manure and turn it into energy. They eliminate a disposal cost and they let farmers power their operations and sell electricity back onto the grid.

Two factors can dramatically increase the energy we're getting from digesters in Wisconsin. First, digester technology is improving. That means that instead of just working on farms with 1,000 head of cattle or more, they will soon work for 200 and 150-cow farms, which hits a large number of Wisconsin's 13,000 dairy farms.

Second, the Clean Energy Jobs Act makes investing in this improved technology worthwhile. Renewable energy producers would be compensated at a higher rate than what their utility may currently offer them – an approach we've seen succeed in Germany, Canada and places around the world.

At the same time we pay for clean energy with fewer external costs, the Renewable Portfolio Standards ensures that by the year 2025, 25 percent of the state's energy will come from renewable sources, and 10 percent from within the state.

Together these provisions will transform farms into clean energy producers and get at a central challenge we face as a state. Wisconsin does not have coal, oil or natural gas. We send \$16 billion per year out of our borders to pay for energy. Overall, energy costs in Wisconsin account for 10 percent of our whole economy, or about \$23.8 billion dollars.

Farms have to be part of the answer to how we keep more energy dollars at home, and we already see progress and potential. In 2008, biologically-sourced energy was

responsible for about 90 percent of the total renewable energy produced in this state. Ethanol was 10 percent of our gas supply.

The energy crop reserve provision creates incentives to fulfill the state's bioenergy crop demand. Here, farmers will have a way to use marginal land, plant no-till perennials like switchgrass and feed the power plants that will rely more and more on biomass. This isn't science fiction. It's already happening. Several schools in the state have already switched their boilers to use biomass, and power plants in Madison and Ashland are planning to burn up to 100% biomass. Moving to biomass will create jobs and further develop markets for those who want to grow, aggregate or transport biomass.

Petroleum is non-renewable and 100% imported to Wisconsin. Implementing a low-carbon fuel standard is a logical way to achieve carbon emission goals and leverage our biofuels industry's strength. Some might say that this standard ties us to California standards that disadvantage ethanol and Midwestern states. I would say that it provides an opportunity for Wisconsin and the Midwest to take advantage of our ethanol and biofuels industries. If there is going to be a low carbon fuel standard in Wisconsin, it would have to be agreed to by Midwestern governors, including Wisconsin's. DATCP, OEI and the UW-Extension would be involved in structuring it.

We can implement a low carbon fuel standard that recognizes the importance of the ethanol and biofuels industry and analyzes an accurate life cycle cost of ethanol production that provides an advantage for homegrown renewable fuels. Let's remember that the Midwest is the ethanol belt of the US. When Governor Doyle took office, we produced no ethanol. Now we are the seventh leading producer, with almost a half billion gallons a year. The Midwest is not going to disadvantage an industry that is so important to our economy. In fact, a low carbon fuel standard in Wisconsin structured by the Midwest provides a distinct advantage for homegrown fuel.

Energy efficiency and conservation are far cheaper than building new power plants. They also make our businesses more competitive and help create jobs. The Clean Energy Jobs Act increases the state's energy efficiency efforts by establishing achievable energy reduction goals for utilities – a 2% reduction in energy use by 2015. The proposed energy efficiency building codes that address dairy farms is for new operations – operations that are already likely considering their energy efficiency needs when they construct a new building. This makes sense.

Our energy landscape is changing. It is no longer just speculation that carbon emissions will be subject to limits. The EPA has already moved to regulate greenhouse gas emissions in response to a Supreme Court ruling, and congressional action on this front is still possible. With or without a new federal law or the Clean Energy Jobs Act, this kind of regulation is coming – and the costs of burning coal will continue to rise. That is a challenge, because Wisconsin gets two-thirds of our power from coal. Put simply, if we do nothing, our energy costs will go up.

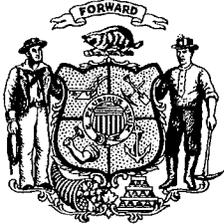
The costly dependence on fossil fuels also has profound adverse impacts on the sustainability of Wisconsin's public health, economy and environment and ecosystems. Farmers feel the effects of a changing climate probably more keenly than any other sector of our economy, and agriculture accounts for \$59 billion annually and one out of 10 jobs in Wisconsin.

To protect agriculture in Wisconsin, the course of action is clear: we must be a leader in clean energy and combine Wisconsin's vast farm and forest land with our ability to research, innovate and manufacture. We are facing legislation that allows us to move forward on this path -- protecting our climate, cleaning our water, preserving our soil and strengthening our economy.

Thank you.



WISCONSIN STATE LEGISLATURE



Senate Committee on Clean Energy - SB 450
Flint Hills Resources Testimony
February 10, 2010

Jeff Schoepke Testimony/Introduction

Mr. Chairman and Members of the Committee:

My name is Jeff Schoepke, and I am here today on behalf of Koch Companies. As you may know, Wichita-based Koch Industries owns a number of companies that have a significant presence in the state of Wisconsin, including Georgia-Pacific and Flint Hills Resources.

The focus of our testimony today is the proposed low-carbon fuel standard contained in Senate Bill 450 (SB 450) and its effect on Flint Hills Resources.

Flint Hills operates the Pine Bend refinery outside of St. Paul, Minnesota, as well as fuel terminals throughout the Upper Midwest, including several in Wisconsin.

With an operating capacity of approximately 320,000 barrels per day, the Pine Bend refinery is among the largest in the Upper Midwest, and it provides a portion of the gasoline, diesel and jet fuel used in Wisconsin (roughly 30 percent). The refinery has a dedicated pipeline that ships refined products to fuel terminals in Junction City, Waupun, Madison, and Milwaukee.

In addition to the personnel at its Wisconsin terminals, a portion of the refinery's 900-person workforce resides in western Wisconsin. The refinery also can have between 200 and 2,000 union contractors working on site on projects at any given time.

A low-carbon fuel standard (LCFS) requires the amount of carbon in fuels to be reduced on a wells-to-wheels basis. This means counting all carbon emissions associated with extracting or growing the fuel, refining it, transporting it to the marketplace, and finally using it to power motor vehicles. An LCFS seeks to lower the net carbon emissions of this process by a certain percentage. California – the creator and standard-bearer of the LCFS policy – requires a 10 percent reduction in the carbon-intensity of its transportation fuels.

While on the surface an LCFS may sound appealing, its consequences are potentially quite serious. Specifically:

- It discriminates against Canadian crude oil and corn ethanol which are vital to the Midwest's fuel supply. To this end, an LCFS also creates a perverse incentive for Midwest refiners to run lighter, less carbon-intensive crudes from places like the Middle East.

- It punishes refiners for being efficient by creating a disincentive for converting heavy crude and asphalt into valued products such as gasoline and diesel fuel.
- LCFS creates economic barriers between states and regions, which disrupt the marketplace and isolate fuel supplies – leading to higher fuel prices.
- It requires the use of scarce if not non-existent fuels that lack a consistent, scientific definition. The required use of these limited fuels also naturally leads to higher prices at the pump.
- It displaces the production and use of Canadian crude to other countries, resulting in a net increase in global greenhouse gas emissions. There is no doubt Canada's oil will be developed. It will either be developed efficiently and responsibly in the United States for the United States, or it will go elsewhere and be used by other countries at a much higher cost to the environment.
- And finally, an LCFS also could result in considerable job losses within U.S. industries that are tied to the production of crude oil from Canada – including heavy equipment manufacturers, refineries and pipeline systems. Canadian crude is extremely important to our region both as a reliable fuel source and as a major source of jobs and economic activity. A policy that discriminates against Canadian crude will undoubtedly hurt our regional economy.

With me today and providing technical testimony on the proposed low-carbon fuel standard is Jay Reinhardt. Mr. Reinhardt has more than 20 years of experience working in the petroleum industry for Flint Hills Resources and its parent company Koch Industries. He specializes in Midwest energy markets and operational planning.

Mr. Reinhardt also is a member of the Midwestern Governors Association's Low-Carbon Fuel Standard taskforce, which is presently evaluating a potential model standard for the region.

Jay is a Wisconsin native. He earned his B.A. in engineering from the University of Wisconsin-Platteville and an MBA in finance from the University of Wisconsin-Madison.

Jay Reinhardt Testimony

Mr. Chairman and members of the committee, thank you for the opportunity to testify.

For the record, my name is Jay Reinhardt, director of operations for Flint Hills Resources.

As Mr. Schoepke indicated, my area of expertise is primarily technical. In this vein, I hope to answer questions you may have about a low-carbon fuel standard and explain why it is potentially a very harmful policy.

1. First, there is no way to remove carbon from petroleum-based fuels. Oil is a hydrocarbon. There are also no commercially viable low-carbon alternatives that can be used with, or in place of, gasoline to meet a state-mandated carbon threshold for transportation fuels. Corn ethanol is the most prevalent alternative fuel currently in use, but its carbon intensity is equal to that of gasoline (according to California's base LCFS model). Other potentially less carbon-intensive forms of ethanol are neither commercially viable nor proven in their ability to satisfy demand without significantly increasing costs to consumers and taxpayers. An LCFS essentially mandates the use of a fuel that scantily exists.
2. Second, without viable blending alternatives refiners have essentially two options for meeting an LCFS – produce less or find a different base fuel. While you can't remove carbon from oil, it's possible to find feedstocks that require less energy from which to produce fuel – which in turn could lower the fuel's carbon intensity on a "wells-to-wheels" basis. However, this type of feedstock – the Jed Clampett crude that rests just below the earth's surface – is in scare supply. What exists

mostly resides in places like the Middle East. North American feedstocks – particularly oil drawn from Canada’s oil sands – are more difficult to extract and somewhat more energy-intensive to use for producing fuels. Consequently, an LCFS provides a perverse incentive to use lighter crudes from places like the Middle East instead of oil found much closer to home.

3. Third, it’s important to understand that no two refineries are exactly alike and several different refineries serve the Wisconsin market – most from outside the state. Each of these refineries uses its own unique blend of feedstocks based on the customization of its individual operations and the type of products its respective markets are calling for. In other words, the mix of feedstocks and fuels, and their corresponding carbon footprint, can vary. A fuel’s carbon intensity also isn’t something that can be measured through product sampling, so there is no way to know for sure if a product coming into Wisconsin from another state is more or less carbon-intensive than another. This underscores the complexity of LCFS modeling. The science on which this modeling is based is extremely immature. The definition of what constitutes a low-carbon fuel is changing constantly, and to date no definition has been proven absolute. An arbitrary standard for Wisconsin or for any other state would create barriers that would naturally divert product to more favorable markets. In effect, an LCFS would isolate Wisconsin’s fuel market.

Importance of Canadian Crude Oil:

The one thing that most of the refineries serving this region have in common is an increasing reliance on Canadian oil.

For your reference, in your packets you will find several maps illustrating the workings of the region's crude supply as well as a chart titled, "Crude GHG Life Cycle Estimates, Wells-to-Wheels," which shows the carbon intensity of various crude sources.

Our primary concern with a low-carbon fuel standard is the evaluation and treatment of a given fuel source's indirect carbon emissions – particularly crude oil derived from Canada and corn-based ethanol. Both of these fuel sources have been criticized by supporters of a low-carbon fuel policy and both were expressly targeted by California's low-carbon fuel standard in an effort to discourage their use.

It's important to keep in mind that California created the concept of an LCFS, and to date it is the only state to adopt and begin implementing the policy.

However, unlike California, which produces much of its own crude, the Upper Midwest gets a majority of its crude oil from Canada, which has the second-largest oil reserves in the world (second only to Saudi Arabia).

Although it's abundant, Canadian crude is typically denser and requires more energy to produce than lighter and sweeter crudes. Consequently, Canadian crude can generate more greenhouse gas emissions than traditional drilling during the production process, resulting in higher life-cycle emissions (See the Crude GHG Life-Cycle Estimates chart.) This makes some Canadian crude arguably more carbon-intensive than crude derived from places like the Middle East.

As you'll note from the CAPP (Canadian Association of Petroleum Producers) map in your packets, there are a number of major pipelines that carry crude oil from Canada into the region. You'll also note that the region can be easily bypassed. If the Wisconsin market adopts an LCFS and shuts out Canadian crude, existing and proposed pipeline infrastructure could be used to bypass the state to reach states without a low-carbon fuel standard. If other Midwestern states adopt the policy, Canadian crude will move to other regions or be produced for export to developing nations such as China and India. In fact, China recently announced a major investment in Canadian's oil sands to do just that. These nations, including China, have lower environmental standards than the U.S., which means there would be a net increase in emissions if Canadian crude is ultimately refined elsewhere. An LCFS may also increase the greenhouse gas emissions associated with transportation of crude oil. Canadian crude would travel half-way around the world to China because it can no longer be refined in Wisconsin and other Midwest states that supply the region with fuel. That Canadian crude could be replaced with Middle Eastern crude that will travel half-way around the world to Wisconsin and other Midwest states.

There is little doubt that Canada's oil sands will be developed; the only questions are where and for whom it will be produced.

The immaturity of the science on which an LCFS is based taken together with the lack of commercially viable alternatives, makes it near impossible for fuel producers to plan for and make the necessary long-term investments required to satisfy consumer demand for transportation fuels. It further threatens the jobs of workers throughout the Midwest that are tied directly to the production of Canadian crude. This includes Flint Hills Resources and other regional producers that exist largely because of Canadian oil not to mention the many other businesses throughout the Midwest that support and benefit from its production.

The California Example:

With due respect to our friends in California, we advise caution when looking to the Golden State for guidance on energy matters. California fuel prices, as we know, are higher and more variable than fuel prices in other states, in part because there are relatively few supply sources of its unique blend of gasoline.

Due to the relative isolation and the specific requirements of the California fuel market, California motorists are also vulnerable to short-term spikes in fuel prices. No pipelines connect California to other major U.S. refining centers, and California refineries often operate at or near maximum capacity due to a high demand for petroleum products.

When an unplanned refinery outage occurs, replacement supplies must be brought in via marine tanker. Locating and transporting this replacement gasoline, which must conform to the state's strict fuel requirements, can take from two to six weeks.

California's LCFS is expected to make matters worse. The state's voracious appetite for transportation fuel together with a government-created demand for what is a limited product will naturally lead to higher fuel prices. Low-carbon fuels will become even scarcer, and thus more expensive, when California fully implements its LCFS. Other states that follow California's example and adopt low-carbon fuel standards of their own will have to compete directly with California for these scarce fuels (California has the world's ninth-largest economy).

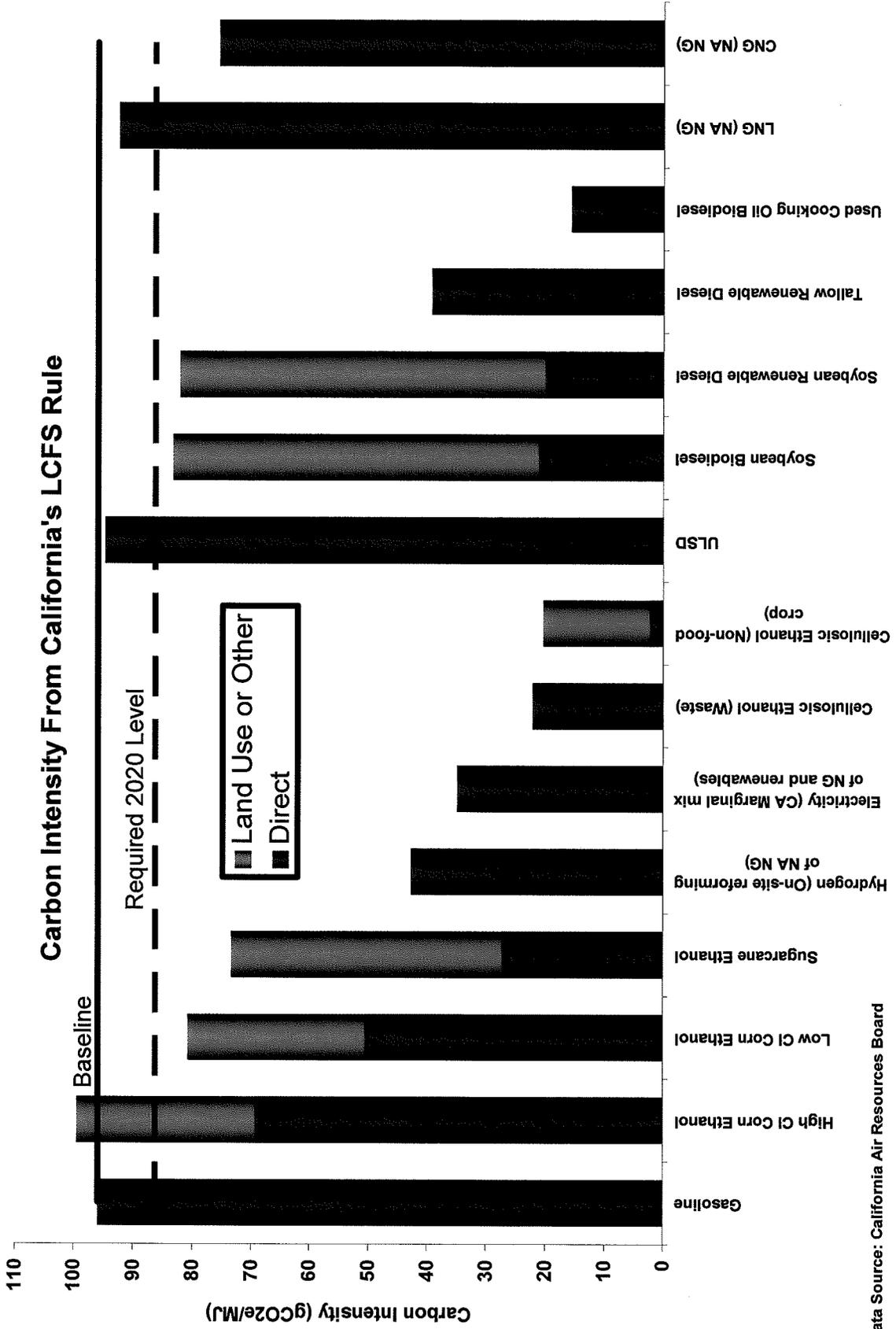
The dramatic increase in the cost of diesel in recent years is further evidence of what can happen to gasoline prices when fuel standards like these are adopted. In this case, the federal mandate to produce ultra-low sulfur diesel led to supply reductions when some refiners couldn't make the necessary investment to produce the fuel. As a result, prices increased and diesel became more expensive than regular gasoline, and it remains more costly today. Incidentally, the federal requirement to make ultra-low sulfur diesel fuel led to an increase in greenhouse gas emissions. In order to meet the fuel specs for ultra-low sulfur diesel, refiners had to add more hydrogen production, which is a significant source of global greenhouse gas emissions.

Conclusion:

In closing, it is important to consider this legislation's economic impact in the context of its true environmental potential. According to most experts, transportation fuels make up just over 27 percent of Wisconsin's greenhouse gas emissions. Most of these emissions come from the tailpipe, which would be largely unaffected by this legislation. With few refineries operating within the state, only a fraction of Wisconsin's total carbon footprint might be affected by a low-carbon fuel standard.

We urge the Committee to take into consideration the full scope of the environmental and economic impacts of a proposed low-carbon fuel standard. We also request that special consideration be given to the policy's unique impact on Midwestern states that depend on corn ethanol and crude oil from Canada to meet their transportation fuel needs. Policies that discriminate against these fuel sources will undoubtedly hurt the states that depend on them and have the potential to stall their economic recovery.

Carbon Intensity of Selected Pathways

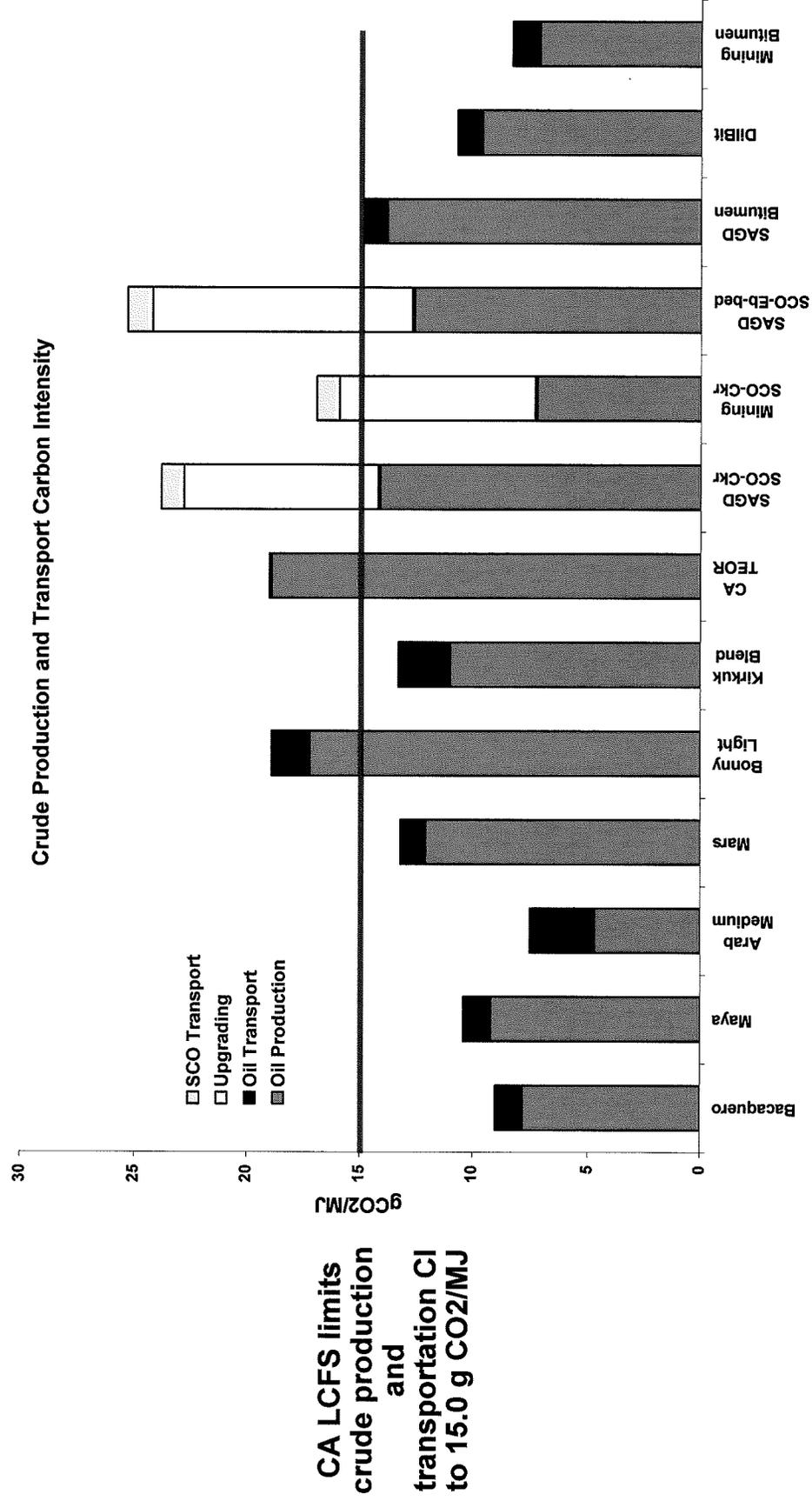


Data Source: California Air Resources Board

LCFS Results in Displacing Canadian Crude

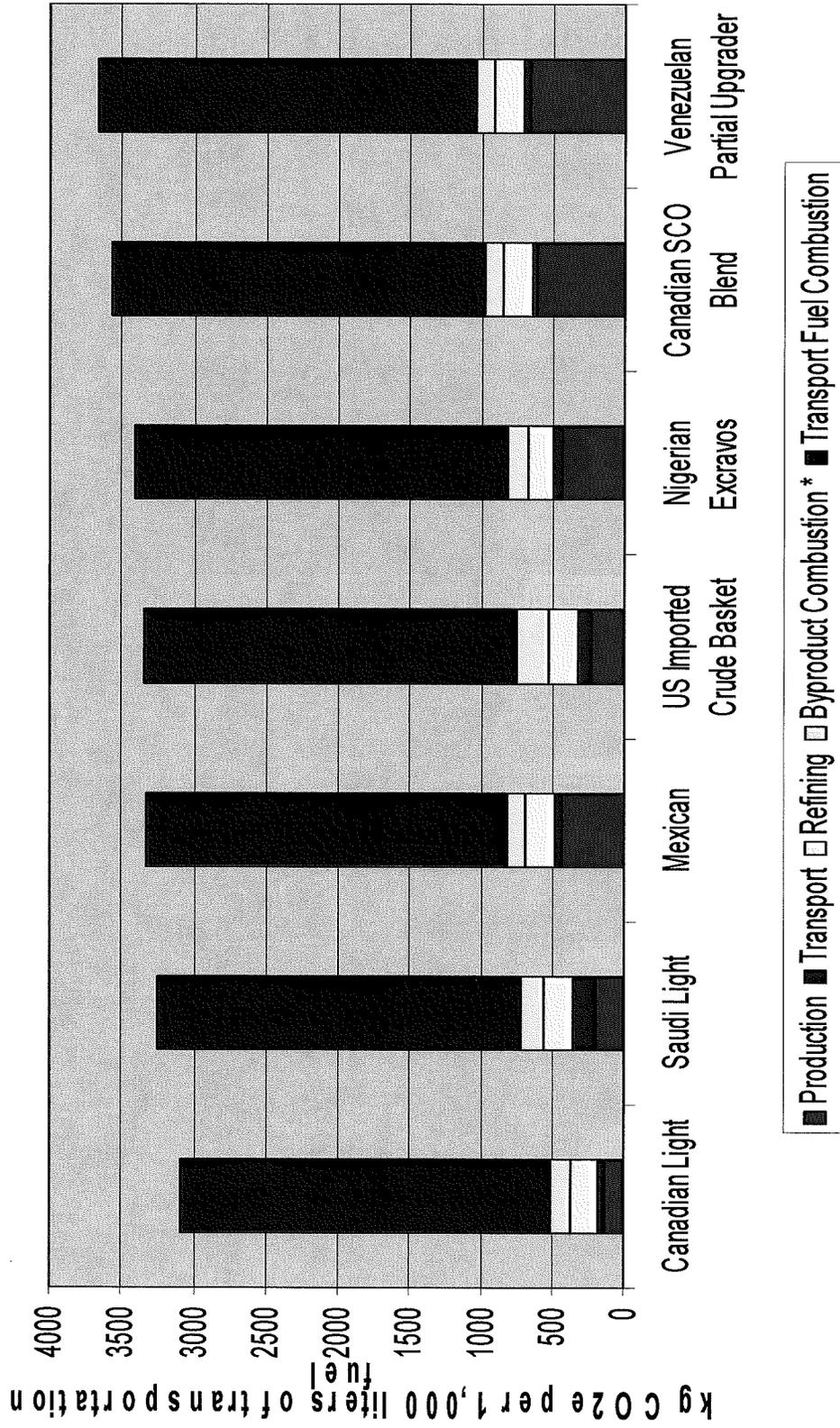
LCFS Could Push Canadian Oil Sands Out of the Supply Mix:

- This would exclude crude supply from the U.S.'s largest, most stable foreign crude supplier.



Source: JACOBS Consultancy "Life Cycle Assessment of North American and Imported Crudes" Prepared for AERI, June 2009

Crude GHG Life Cycle Estimates Wells to Wheels





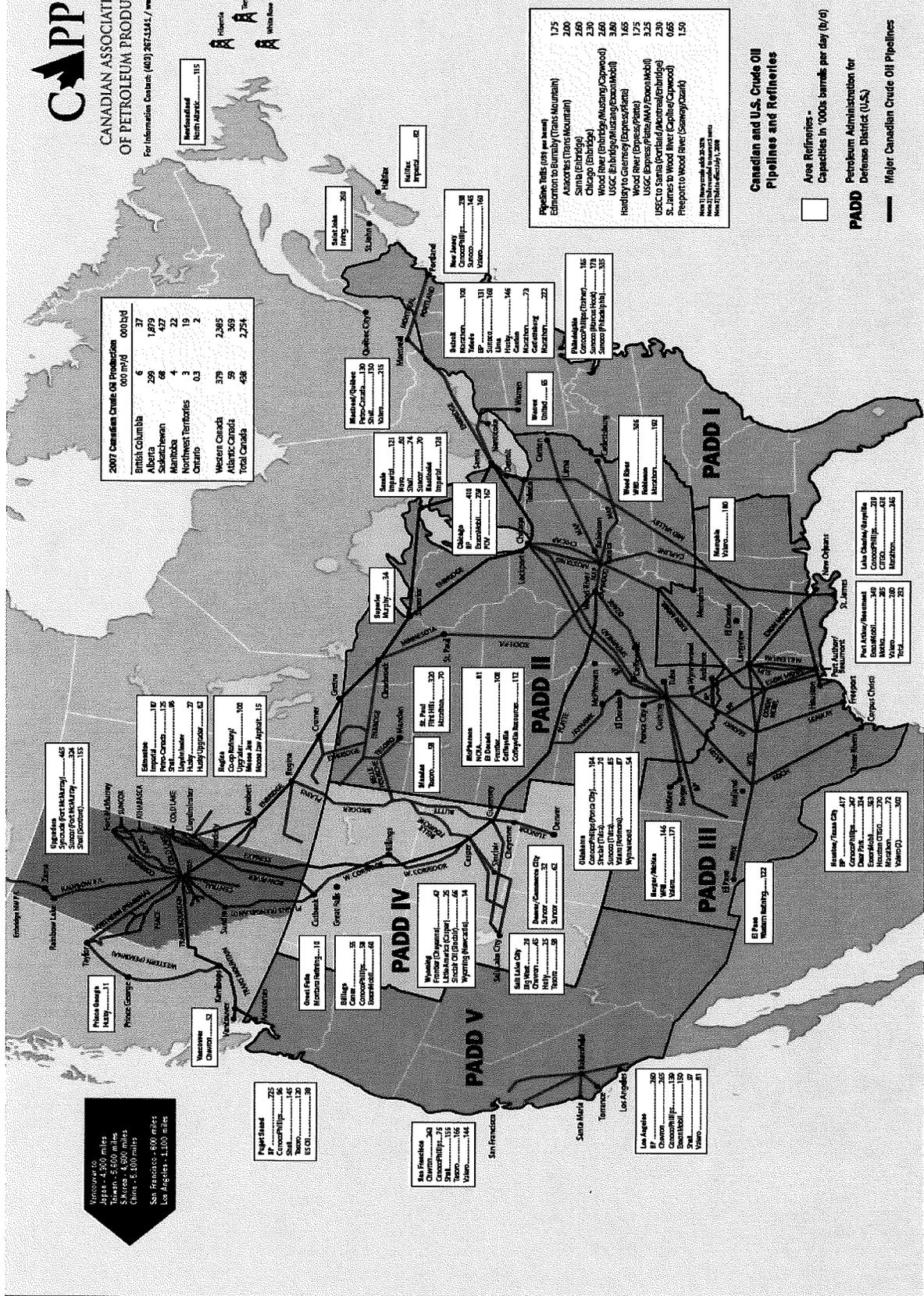
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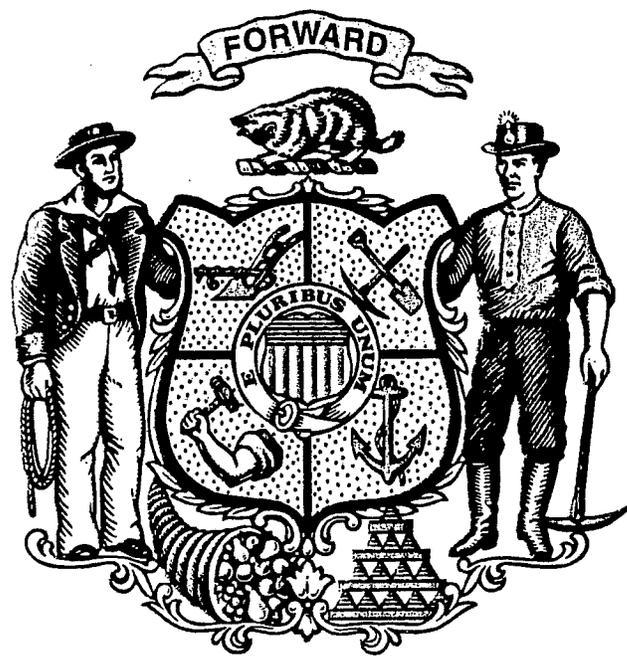
Midcontinent 115
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2007 Canadian Crude Oil Production 000 m³/d	000 bbl/d
British Columbia	37
Alberta	1,879
Saskatchewan	42
Manitoba	4
Northwest Territories	19
Ontario	2
Western Canada	379
Atlantic Canada	2,965
Atlantic Canada	59
Total Canada	498
	2,754



Winnipeg to Japan - 4,500 miles
Winnipeg to Taiwan - 4,500 miles
Winnipeg to China - 5,000 miles
San Francisco to Los Angeles - 600 miles
San Francisco to Los Angeles - 1,100 miles



AIA Wisconsin

A Society of The American Institute of Architects

February 10, 2010



**Public Hearing
Senate Select Committee on Clean Energy
2009 Senate Bill 450**

Co-Chairs & Committee Members:

Thank you for this opportunity to offer comments on the energy efficiency provisions in Senate Bill 450 related to the state building code and state facilities. I am Keith Allen Spruce, an architect and a member of the Wisconsin Society of Architects, which is the state society of the American Institute of Architects [AIA]. I represent AIA Wisconsin on the Department of Commerce, Safety and Buildings Division, HVAC Advisory Code Council.

AIA Wisconsin supports state programs, incentives and related initiatives that encourage sustainable and energy efficient building design, construction and operation. AIA member architects support governmental policies, programs and services that promote sustainable architecture and encourage energy conservation and waste reduction. Buildings account for 40 percent of carbon emissions and 70 percent of electricity generated in this country.

AIA Wisconsin supports statewide building code updates to improve energy efficiency that are developed by consensus, with the active participation of architects and allied design and construction industry professionals, using the state administrative rule-making process. State building codes need to be comprehensive, coordinated and contemporary. It is important that the code development process incorporates the latest research, prevents favoritism or bias to any special interest, insures that code requirements are cost effective in relation to public benefit, and promotes building code provisions that set performance rather than prescriptive standards.

The Department of Commerce has established a number of code advisory councils to develop and review proposed state building code updates and improvements through the administrative rule process. AIA Wisconsin members serve on advisory councils related to new and altered commercial buildings, multifamily dwellings and historic buildings as well as fire safety, accessibility, structural and energy efficiency code issues. These code advisory councils also include broad and balanced representation of others affected by the building code requirements we implement in Wisconsin, including building owners, engineers, contractors, local government, fire service, inspectors and others.

The International Energy Conservation Code [IECC] remains "the standard" under which SB 450 proposes to maintain. AIA Wisconsin continues to support a single model code that includes the IECC as its basis for the energy code standard for Wisconsin.

Senate Select Committee on Clean Energy
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Page 2

Regarding establishing an advanced energy standard for use for state facilities as proposed in SB 450, at the national level the American Institute of Architects is working closely with the International Code Council [ICC], the model code agency that created and maintains the current IECC energy code standard adopted in Wisconsin, as it develops a commercial green building code for traditional and high-performance buildings. This new green code is intended to be used in conjunction with the other ICC codes for commercial buildings that have been adopted in Wisconsin.

The International Green Construction Code [IgCC] is an important benchmark code development project. It will provide code and enforcement ability for Wisconsin to safeguard the environment and public health, safety and welfare through the establishment of sustainability requirements to reduce the negative potential impacts and increase the positive potential impacts of the built environment on the natural environment and building occupants. It will establish minimum requirements related to: conservation of natural resources, materials and energy; the employment of renewable energy technologies, indoor and outdoor air quality; and building operations, building maintenance and owner responsibility. The IgCC will be fully integrated with our current Wisconsin commercial building code suite of ICC codes, including the International Building Code (IBC), International Mechanical Code (IMC), International Energy Conservation Code (IECC) and International Fuel Gas Code (IFGC).

AIA Wisconsin continues to support the IECC energy code standard for traditional energy performance of commercial buildings and promotes the future adoption of the IgCC for high-performance commercial buildings for state buildings proposed by SB 450. Overall, the goals of the Governor's 25x25 plan are consistent with the goals of a similar 2030 initiative supported by the American Institute of Architects to reduce carbon emissions and protect our environment through the design and construction of sustainable and energy efficient buildings.

AIA Wisconsin, the Wisconsin Society of Architects, represents 1,400 individual members, including architects in private practice, business, industry, government and education.