



# STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

SPENCER J. COX  
LIEUTENANT GOVERNOR

May 14, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Room 300  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Ms. McCarthy:

The Renewable Fuel Standard (RFS) was established by the Energy Policy Act of 2005 and was expanded by the Energy Independence and Security Act of 2007. It requires that fuels sold in the United States contain 36 billion gallons of renewable fuels by 2022. The mandate for renewable fuels increases each year. In 2014, 18.5 billion gallons of renewable fuels must be blended, of which 14.4 billion will be met with corn-based ethanol.

The goals behind the RFS were well-intentioned, but the energy market and our nation's energy landscape were very different in 2007 than they are today. The RFS was designed to reduce greenhouse gas emissions, make our nation more energy secure, and provide a reliable domestic source of energy, which would lessen energy imports from less stable regions. At present, we are closer to achieving all of those important goals, but not because of the RFS. The 21<sup>st</sup> century energy renaissance has driven our nation's CO<sub>2</sub> emissions near a twenty-year low, made the U.S. the number one producer of natural gas, and put us on track to become the world's largest producer of oil. Meanwhile, the mandate is causing unintended harm to our country's economy.

Last year, 10 governors petitioned the U.S. Environmental Protection Agency (EPA) to waive the corn ethanol mandate due to severe economic harm to their states' livestock industries and the trickle-down impact to supporting industries and consumers. Under Section 211(o)(7) of the Clean Air Act, Congress explicitly authorized the EPA to waive the RFS mandates, in whole or in part, where there would be either (1) an inadequate domestic supply or (2) severe economic harm. Despite the devastating effects of the worst drought in 50 years, EPA did not take action.

This year, we are faced with another challenge created by the RFS. While renewable fuel requirements are increasing yearly, gasoline demand in the U.S. is steadily declining. This dynamic has created the E10 blendwall—the point at which more renewable fuel is required to be blended than can be safely consumed in the United States—due to fundamental constraints imposed by fueling infrastructure and problems of gasoline engine incompatibility with increased ethanol blends. With a few exceptions, automobiles are built and warranted for a 10 percent ethanol blend, and the same applies to small engines used in boats, lawnmowers, and motorcycles, for example.

Because of the blendwall, the RFS limits the supply of gasoline and diesel fuel for U.S. consumption. Compliance with the RFS is demonstrated through Renewable Identification Numbers ("RINs"). In effect, RINs operate like permits to sell specific quantities of gasoline and diesel for U.S. consumption. The number of RINs available for compliance depends on the consumption of renewable fuels in U.S. transportation fuels. Therefore, as the RFS mandates exceed the ability of the underlying fuel supply and vehicle and infrastructure compatibility to accommodate additional amounts of renewable fuels, there will be a shortage of RINs for compliance (i.e., permits to sell gasoline and diesel). This will, in turn, limit supplies of gasoline and diesel for U.S. consumption, resulting in severe economic harm to consumers and the overall economy.

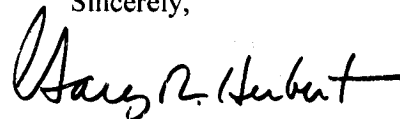
According to NERA Economic Consulting, there will be an inadequate supply of RINs to satisfy the various mandates of the 2014 RFS, forcing the overall reduction of supplies of gasoline and diesel for U.S. consumption. Therefore, NERA predicts that this reduction in supplies will create "an inadequate domestic supply" of gasoline and diesel fuel, resulting in "severe harm" across the U.S. economy. Indeed, NERA predicts that the blendwall would "include a \$770 billion decline in GDP and a corresponding reduction in consumption per household of \$2,700" by 2015.

The State of Utah has a vested interest in diversifying transportation fuel options. However, due to the severe economic harm and inadequate domestic supply caused by the mandate, as described above, the EPA has the authority under Section 211(o)(7) to waive the volumes required to be blended in 2014. The EPA took a step in the right direction when it acknowledged the blendwall and exercised this authority in the proposed 2014 RFS volumes rule by waiving the volumes to just below 10 percent ethanol. The EPA must still finalize the 2014 RFS volumes, and I strongly urge the agency to stay the course and remain steadfast in its resolve to avoid the blendwall and a dangerous economic situation by keeping the volumes below 10% ethanol.

Regardless of the path forward with respect to the Renewable Fuel Standard in the near term, the State of Utah will continue in its leadership role in the areas of Compressed Natural Gas vehicles, electric vehicles, and other alternative technologies, which help move the state and the country toward a future that is both environmentally responsible and economically productive. I appreciate your leadership in this realm. I am optimistic that we can work together on this issue, which is so critical to rural Utah.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary R. Herbert  
Governor