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May 21, 2009

Honorable Max Baucus
United States Senate
511 Hart Senate Office Building
Washington, DC 20510

Attention: Catherine Cyr Ransom, Senior Environmental Policy Analyst

Dear Senator Baucus:

Over the years you have done a fine job fighting for Montanans on issues that pose threats to our ability to do business and develop our economy. We greatly appreciate your efforts. We especially appreciate the outreach by Catherine Cyr Ransom regarding our views on climate change and the pending Waxman-Markey legislation. The Montana Petroleum Association (MPA) has spent considerable time discussing state related climate change issues and we would like to share some of our thoughts with you, even though the bill continues to change in the House.

Over the last several years, climate change issues have been on the forefront of environment agendas in Montana. In 2006, Governor Schweitzer convened a Climate Change Advisory Committee (CCAC) to examine what Montana could do to reduce our impact on global climate issues. MPA held several meetings developing the following position under which we compared individual recommendations from the Governor's Council.

- Recommendations that were based on conservation, MPA could support.
- Recommendations where the entire premise is based on the Climate Change Advisory Council's (CCAC) opinion for addressing climate change and which result in an increase in costs to members would be opposed.
- Recommendations where the entire premise is based on the CCAC opinion with no increase in cost would not have an MPA position allowing individual members to weigh in.

We were accused of taking a too simplistic view of the issues, but frankly the issue of cost is being ignored, and MPA felt that cost and economic impacts should be core talking points on any climate change issue. MPA held that position during the 61st legislative session and we hold that position with the Waxman-Markey bill. In summary, the economic impacts of Waxman-Markey raise significant concerns to our membership and the House legislation in its present form will be difficult for us to support.

Regardless of actions taken in Congress, petroleum based fuels are the predominant energy sources on our planet. Throughout the past election cycle we heard campaign statements from both parties stating that we need to reduce our dependence on foreign oil and, at the same time, increase production of domestic resources. In our view, the Waxman-Markey bill places heavy burdens on domestic exploration, production and processing of America's oil and natural gas resources and threatens this country's ability to work towards greater energy independence.

Natural gas is the cleanest burning fossil fuel. By including abundant domestic natural gas as part of the portfolio for reducing emissions mandated by the Federal Renewable Electricity Standard, retail electric suppliers will be able to continue utilizing a proven domestic fuel source that already accounts for one fourth of all energy used in the United States. Natural gas also provides a stable base for power generation eliminating the supply disruptions that can occur while using renewable electricity fuel sources. Because of this, natural gas fuel will provide lower priced energy to consumers and a more reliable energy grid.

MPA believes that the Congress should encourage the development of the resources that are at our fingertips rather than impose roadblocks and other mechanisms that prevent the development of our domestic resources. As government looks for ways of handling the energy issues of the future, MPA believes that it should do everything it can to encourage and enhance the existing carbon based fuels that are the backbone of our existing economy. This would include promoting exploration and production of oil and natural gas.

The low carbon fuel standards (LCFS) are extremely problematic, complex and non-feasible. Current Renewable Fuel Standard (RFS) regulates transportation fuel GHG performance. The EPA is to determine the 2005 lifecycle GHG baseline for all transportation fuels. For the period from 2014-2022 the 2005 baseline can not be exceeded. This has a significant impact on Montana's refiners. Most, (roughly 90%), of the feedstock for Montana refineries comes from Canada and oil sands crude is a growing component of those imports. Oil sand crude has a higher lifecycle GHG impact and will be at a disadvantage. This LCFS will create havoc for all Montana refiners, placing them at a regional disadvantage.

Placing the entire burden for GHG reduction on refiners is unfair, unwarranted, and does not address the fact that emission reductions from transportation fuel is highly dependent on consumer behavior. Increased costs to refiners will result in higher fuel prices and will be a factor in changing behavior in consumer transportation across the country. However, what exactly will that impact be on Montana and other rural and sparsely populated states? Montanans do not have ready access to other modes of transportation.

It appears that the bill's international competitiveness provisions do not include the refining sectors. Is making the US refining and fuel production sector less competitive to production facilities on foreign soil a goal of this bill? How will increasing imports affect America's national security and our failing economy?

Let me put the economic impacts into a Montana perspective. Montana has four petroleum refineries. The refiners in our State consist of: Montana Refining Company in Great Falls, (which is one of the smallest refineries in the world), Cenex Harvest States, ExxonMobil, and ConocoPhillips are all located in Yellowstone County. While the three Yellowstone County refineries are Montana's largest they are considered very small on a global basis. Of the product refined by Montana's refineries, 40% is consumed in Montana and 60% is exported. According to 2008 data from the

Montana Department of Labor, these four facilities have a total of 975 employees with an average wage of \$91,745 and an annual payroll of over \$89M. These are good living wage jobs and these numbers do not reflect the jobs created by the refineries in the local economies of Yellowstone and Cascade counties.

If LCFS are considered they should preempt any local and regional standards and be based upon a full life cycle analysis including consideration of land use changes. Aircraft fuels should be exempt. The aircraft fuel issue is of considerable importance to Montana's aviation community. In fact, many active aviators are distressed that Federal fuel standards require the use of ethanol. They considered attempting to pass legislation banning ethanol from premium blends of gasoline. These types of impacts must be considered.

Throughout the 61st Montana State Legislature, MPA opposed the idea of participating in regional and state based programs. This country does not need a patchwork of programs that differ from area to area. We do support the concept of a national program that protects the interests of Americans and does not have such dramatic impacts to our state and national economy. Any federal legislation should clearly pre-empt any state or regional program. Allowing for coordination and consultation with other US state or regional programs leaves the door open for a patchwork of regulations that complicate regulatory compliance, drive up price and make US business less competitive. Furthermore, the Clean Air Act, Endangered Species Act, and Clean Water Act were never intended to regulate GHG and are ill suited to do so.

Citizen lawsuits should be limited to those seeking to force the EPA to take action that it has failed to take. The current citizen suit provision unreasonably expands who can file a citizen suit, and for what alleged harm. The bill would establish strict penalties for emitting GHG without the required allowances, providing a strong deterrent that should be considered comprehensive and preclusive. Other climate change related claims, including under tort theories should be preempted.

As a point of interest, MPA hired Moore Information to survey Montana voters in December of 2008. We asked the question, are you willing to pay higher prices for gasoline/natural gas/electric/in order to help reduce greenhouse gas emissions? For each energy source the answer was the same, 61% of Montanans do not want to pay higher prices. Of the 39% willing to pay more for a gallon of gasoline for climate change protections, 49% wanted that increase to be less than \$.25 per gallon. Clearly, Montanans are very anxious about increases in prices to combat climate change. MPA believes that if Congress does enact sweeping climate policies Americans must first understand the actions proposed and the real costs associated with each proposal.

Senator Baucus, we appreciate the outreach that your staff has given to the Montana Petroleum Association and look forward to working with your office on energy and climate issues facing Montana.

Best Regards
The Montana Petroleum Association

BY: David A. Galt
Executive Director
Montana Petroleum Association