

## Biofuels—Snake Oil for the Twenty-First Century

Most Americans are painfully aware that our present consumption of petroleum is unsustainable. The United States has less than 5% of the world's population, but consumes 24.4% of the world's petroleum production.<sup>1</sup> Only 8.5% of the world's petroleum production comes from American wells,<sup>2</sup> which necessitates the importation of 58.2% of our oil.<sup>3</sup> Demand for oil, worldwide, has led to the price of Saudi Arabian Light-34, a typical crude oil, increasing from \$15.50 a barrel in 1998 to \$93.02 in 2008.<sup>4</sup> In addition to the spiraling cost of petroleum-based fuel, the transfer of our nation's wealth to oil exporting countries helps to lower the value of the dollar<sup>5</sup> while adversely affecting the nation's options in dealing with other nations. Moreover, the combustion of gasoline and diesel fuel is a major source of pollution and contributes to climate change. The solution is simple. We must use less fossil fuel for

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<sup>1</sup> STACY C. DAVIS, SUSAN W. DIEGEL & ROBERT G. BOUNDY, U.S. DEP'T OF ENERGY, ORNL-6981, TRANSPORTATION ENERGY DATA BOOK 1-5, tbl.1.4 (27th ed. 2008).

<sup>2</sup> *Id.* at 1-4, tbl.1.3.

<sup>3</sup> *Id.* at 1-8, tbl.1.7.

<sup>4</sup> U.S. Dept. of Energy, Energy Info. Admin., Crude Oil Prices by Selected Type, 1970-2009, tbl.11.7, available at <http://www.eia.doe.gov/emeu/aer/txt/ptb1107.html> (last visited July 12, 2009).

<sup>5</sup> From September 2001 to September 2008 the U.S. dollar has declined 38% against the Euro, 20% against the British Pound, 11% against the Japanese Yen, and 20% against the Singapore Dollar. See <http://www.x-rates.com/cgi-bin/hlookup.cgi> (last visited September 25, 2008).

transportation or reduce the vehicle miles driven or a combination of both approaches. But, Congress and President Bush did little to address the need to reduce petroleum consumption. Instead, Congress created a biofuels program that mandates the use of ethanol and biodiesel. This Article explores how agribusiness and their political allies have foisted this snake oil program on the American consumer in a successful effort to transfer billions of dollars from the public to corn farmers, and ethanol and biodiesel producers. In doing this, the environment and the economy are harmed, while the program has little positive effect on our foreign petroleum dependence.

In 2007, 68.3% of the petroleum consumed in the United States was used by the transportation sector,<sup>6</sup> and about 84% of the transportation sector petroleum consumption was by highway vehicles.<sup>7</sup> This light vehicle fleet averages about 18.5 miles per gallon ("mpg"),<sup>8</sup> which is substantially below the federal corporate average fuel economy ("CAFE") standards. If the fuel consumed by light vehicles were reduced by 25%, U.S. petroleum consumption would decline about 15%, which would result in approximately a 25% reduction in petroleum imports.<sup>9</sup> To accomplish this, the actual average fuel economy of light vehicles would need to increase by about six mpg. To end the need for imported petroleum the fuel efficiency of light duty vehicles would have to increase to about forty-three mpg. While major increases in fuel efficiency will take time to achieve, a Toyota Prius already gets forty-eight mpg. The obvious ways to achieve independence from foreign oil are to mandate more stringent CAFE standards, increase the cost of fuel to encourage fuel conservation, and provide incentives to drive fewer miles using more fuel-efficient vehicles. Such efforts would quickly reduce gasoline consumption at a modest cost.<sup>10</sup> Many vehicle models that are available for purchase substantially exceed a 25% reduction target, and several hybrid vehicles greatly exceed that

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<sup>6</sup> DAVIS, DIEGEL & BOUNDY, *supra* note 1, at 1-17, tbl.1.13.

<sup>7</sup> Calculated from data at *id.* at 1-18, tbl.1.14.

<sup>8</sup> In 2006, cars and two-axle, four-tire trucks traveled 2771 billion miles. DAVIS, DIEGEL & BOUNDY, *supra* note 1, at 4-2, tbl.4.1, 4-3, tbl.4.2. To accomplish this, 149.4 billion gallons of gasoline were combusted (16,796 trillion Btus of fuel, *id.* at 2-8, tbl.2.6, containing 112,417 Btus/gal., *id.* at B-4, tbl.B.4).

<sup>9</sup> *Id.* (calculated from the figures in the text).

<sup>10</sup> See generally U.S. DEPT. OF TRANSP. & NAT'L HIGHWAY SAFETY ADMIN., STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES (2006).