

July 16, 2010

Visit us online at www.wpma.com

WP-07-16-10

TWO WINS IN ONE BILL: TREMENDOUS VICTORIES FOR PETROLEUM MARKETERS

Yesterday the Senate passed H.R. 4173, the "Restoring American Financial Stability Act of 2010." It was an exciting moment for PMAA staff, PMAA Vice Chairman Sean Cota, and NEFI's Jim Collura to stand with Senators Debbie Stabenow (D-MI), Barbara Boxer (D-CA), Jack Reed (D-RI), Ben Cardin (D-MD) and Daniel Akaka (D-HI) at a press conference on Capitol Hill following the important cloture vote hours before the Senate voted on final passage. The President is expected to sign the bill as early as Tuesday.

Provisions important to PMAA members in the futures market/derivatives title include aggregate position limits on speculative oil traders, mandated clearing of OTC commodity derivatives, exemption of end-users like PMAA member companies from clearing and margin requirements if they are doing so for commercial purposes, and Commodity Futures Trading Commission (CFTC) authority to regulate swaps, OTC, energy-related and electronically-traded transactions by closing the so-called "Enron," "Swaps," and "London" or "Foreign Exchange" loopholes. Financial institutions would have to separate their commodity derivatives trades into a separately capitalized entity walled off from federally insured deposits. This will essentially reduce the amount of leverage speculators take in trading West Texas Intermediate (WTI) crude oil, RBOB, and heating oil contracts.

The measure also strikes an important blow to unfair debit card interchange fees imposed on retailers. Under the new bill, the Federal Reserve would have the authority to determine if debit card interchange rates are reasonable and proportional to the cost incurred by the issuer. The Federal Reserve may permit an adjustment to the interchange rate for issuers to recover fraud prevention costs if the issuer is in compliance with rules established by the Federal Reserve and can demonstrate that the incremental increase would go toward fraud prevention costs only. The language also permits retailers to offer a discount for cash, check or debit. Retailers may also set purchase minimums but the minimum may not exceed ten dollars.

This victory could not have happened without the exceptional efforts of independent petroleum marketers and their state and national associations.

SENATOR BILL NELSON REINTRODUCES PRICE GOUGING LEGISLATION

Floridian Senator Bill Nelson (D) has reintroduced his price gouging legislation as S. 3547, the "Price Gouging Act of 2010." Nelson believes that a legal challenge that Exxon is fighting in the state of Florida, which could correct the state's commodities price gouging law that applies to gasoline retailers, is evidence of the need for Federal legislation. The state law prohibits what it calls unconscionable prices above the average price 30 days before a declaration of a state of emergency, and the law gives no specific price cap or percentage level.

A bill that would have criminalized charging market prices for needed goods passed the House in 2007, but failed to get the two-thirds votes necessary to override President Bush's threatened veto. Now, with a more sympathetic President Obama in office, such legislation could potentially pass as part of a large energy bill.

Nelson's legislation would penalize companies for charging "unconscionably excessive" prices in an emergency in a region hit by a presidentially declared major disaster. The bill would impose fines of up to \$500,000 and a jail term up to one year for retailers who raise prices during emergencies.

PMAA will work with our petroleum association colleagues to oppose this harmful legislation.

U.S. EPA ESTABLISHES 2011 RENEWABLE FUEL BLENDING VOLUME MANDATES

The U.S. Environmental Protection Agency (EPA) has released proposed new renewable fuel blending volumes that refiners and other regulated parties must meet under the Renewable Fuel Standard (RFS2) for 2011. While petroleum marketers are not subject to the renewable fuel volume obligations (RVO), the annual percentages provide insight on renewable fuel availability for 2011.

The RVO was created by Congress pursuant to the Energy Independence and Security Act of 2007 (EISA). The RVO blending mandates increase each year until 2022 when the annual blend mandate will reach 36 billion gallons. To achieve these volumes, EPA calculates a percentage-based standard for the following year. Based on the standard, each refiner, importer and non-oxygenate blender of gasoline determines the minimum volume of renewable fuel that it must ensure is used in its transportation fuel. The largest component of the blending mandate involves corn-based ethanol, which refiners will be required to blend approximately 11.75 billion gallons in 2011.

The proposed 2011 overall volumes and standards are:

- Biomass-based diesel (0.80 billion gallons; 0.68 percent)
- Advanced biofuels (1.35 billion gallons; 0.77 percent)
- Cellulosic biofuels (5 – 17.1 million gallons; 0.004 – 0.015 percent)
- Total renewable fuels (13.95 billion gallons; 7.95 percent)

Based on analysis of market availability, EPA is proposing a 2011 cellulosic volume that is lower than the EISA target due to a slower than expected breakthroughs and investments in cellulosic production.

ACTION ON BIODIESEL TAX CREDIT EXPECTED -- ETHANOL TAX CREDIT COULD BE TRIMMED

The Senate is expected to take up the Small Business Lending Fund Act of 2010 (H.R. 5297) again next week. Senator Charles Grassley (R-IA) filed an amendment to H.R. 5297 which would reinstate the biodiesel tax credit for this year and would make the credit retroactive. Senate Majority Leader Harry Reid (D-NV) has employed a procedural maneuver known as “filling the amendment tree” on the bill which prevents other senators from offering amendments to H.R. 5297. However, the biodiesel tax credit enjoys bipartisan support, so favorable action on the amendment looks promising. PMAA sent another letter to Senate Majority Leader Harry Reid (D-NV) and to all Senators in support of the biodiesel tax credit.

The Senate small business bill also would create a \$30 billion lending fund to extend credit to small businesses. H.R. 5297 also includes a number of tax provisions that would revive an expired “bonus depreciation” provision that allowed companies to write off up to \$500,000 in purchases in 2010 and 2011 up from \$250,000 in current law for this year and \$25,000 for next year. Business capital expenses that exceed two million dollars would be phased out. The House has already passed its small business jobs bill earlier in June.

There are reports that Democrats on the House Ways and Means Committee are split on support for the ethanol tax credit. Further complicating that split is the latest Congressional Budget Office (CBO) study that was requested by Senate Energy Committee Chairman Jeff Bingaman (D-NM). According to Bingaman, the CBO findings show that corn ethanol is a mature technology whose market share is protected by an aggressive Renewable Fuel Standard.

Ways and Means Committee members Joe Crowley (NY), Mike Thompson (CA), and Pete Stark (CA) cosponsored H.R. 3187 that would eliminate the credit by 2014. Other Democrats on the committee including Earl Pomeroy (ND), Danny Davis (IL) and Artur Davis (AL) support H.R. 4940, legislation that would extend the existing tax credit through 2015.

Two major trade groups inside the ethanol industry are also separated on support for the ethanol tax credit. Growth Energy offered a proposal to phase out the tax credit in exchange for policies that would help ethanol better compete with gasoline in the marketplace. The Renewable Fuel Association (RFA) reaffirmed its support for a five-year renewal of the 45 cents-per-gallon ethanol tax credit to refiners.

Changes to the ethanol tax credit are part of the “green jobs” energy tax bill that House leadership intends to take up before August recess. The “green jobs” bill is part of a number of small “jobs bills” that House and Senate leadership plan to take up before the November elections. Other provisions that may be included in the green jobs bill are an extension of the alternative vehicle refueling property tax credit (through 2013), an extension but also possibly lowering of the ethanol tax credit to 36 cents per gallon and 8 cents per gallon additional credit for small producers, and allowing algae-based fuels to qualify for the cellulosic biofuel tax credit.

At its May 2010 meeting, the PMAA Board of Directors approved a motion to support the extension of the 45 cent-per-gallon ethanol tax credit.

ESTATE TAX REFORM PROPOSAL

This week Senators Blanche Lincoln (D-AR) and Jon Kyl (R-AZ) filed an amendment to the Senate small business lending bill that would permanently reform the federal estate tax.

The Senate estate tax amendment would allow estates to choose between current law and their proposal. Under current law, when inherited assets are sold, heirs must report a gain based on the difference between the sale price and the original purchase price.

The amendment would permanently set the estate tax rate at 35 percent with a five million dollar exemption amount phased in over 10 years and indexed for inflation. It would also provide a “stepped up basis” for inherited assets. If Congress does not act this year, the federal estate tax is scheduled to increase to 55 percent with only a one million dollar exemption at the beginning of 2011.

Senators Lincoln and Kyl introduced a similar measure in 2009 that received broad bipartisan support and was successfully added to the non-binding congressional budget resolution. Although support for reform is broad, Congress continues to be

challenged to find funding to offset the cost of the estate tax reform. Without an emergency declaration or a change to the pay-as-you-go law, the amendment would trigger mandatory rescissions if enacted.

SENATE LEADERS DISCUSS ENERGY LEGISLATION THAT CAN GET 60 VOTES

The Senate is running out of time to pass an energy bill that could contain carbon controls and Senate leaders are trying to find a combination of ideas that can get 60 votes. President Obama has signaled to Congressional leaders that he wants curbs on carbon emissions.

Senate Majority Leader Harry Reid (D-NV) is working with five Senate committee chairmen to develop an energy package that the Senate could pass. The senators will write a bill that includes provisions to reform offshore drilling and raise disaster liabilities on oil companies; clean energy provisions similar to what Senator Jeff Bingaman (D-NM) proposed last year and was approved by his Energy and Environment Committee; and carbon controls. It is important to note that any effort to curb carbon emissions has been met with very little support in the Senate. There is some support for carbon controls that apply only to power plants but it is not clear if even that more limited approach could get the support of 60 votes.

Draft legislation from Senator Bingaman has surfaced that would cut emissions 17 percent by 2020 and 42 percent by 2030 over 2005 levels. The carbon caps would apply only to electric utilities. Utilities that emit 25,000 tons or more of carbon annually would be regulated. The bill would delay the EPA from regulating industrial sources of carbon emissions until January 2018 and prohibit states from enforcing existing greenhouse gas regulations between 2012 and 2017.

This draft bill is one of many ideas under consideration.

OMB COMPLETES REVIEW OF SPCC EXTENSION RULE, SENDS BACK TO EPA

Last week, PMAA reported that the White House Office of Management and Budget (OMB) was reviewing the Environmental Protection Agency's (EPA) Spill Prevention Control and Countermeasure (SPCC) compliance deadline extension rule. The OMB review was causing newfound uncertainty in the petroleum marketing industry over the fate of the EPA's proposed rule to extend the current November 10, 2010 SPCC deadline. Many petroleum marketers need the extra time a deadline extension would offer in order to bring their bulk plants into compliance with the new SPCC requirements.

The proposed extension was widely thought to be a slam-dunk until the oil spill in the Gulf of Mexico caused a seismic shift in federal regulator's views on the adequacy of existing oil spill regulations. One major concern was that the deadline extension rule would be withdrawn entirely because it applied not only to small petroleum bulk plants but to offshore drilling platforms and production facilities as well. Happily, neither the EPA nor the OMB decided to throw the baby out with the bathwater. Instead, on Friday, the OMB approved the proposed deadline extension after the EPA removed offshore drilling platforms and production facilities from the rule. OMB's approval paves the way for the EPA to announce the deadline extension in the coming weeks. While details of the extension will not be known until the EPA publishes a final rule, it is widely thought that the compliance deadline will be extended for at least a year. The EPA justified the extension in order to allow regulated parties more time to comply in light of the amended requirements.

PMAA will report on the final SPCC deadline extension as soon as the rule is published in the Federal Register.

2011 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA

Start planning now to attend the 2011 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 22-24, 2011.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2010

August 1-3, 2010 – IPM&CSA Convention – Coeur d'Alene Resort – Coeur d'Alene, Idaho

August 31-September 1, 2010 – NMPMA Convention – Embassy Suites, Albuquerque, New Mexico

September 8-10, 2010 – UPMRA Convention – Park City Marriott – Park City, Utah

Petro Pete: "Pride is what we have. Vanity is what others have."

© 2009 Western Petroleum Marketers Association

All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA.

If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: janr@wpma.com. Thanks.

Classified Ads

FOR SALE

1985 KENWORTH CONVENTIONAL CAB



- 13 SPEED FULLER TRANSMISSION
- 400 CUMMINS ENGINE
- TRUCK COMPARTMENTS: 2400 GAL, 2600 GAL (BEALL)
- PUMP OFF ABILITY
- ONE OWNER, LESS THAN 410,000 ACTUAL MILES
- EXCELLENT CONDITION
- 1972 BEAL TRAILER – 2 AXLE
- TRAILER COMPARTMENTS: 2500 GAL, 2500 GAL (BEALL)
- EXCELLENT CONDITION
- TRUCK AND TRAILER SOLD TOGETHER
- \$45,000

BAIRD OIL COMPANY (208) 375-7767

FOR SALE

1990 L 8000 (DIESEL)



- 5 SPEED WITH 2 SPEED
- BRAZILIAN INLINE 6 ENGINE
- 1971 BROWN TANK 2000 GAL. COMPARTMENTS: 500 GAL, 500 GAL, 400 GAL, 300 GAL AND 300 GAL
- 1 PUMP, 2 METERS, 2 HOSE REELS, REAR DELIVERY
- 239,000 MILES
- EXCELLENT CONDITION
- \$12,000

BAIRD OIL COMPANY (208) 375-7767

FOR SALE

1997 Ford F-700

- 146,000 miles
- 429 Gasoline engine with 6 speed transmission
- 2800 Gallon propane tank with neptune meter and veeder-root register
- Remote shutdown.



Contact: Byron Wood - 435-257-5107/435-730-4555

TANKER TRAILER FOR SALE



- 2008 Heil 11,000 gallon
- 3 axle trailer with lift able rear axle
- 4 compartments 4500-2100-1400-3000
- Street side/curbside unloads
- 6 hose tubes and large box for fittings
- All Tests and Certs are current
- Trailer located in Ogden, Utah
- Trailer Available July 2010
- Pictures Available upon request

Asking \$85,000.00 of Best Offer

Ryan Murdock
Kellerstrass Oil Company
801-392-9516 ext 26

TANKWAGON FOR SALE



- 2003 Freightliner M2106 with 160,000 miles
- 3126 Cat Motor with Eaton Fuller 7 speed transmission
- 2003 Almac Tank 2700 gallons
- 5 compartments 700-600-500-500-400
- Dual Pumping system with 3 reels
- All Test and Certs are current
- Truck is located in Ogden, Utah
- Pictures available upon request

Asking \$60,000.00 or Best Offer

Ryan Murdock
Kellerstrass Oil Company
801-392-9516 ext 26

FOR SALE



2 – Wood Revival solid oak (honest) executive desks with side returns and credenzas.
1 desk has a right return and the other a left return
Desks are 34” by 72”
Like new \$1,800 each with credenza.

Call Bill Inglesby 801-201-0134

HELP WANTED

Looking for your dream job in Arches and Canyonlands Country? Petroleum Marketer in need of a Bookkeeper/Office Manager. Send your questions or resume to resume@frontier.com!!

FOR SALE



Sharp Copy Machine Model ARM350
This copy machine will fax, sort and finish (staple), duplex copies (both sides of original), network capabilities, post script printing. Three paper bins will hold 500 sheets of paper. This copier has Years of service left due to the low volume of only 165,000 total copies. \$1,000

Call Bill Inglesby 801-201-0134

HELP WANTED

Commercial Fleet Marketing Manager - Nevada

Outside sales position focused on commercial fleet account growth and development. Position will prospect, negotiate and secure new accounts. Supports both Distributor and Retail outlets. Promotion of company's proprietary fleet payment card.
Base salary + bonus, Auto allowance+ benefits.

E-mail resume to: george@haskelthompson.com