

FOR IMMEDIATE RELEASE

May 14, 2020

Contact: Kim Trinchet

316-977-6659

kim@urbanairinitiative.com

New Court Brief: EPA's Anti-Competitive Limits on Ethanol Blending Are Illegal

WASHINGTON – Attorneys for a broad alliance of ethanol, agriculture and clean fuel organizations filed their opening brief arguing that EPA regulatory barriers that prevent ethanol from competing for greater market share are illegal. The brief was filed in the Court of Appeals for the D.C. Circuit. Oral arguments in the case are expected this Fall.

Last year, EPA approved a rule to allow the year-round sale of gasoline containing up to 15% ethanol. While the rule was a step in the right direction, it did not go far enough in removing anti-competitive barriers to ethanol blending. EPA should have allowed the year-round sale of fuel blends containing more than 15% ethanol, consistent with prior guidance allowing retailers to sell E20 and E30 under the Clean Air Act.

Specifically, the brief argues that EPA's interpretation of the "[substantially similar](#)" provision of the Clean Air Act is obsolete. Today automakers use test fuels with 10% and 15% ethanol to certify most vehicles. The brief argues that since ethanol is now used in the certification of motor vehicles, the sub-sim law no longer limits the addition of ethanol to gasoline. Therefore, the court should reject EPA's limit on the sale of gasoline with more than 15% ethanol. In the alternative, the brief argues that EPA's only rationale for limiting the rule to E15 was refuted by the scientific evidence submitted during the notice-and-comment period, science that EPA simply chose to illegally ignore. As a remedy, the brief asks the Court to order EPA to allow ethanol to compete for greater market share against harmful petroleum-based fuel additives, but without disturbing the rule allowing the year-round sale of E15.

About Urban Air Initiative: The Urban Air Initiative is a nonprofit organization dedicated to improving air quality and protecting public health by reducing vehicle emissions. We are focused on increasing the use of clean burning ethanol in our gasoline supply to replace harmful aromatic compounds. Urban Air is helping meet public policy goals to lower emissions and reduce carbon in our environment through scientific studies and real world data to promote new fuels, engine design, and public awareness. To learn more, visit FixOurFuel.com.

“We know that mid-level ethanol blends not only run well in vehicles, but also help reduce toxic tailpipe emissions. If ethanol is capped at E15 and E85, it could put small fuel retailers out of business while also limiting consumer access to cleaner fuels,” said Urban Air Initiative President Dave VanderGriend.

Besides the Urban Air Initiative, co-petitioners in this case also include National Farmers Union, South Dakota Farmers Union, Farmers Union Enterprises, Jackson Express, Jump Start, Clean Fuels Development Coalition, Big River Resources, LLC, Fagen, Inc., Glacial Lakes Energy, LLC, and Little Sioux Corn Processors.

####