

## Biofuels

### Using Straight Talk to Develop Biofuels

Andrews Kurth has been prominent in the development and expansion of biofuels production for the past four decades.

As part of our ever-expanding leadership in the alternative energy industries, we represent clients in the development, finance, construction, operation and maintenance of clean and renewable fuels manufacturing facilities.

Using insight gained through historical cycles of price increases, environmental challenges and regulatory oversight, we address virtually every domestic and international issue faced by clean and renewable fuels producers and related companies. Andrews Kurth's counsel includes:

- Biofuels Corporate Finance and Structuring
- Technical Innovations in Biofuels
- Biofuels Environmental Compliance
- Monetizing Renewable Energy Credits
- Worldwide Counsel on Biofuels Credits

With the international growth in biofuels production for local consumption and export, our counsel has expanded globally. We have experience in more than 20 countries on fuel ethanol projects.

In our counsel to financial institutions, investment funds, developers, constructors, engineers, trading companies and other related companies, we draw upon our century-old experience in the energy business and recent practice strengths in climate change.

Key components of our representation include guidance on state and federal regulatory compliance and funding programs, credit and incentive enhancements and emissions-related matters. Advising and assisting investors in identifying and implementing biofuel and other clean fuel choices are also part of our experience.

### Biofuels Corporate Finance and Structuring

The financing of biofuels and other clean fuels has progressed from a single unit and larger manufacturing facilities sponsored by co-ops, developers of various sizes, investment funds and Wall Street bankers. Today, pilot, development, commercial-scaled facilities and biorefineries are commonly made possible by federal financing (e.g., grants, loans and loan guarantees) of new second-generation biofuels technologies and VC/private equity funding of new technology companies developing those projects. In addition, we advise on such federal financing pursuant to Departments of Energy, Agriculture, Defense and other federal agency programs implemented and expanded under the Energy Policy Act of 2005 (2005 Energy Act), Energy Independence and Security Act of 2007 (2007 Energy Act) and the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill).

Andrews Kurth has played a transformative role at every stage of the industry's growth. One benefit of our well-established relationships in the renewable energy and finance sectors is our ability to introduce clients to specific investment opportunities and connect them with debt and equity financiers.

We represent marketers, blenders and related companies seeking to profit from the utilization of industry logistics. Our lawyers also guide investors seeking to build capacity by acquiring assets and/or companies through the consolidation of ethanol, biodiesel and other clean fuels industries.

Strengthened by deep experience in finance, we advise developers, lenders and related companies in multiple project teams on the development of complex contracts and sophisticated capital structures, domestically and internationally. We also provide all necessary corporate, tax and intellectual property guidance.

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### Technical Innovations in Biofuels

Technological advances play a major role in driving consumer acceptance of biofuels. Andrews Kurth counsels at the forefront of these milestones, managing the process of commercializing industry research and developments. Our experience includes projects in:

- Ethanol including sugar, grain and cellulosic
- Biodiesel derived from virgin oils, plants and animal matter, wastes, greases and other non-edible biomass feedstocks such as jatropha, algae and municipal waste
- Clean fuels including coal-to-liquids, biomass-to-liquids, biorefining processes including Fischer-Tropsch, and renewable diesel and renewable dimethyl ethers (DMEs)

Our clients trust us to help them advance and support their pioneering methods and approaches. The range of our experience includes the fermentation of fuel ethanol using advanced yeast technologies and genetically enhanced feedstocks to advanced hydrogenation and esterification technologies and depolymerization of oils in refinery units.

Also included in our portfolio of new technologies is the utilization of power plant flue gas and other waste products for the production of algae for conversion into biofuels. An additional aspect of our work is advising clients seeking to reengineer and expand biofuels and other clean fuels manufacturing facilities, helping them to reduce their energy and other input costs.

### Biofuels Environmental Compliance

We advise on a wide variety of emissions issues. Active on the domestic front since the enactment of the U.S. Clean Air Act, we continue today counseling on the application internationally of the Kyoto Protocol. For clean and renewable fuels industries, these emissions include NO<sub>x</sub>, SO<sub>x</sub>, carbon dioxide and other compliance requirements. Our related environmental compliance counsel includes:

- Federal and state permitting for manufacturing facility construction
- Reformulated gasoline production standards
- Federal Renewable Fuel Standards (RFS)
- State Renewable Portfolio Standards (RPS)
- International compliance with carbon offset requirements

In the area of carbon credits, we assist companies in the certification and trading of credits on various emissions trading exchanges worldwide. Andrews Kurth also advises in the sales of emissions credits to purchasers such as carbon credit funds, emissions trading brokers and other strategic buyers.

### Monetizing Renewable Energy Credits

For clients operating in ethanol, biodiesel, renewable diesel and other clean fuels, we assist in the monetization of a wide range of applicable credits. These include:

- RFS credits
- Renewable energy certificates (RECs) under state RPS programs
- Clean Air Act credits
- State industrial carbon credits
- Kyoto Protocol carbon offsets
- Federal and state tax credits
- State producer incentives

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For example, our lawyers help clean and renewable fuels clients take advantage of the U.S. Environmental Protection Agency's rules for implementing the RFS created by the Energy Policy Act of 2005 and expanded in the Energy Independence and Security Act of 2007. As part of our counsel, we structure the trading mechanisms that govern how RFS credits are generated, sold, purchased and traded. We also assist clients with regulatory compliance as they expand production to meet the current RFS goal of 36 billion gallons of renewable fuels blended into gasoline and diesel by 2022.

### Worldwide Counsel on Biofuels Credits

Because pertinent regulations are in effect domestically and internationally, Andrews Kurth's counsel is global.

We advise clients on ways to meet RFS mandates, new AFS targets and RPS requirements adopted by approximately 50 percent of U.S. states. Our experience includes addressing improved methods for proposed renewable fuels industry restrictions, including those facing biodiesel producers in Texas.

Overseas, we guide clients on the optimal methods of meeting the Kyoto Protocol requirements for Clean Development Mechanism (CDM) and Joint Implementation (JI) programs in specified, qualified countries.

As part of our individual approach to client matters, we readily focus on site-specific issues while making smart use of our firm-wide resources in energy, environmental and climate change law.

For example, we use our substantial energy pipeline experience to provide biofuels producers with favorable natural gas access for their production operations. Andrews Kurth's counselors to the railroad industry provide producers with opportunities to address congested railways. Our experience in marine matters helps companies in the delivery of feedstocks to manufacturing facilities which eventually are purchased by customers.