



May 24, 2022

Honorable Senator Ben Allen, Chair  
Senate Environmental Quality Committee  
1021 O Street, Suite 3230  
Sacramento, CA 95814

*Submitted electronically via Position Letter Portal:  
<https://calegislation.lc.ca.gov/Advocates/faces/index.xhtml>*

**Re: AB 1322 (OPPOSE)**

Esteemed Chair Allen and Committee Members:

Our organization Biofuelwatch<sup>1</sup> offers this position letter to the Senate Environmental Quality Committee for your consideration. Biofuelwatch is an international organization that works to increase public understanding and civic engagement on the land use implications of climate policy. We have a particular focus on the environmental harms and social inequities of large-scale industrial bioenergy projects, and we work extensively on addressing the negative ecological and social outcomes specifically of the forest-based biomass industry. Our organization has also been a global leader in grassroots organizing for communicating community concerns regarding the climate risks and human rights harms embedded in the expansion of the production of liquid biofuels, including aviation biofuels.

This letter communicates our OPPOSE position on AB 1322.<sup>2</sup> Our experience informs that this bill is attempting to advance an inequitable and scientifically dubious approach to addressing the climate harms from aviation. There is little question that these matters merit far more scrutiny before legislation to ostensibly scale these 'sustainable aviation fuel' technologies is advanced. There is a clear need to slow down on moving forward on this bill, and the most responsible action of the committee right now would be to make sure that this bill does not advance.

The following points articulate why this bill should not advance from committee:

- **Inequitable and Unjust:** No mode of transport is more unjust than aviation. The inequities of aviation climate damage are immense, as the great majority

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<sup>1</sup> <https://www.biofuelwatch.org.uk/>

<sup>2</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB1322](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1322)

of aviation climate pollution comes from the most wealthy and powerful on the planet. A recent study concludes that 1% of the global population, a small minority of wealthy frequent flyers, is responsible for 50% of commercial aviation emissions.<sup>3</sup> It is estimated that some 80% of the world's population never even step foot in an airplane.

This bill does nothing to address the inequities associated with the climate damage from aviation. What is more, the climate benefit claims of the bill are dubious, as there is substantial evidence that 'sustainable aviation fuel' can result in even more greenhouse gas emissions than just burning fossil fuel.<sup>4</sup>

In fact, if one follows the economics of incentivizing the production of 'sustainable aviation fuel' the conclusion is that this bill will exacerbate the social and environmental harms, the inequities and the injustice embedded in the climate impacts being caused by the aviation industry.

- **Irregular and Anti-Democratic Governance:** This bill is a product of one of the most inequitable and anti-democratic processes in the California state legislature, that of 'gut and amend.' The inequities of the climate damage arising from aviation require that the people most impacted by those sectors that are causing the damage to our climate have a say in the creation of the policies to address that climate damage. By relying on 'gut and amend' this bill is undermining the principles of equal access to decision making that are fundamental to the pursuit of climate justice. This bill needs to be halted, and the author and the proponents of this bill need to endeavor to respect normal legislative processes.
- **A History of Failed Projects and Wasted Public Money:** The promotion of making liquid aviation fuels from woody biomass, one of the signature bioenergy concepts promoted in this bill, has a long sordid history of broken promises and failed projects. As a prime example, one of the listed supporters of AB 1322, Red Rock Biofuels, has received hundreds of millions of dollars of public money to build a plant in Lakeview, Oregon, to make liquid aviation biofuels from woody biomass. However, that plant has never been finished, the company is traversing irregular financial circumstances, and the company has failed completely to fulfill claims it has made to agencies like the California Air Resources Board that the company would already be bringing millions of gallons of fuel to market.<sup>5</sup>

In essence, despite massive public subsidies and a very generous environmental review process that streamlined the permitting of the

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<sup>3</sup> See Gossling, Humpe (2020): [bit.ly/DistG](https://bit.ly/DistG)

<sup>4</sup> [https://stay-grounded.org/wp-content/uploads/2021/08/SG\\_factsheet\\_8-21\\_Biofuels\\_print\\_Lay02.pdf](https://stay-grounded.org/wp-content/uploads/2021/08/SG_factsheet_8-21_Biofuels_print_Lay02.pdf)

<sup>5</sup> <https://www.biofuelwatch.org.uk/2021/the-curious-case-of-red-rock-biofuels/>

Lakeview project, Red Rock Biofuels have still never yet produced even one gallon of fuel. The committee would be served by doing due diligence on these matters to avoid the reputational risk that will arise from relying on irregular legislative governance to advance an inequitable bill that promotes a dubiously beneficial liquid aviation fuel technology that has a sordid track record of failing to live up to the claims of the salespeople pitching their product. It could also behoove the committee to ask what happened with the hundreds of millions of dollars of public money that has gone into the Red Rock Biofuels accounts before advancing a bill to offer even more financial incentives to these very same actors.

- **Current Refinery Conversions in California are Controversial:** Our experience shows that despite the focus on what some might refer to as ‘second generation’ biofuels, such as making liquid aviation fuels from woody biomass, the technological limitations inevitably force fuels producers to resort to old technology with food system based feedstock. Such is the nature of the conversion of refineries in California to producing ‘hydrotreated vegetable oil’ (HVO) or ‘hydroprocessed esters and fatty acids’ (HEFA) drop-in liquid biofuels, namely ‘renewable diesel’ and ‘sustainable aviation fuels.’

There are at least 3 refinery conversion projects in California that have been approved under irregular California Environmental Quality Act (CEQA) environmental review processes that have generated tremendous controversy at a local and a state level. At least one of these refinery conversion projects, the World Energy AltAir refinery project in Paramount, California, is currently being litigated for illegal certification of the CEQA review of the refinery conversion proposal.<sup>6</sup>

Two other massive refinery conversion projects, the Marathon-Neste joint venture at the Marathon refinery in Martinez and the Phillips 66 biofuel refinery project in Rodeo are also ripe for litigation after the Contra Costa County Board of Supervisors recently rejected the appeals by a broad coalition of environmental and community based organizations of the certification of the Final Environmental Impact Reports of those two projects.

The controversies are based on a multitude of public health, public safety, climate protection and environmental stewardship concerns articulated by local, state, national and international organizations during the CEQA process. Unfortunately, regulatory authorities have completely ignored community concerns, greatly increasing the probability that these refinery conversions will be litigated. In considering AB 1322 the committee must fulfill their public trust responsibilities by closely examining important dynamics around the matters central to the bill, such as the inadequate

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<sup>6</sup> [https://www.biologicaldiversity.org/programs/climate\\_law\\_institute/pdfs/Paramount-Refinery-Lawsuit-2022-05-16.pdf](https://www.biologicaldiversity.org/programs/climate_law_institute/pdfs/Paramount-Refinery-Lawsuit-2022-05-16.pdf)

environmental review and the undermining of the rights of public participation in governmental decision making that are central to the controversies around the conversion of refineries in California to producing drop-in liquid biofuels such as 'sustainable aviation fuel.'

Note that AB 1322 never once even uses the word 'refinery' -- which is a dramatic erasure of the communities that live on the front lines, exposing once again the injustice embedded in AB 1322.

In conclusion, we caution the Chair and the members of the committee against advancing this bill. If indeed the promotion of 'sustainable aviation fuel' is to be considered by the legislature it must be done through normal legislative processes.

More appropriate would be for the Senate Environmental Quality Committee to do a holistic review of the climate impacts of the aviation sector. We urge you to consider an already existing vision for the transformation of our mobility infrastructure in a way that best respects the science and the global demands for a just transition. We encourage the committee to take a close look at a recently released guide to reframing how we think, talk and organize around the ways in which the aviation industry impacts people and the planet. The Stay Grounded<sup>7</sup> network, of which Biofuelwatch is a member, has just released the Common Destination<sup>8</sup> guide on reframing aviation. We believe that this is the place from which the discussion about how to address the climate damage from the aviation industry should start.

Thank you for your attention to this letter.

Sincerely,



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<sup>7</sup> <https://stay-grounded.org/>

<sup>8</sup> <https://reframeaviation.stay-grounded.org/>