**Mary Rosenthal**
*Executive Director*
P.O. Box 369
Preston, MN 55965
[redacted]

April 15, 2013

The Honorable Kevin Brady
Chairman
Energy Tax Reform Working Group
Committee on Ways and Means
U.S. House of Representatives
301 Cannon House Office Building
Washington, DC 20515

The Honorable Mike Thompson
Vice-Chairman
Energy Tax Reform Working Group
Committee on Ways and Means
U.S. House of Representatives
231 Cannon House Office Building
Washington, DC 20515

Dear Congressman Brady and Congressman Thompson:

The Algae Biomass Organization ("ABO") is pleased to submit comments to the House Ways and Means Committee Tax Reform Working Group on Energy.

ABO supports the use of appropriate tax incentives to promote the development of domestic sources of energy. At the same time, ABO believes that the current system of energy tax incentives can be improved. For example, ABO supports the consideration of technology-neutral, performance-based eligibility criteria for energy tax incentives that properly consider cutting-edge energy industries; ABO also supports more targeted reforms that improve the system of incentives for renewable fuel, such as shifting to a system that provides a predictable stream of production credits or, alternatively, an investment tax credit. If Congress is unable to reach an agreement on these types of changes, we urge Congress to retain recently enacted provisions that provide tax parity for algae in the energy tax system.

ABO is a non-profit organization whose mission is to promote the development of viable commercial markets for commodities derived from algae—particularly biofuels produced from algae biomass. ABO also delivers information to the public about funding initiatives in the algae industry, organizes collaborative opportunities, and develops quality and measurement best practices for the individuals, companies, and organizations that comprise ABO's membership.[1]

[1] Algae Biomass Organization, http://www.algaebiomass.org/.

***The Benefits of Algae***

Algae are simple plants that can range from the microscopic (microalgae) to large seaweeds (macroalgae) more than one hundred feet in length. Microalgae include both cyanobacteria (formerly called "blue-green algae") as well as green, brown, and red algae. Algae are commonly found around the globe and play an important role in many ecosystems. In particular, algae provide the foundation for the aquatic food chains supporting all fisheries and produce about 70 percent of the air we breathe.

Algae are uniquely suited to serve as the foundation for a new generation of renewable liquid fuels. Some benefits of algae as a feedstock for liquid transportation fuel are listed below.[2]

1. The chemical composition of algal oil is almost identical to that of oil from fossil fuels; therefore, algal oil can be blended with existing fuels such as gasoline, diesel, and jet fuel without any changes to our fuel infrastructure. In other words, algal fuel is "drop-in" fuel.
2. Algae is an optimal source for bioethanol and can be produced at a competitive cost using $CO_2$, sunlight, and saltwater. Additionally, algae-based ethanol features the added benefit of producing fresh water as a byproduct.
3. Algae can be grown in brackish water and on marginal land not suited for agricultural use. This means that algae do not compete with food for land.
4. Algae consume carbon dioxide and nitrogen as they grow. This means that companies can use the byproducts of conventional energy facilities to grow drop-in algal fuel.
5. Algal oil and algae-based ethanol are predominantly domestic products, meaning that the development of the algae industry will enhance our energy security. Recognizing the importance of this issue, the Department of Defense has made significant investments in algae-to-fuel technology.
6. Finally, the algae industry is creating jobs.

As the Environmental Protection Agency recently explained, "Some of the potential benefits of using algae as a biofuel feedstock are that algae can be grown on marginal land, can require low water inputs, can recycle waste streams from other processes, does not compete with food production, and has high oil yield."[3]

***Algae and the Tax Code***

To encourage the production of innovative types of renewable fuel, Congress has provided a series of tax incentives, including a tax credit of $1.01 per gallon for the production of cellulosic ethanol. However, until recently most of these tax incentives have *not* been available for algae-based fuel. This was not the result of a policy decision to exclude algae-based fuel; rather, algae-based fuel, which was not well-known when the relevant tax incentives were created, simply did not fit the existing technical definitions.

Congress acted to fix this oversight with the American Taxpayer Relief Act of 2012 ("ATRA"), which President Obama signed into law on January 2, 2013. ATRA provided tax parity by reforming the $1.01 per gallon cellulosic biofuel tax credit under section 40 of the Tax Code into the "second generation biofuel producer credit," and by including algae-based fuel within this credit. ATRA also provided bonus depreciation and investment tax credits to property used to produce "second generation biofuel"—including both cellulosic and algae-based fuel. This legislation is expected to create thousands of U.S. jobs by facilitating the development of a clean and renewable U.S.-made fuel.

---

[2] In addition to fuel, algae are increasingly used in a variety of other commercial and industrial products. For instance, algae are used as a food ingredient and a food supplement because of their high omega-3 fatty acid content. Additionally, algae are used as a sustainable animal feed, as a feedstock for the production of sustainable chemicals, and as a component of fertilizers and soil conditioners. Algae Biomass Organization, Other Products – All About Algae.com, http://allaboutalgae.com/other-products/.

[3] U.S. ENVIRONMENTAL PROTECTION AGENCY, RENEWABLE FUEL STANDARD PROGRAM (RFS2) REGULATORY IMPACT ANALYSIS 56 (2010), *available at* http://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1006DXP.PDF.

As part of tax reform, Congress may consider the development of technology-neutral performance-based criteria for eligibility for tax incentives. ABO supports the consideration of such reforms, and believes that, given the numerous benefits of algae-based fuel, algae-based fuel would meet or exceed any reasonable technology-neutral criteria. As an alternative to technology-neutral criteria, ABO supports more targeted reforms to increase tax parity for algae, such as reforming section 40 to allow second generation biofuel producers to qualify for a ten-year stream of production credits similar to section 45 and to allow second generation biofuel producers to elect to receive a one-time, 30 percent investment tax credit under section 48.

If Congress is unable to reach an agreement on comprehensive reform or more targeted reforms, ABO urges Congress to retain the tax parity that Congress provided earlier through ATRA by extending the section 40 second generation biofuel producer credit, which expires at the end of this year. This provision is essential for the continued development of U.S. algae-based fuel.

ABO thanks the Working Group for its consideration. We look forward to working with the Working Group and with all members of the Ways and Means Committee as you consider tax reform.

Sincerely,

Mary Rosenthal
Executive Director
***Algae Biomass Organization***
mrosenthal@algaebiomass.org
www.algaebiomass.org