

EXHIBIT III

To Defendants Joint Motion For Summary Judgment



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

IN RE: METHOD OF PROCESSING
ETHANOL BYPRODUCTS AND RELATED
SUBSYSTEMS ('858) PATENT
LITIGATION

Master Case No.: 1:10-ml-02181-LJM-DML

THIS DOCUMENT RELATES TO:

**DECLARATION OF
DAVID A. ROCKSTRAW, Ph.D., P.E.**

Case No.: 1:10-cv-0180-LJM-DML
Case No.: 1:10-cv-08001-LJM-DML
Case No.: 1:10-cv-08002-LJM-DML
Case No.: 1:10-cv-08003-LJM-DML
Case No.: 1:10-cv-08004-LJM-DML
Case No.: 1:10-cv-08005-LJM-DML
Case No.: 1:10-cv-08006-LJM-DML
Case No.: 1:10-cv-08007-LJM-DML
Case No.: 1:10-cv-08008-LJM-DML
Case No.: 1:10-cv-08009-LJM-DML

I, David A. Rockstraw, Ph.D., P.E., do hereby declare under penalty of perjury that the following is true and correct:

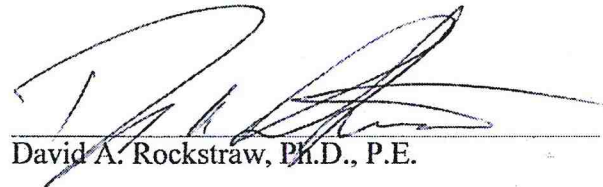
1. I am a professor of chemical engineering at New Mexico State University. I hold a B.S. in chemical engineering from Purdue University and a Ph.D. in chemical engineering from The University of Oklahoma.
2. I have been retained as an expert witness in this matter by Defendants Al-Corn Clean Fuel, GEA Mechanical Equipment US, Inc., and ACE Ethanol, LLC, to provide expert opinions and testimony in the areas of chemical process engineering and design, specifically as it relates to the manufacture of ethanol from corn with emphasis on the process downstream of the bottoms of the beer column.

74653828.1 0039919-00008

3. I have personal knowledge of the information set forth herein, and am able and would competently testify as set forth below if called as a witness in this matter.
4. Attached hereto as Exhibit A is a true and correct copy of my March 22, 2013, expert witness report.
5. Attached hereto as Exhibit B is a true and correct copy of my May 22, 2013, rebuttal expert witness report.
6. I am familiar with the Patents-in-Suit.
7. Claim 15 of the '858 Patent, claim 10 of the '516 Patent, and claims 1-3, 5, 6, 8, 10, 12-14, 16, 17, 19-24, and 26-29 of the '484 Patent, require "drying" of the "thin stillage concentrate" or "concentrated byproduct."
8. The terminology with respect to "drying" as used in the Patents-in-Suit is well-understood, standard, terminology.
9. As the term is used in the Patents-in-Suit, "drying" happens in dryers, rather than evaporators. While in both applications water is boiled off, evaporators tend to be closed systems, to permit recovery of the water for re-use at the front end of the ethanol-manufacturing process, and operate at up to 225 °F or at up to 245 °F in pressurized systems.
10. Dryers, on the other hand, are typically open applications, and tend to use gas-fired utility, such that hot air at up to about 500 °F is used to drive the drying process.
11. I understand that the Plaintiff on page 97 of its July 23, 2013, memorandum of law has cited paragraph 99 of my March 22, 2013, report for the proposition that "a process that removes 51% of the oil present in the incoming thin stillage meets the substantially oil free limitation" of the Patents-in-Suit. This reference takes my statement out of context.

12. I have consistently opined that scientific principles require the term “substantially oil free” to mean that at least 90% of the oil present in the incoming stream is removed. In this regard I refer the Court to paragraphs 97 through 99 of my March 22, 2013, report and to paragraphs 3 through 18 of my May 22, 2013, report.
13. I believe that my approach is consistent with *Alwin Mfg. Co. v. Global Plastics*, 629 F. Supp. 2d 869, 871 (E.D. Wis. 2009), as well as dictionary and thesaurus definitions of the terms “substantial,” “largely,” and “mostly.”

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Signed at MESILLA, New Mexico, this 20th day of September, 2013.



David A. Rockstraw, Ph.D., P.E.