



ENVIRONMENTAL DEFENSE FUND

finding the ways that work

April 17, 2009

Mary Nichols
Chairman
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Robert Fletcher
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Re: Support for Low Carbon Fuel Standard Regulation

Dear Chairman Nichols and Mr. Fletcher,

Please accept this letter in support of passing the proposed Low Carbon Fuel Standard for California, scheduled for vote on April 23, 2009. Environmental Defense Fund commends CARB staff for their continued efforts to engage stakeholders throughout the development of the regulation and for reinforcing their firm commitment to reduce emissions from transportation fuels in California. Further, while Environmental Defense Fund has submitted detailed comments on the LCFS draft documents previously, we take this opportunity to highlight three areas of particular import that we feel the board should be aware of. In addition, we take this opportunity to restate our support for the comments we have delivered in the past (attached) related to construction of the standard, and ask the board to consider them.

Thank you for providing the opportunity to participate in the rule development process and affording the opportunity to comment.

1) **California's LCFS must be a complement to an overall declining cap on emissions that includes the transportation sector.**

In addition to adopting a Low Carbon Fuel Standard, California must also move forward with the implementation of a declining economy-wide cap on emissions, and seek to make both maximally cost-effective and technologically feasible reductions through the development and use of a market based trading mechanism. An LCFS is a helpful complement to an overall declining cap on emissions, but it is not a replacement. Without a declining greenhouse gas cap, California cannot ensure the LCFS is stimulating the amount of innovation and emissions reductions necessary to meet AB 32 reduction goals. Further, since the LCFS becomes increasingly stringent after 2014, a California cap should seek to include the transportation sector as soon as feasible, and no later than the second compliance period scheduled to start in 2015.

Environmental Defense Fund strongly discourages CARB allowing the LCFS to export credits to a larger AB 32 market for compliance purposes. Such an action would serve to reduce the potential for emissions reductions by the larger market as well as increase the uncertainty surrounding the carbon value of emission allowances. In addition, due to 1) differences in embedded assumptions within the LCFS and mandatory GHG reporting rules (i.e. GWP value of gases), and 2) differences in the accuracy of emissions calculations (i.e. direct measurement vs. macro-economic modeling), one ton of LCFS reductions will not necessarily equal a ton of AB32 reductions, and an emissions adjustment factor will likely be needed.

2) **Indirect emissions are an important component of fuel lifecycle emissions accounting and CARB must not overlook them**

Environmental Defense Fund submitted oral and written testimony at the March 2009 CARB board meeting stating our support for inclusion of accounting for indirect emissions within the LCFS (attached). In addition to including the values currently disclosed in the published fuel production pathways, Environmental Defense Fund recommends CARB continue to identify and improve the accounting for indirect emissions from all fuels under the standard.

With regard to indirect emissions from land use change caused by biofuel production, Environmental Defense Fund believes that emissions associated with changing land use patterns represent a significant source of global greenhouse gases, and domestic fuel production and use can significantly affect those emissions. CARB has a duty to ensure that the Low Carbon Fuel Standard maintains environmental integrity. Simply omitting indirect land use emissions within the LCFS framework would undermine, if not fully negate, the environmental integrity of the rule by potentially promoting large GHG emission increases without also requiring some compensating reductions. However, CARB should not consider the accounting for indirect land use change emissions complete upon passing the standard. Rather, the agency should strive to improve and continue to update the science of accounting for indirect land use change, attempting to use the latest, most accurate values available.

With regard to indirect emissions from the production of fuel types other than biofuels, Environmental Defense Fund supports and encourages CARB to endeavor to accurately account for and include significant emissions from all fuel production pathways. CARB should strive towards equal treatment of all fuels and include indirect emissions from each fuel pathway.

3) **CARB should endeavor to prevent harmful environmental impacts from the development of fuels used to meet the LCFS**

Throughout the development of the LCFS, Environmental Defense Fund has engaged CARB to consider how to deter unwanted environmental impacts stemming from unwise fuel development incentivized by the LCFS. A general approach to this effort forwarded by some environmental advocates has been to incorporate sustainability protections into the regulation, similar to those included in the federal Renewable Fuels Standard (RFS). In May 2008,

Environmental Defense Fund provided detailed comments to CARB staff about how to construct a framework for the LCFS that protects environmental quality **using a comprehensive approach that exceeds the protections included in the federal RFS** (attached). CARB staff subsequently deferred the development of a sustainability framework to an interagency workgroup process involving multiple resource and environmental agencies in California, known as the Interagency Forest Working Group (IFWG).

Environmental Defense Fund believes CARB must endeavor to understand and discourage any degradation of our planet's natural resources that may be incentivized by a California LCFS. We urge CARB to work within the IFWG on these issues, and look forward to the continued opportunity to participate in the ongoing dialogue. Regardless of the final method used, the LCFS must not allow California to solve one problem (high fuel carbon intensity) by creating another (aquifer impairment, ecosystem damage, soil quality impairment, etc.)

Again, thank you for your attention on this matter. Please feel free to contact me at toconnor@edf.org, or (916) 492 – 4680 with any questions, comments or concerns you have.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim O'Connor". The signature is fluid and cursive, with a large initial "T" and "O".

Timothy O'Connor
Attorney - California Climate Initiative
Environmental Defense Fund