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Via Email and Electronic Submittal
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Subject: BP America's Comments on California Air Resources Board's (CARB) third LCFS Advisory Panel concerning the Treatment of Crudes in the LCFS (HCICO)

Dear Richard and Michelle:

We appreciated the discussion on the treatment of crude oil in the California LCFS that occurred at the LCFS Advisory Panel meeting on July 1, 2011. We believe that a key point was raised near the end of the discussion. That was – before we evaluate options with which to differentiate crude oils in the LCFS – there should be a robust discussion and determination regarding *whether* crude oils should be differentiated.

It has been and continues to be BP's position that the LCFS should not differentiate between crudes. We believe strongly that a reasonable evaluation of the effect and impact of differentiating crudes will conclude that there is no environmental benefit from differentiation – only severe unintended consequences to California refiners and to the market for transportation fuels. We share the view expressed in the Wood Mackenzie analysis that the current HCICO proposal will more likely serve to shuffle the distribution of crudes rather than impact upstream production methods. Importantly, a LCFS that does not differentiate crude oils and therefore treats all crudes as equal, will maintain the incentive for innovation and investment in lower carbon fuels, and will achieve the desired carbon reduction.

Before a decision is made to consider differentiation of crudes, we believe it is incumbent on the proponents of differentiation – that they are able to demonstrate, definitively, that there will be material environmental benefits to differentiation of crudes in the California LCFS – and that these benefits will outweigh the consequences of differentiation. We believe the potential unintended consequences are too great to ignore, and that any potential benefits can not be simply assumed. This important policy decision can not be justified by the hope that there will be benefits – or by the desire to send a symbolic signal to producers of HCICO. There must be a definitive demonstration of benefits that outweigh risks and consequences.

We look forward to continuing the dialogue on this important issue. In the meantime, we offer opinion on the five options contained in the HCICO Draft outline. While we will offer our view on the pros and cons of the various options, we must reiterate that we believe the best, and the only workable option, is one that is currently not listed. That unlisted option, option 6 if you will, does not differentiate crude oils. In this approach, all gasoline and diesel fuels would use the existing CI values in the Look-Up Table. The Look-Up Table values for gasoline and diesel would not be updated. As referred to previously, we believe this option:

- Focuses the LCFS on what should be it's primary objective - driving innovation in alternative fuels
- Greatly simplifies the regulation
- Avoids crude shuffling and the additional GHG emissions that go along with it
- Avoids restricting choices in crude supply and any possible, resulting, unintended adverse consequences to California refiners and the market for petroleum products.

Our comments on the existing five options are as follows:

- As stated above, we do not believe that crude differentiation is the correct policy for the LCFS. Crude differentiation is a component of Options 1, 3, and 4.
- We do not believe it would be appropriate to reward a refinery for past high carbon crude use while penalizing a refinery with historical low carbon crude use. This would appear counterintuitive for a regulation that is intended to reward producers of lower carbon fuels. This is the exact outcome of Options 3 and 4 as an identical crude may result in a penalty for a lower carbon crude refinery, but not one historically processing higher carbon crudes.
- A method that results in different CI compliance targets for individual companies (Option 4) is entirely unworkable. The LCFS was built for a common compliance target for all regulated parties, including all in-state fuel producers and importers. Option 4 would also set up a system in which fuel alternatives (such as ethanol) would generate credits and deficits differentially for different refineries. For example, a refiner of high carbon crudes could potentially generate credits through the purchases of average MW corn ethanol (98 g/MJ), while the same ethanol would incur significant deficits to a refiner of lower carbon crudes.

Furthermore, it would incentivize the high carbon refiner to import as much biofuels and resell without obligation transfer to lower carbon refineries as they can generate the most credits.

- There are many references to providing extra LCFS credits for the implementation of innovative methods to reduce crude production GHG such as CCS (Options 2, 3, 4). While we share the belief that technologies to reduce carbon should be encouraged, the option suggests that high carbon crudes producers that show reductions would be treated preferentially over conventional crude producers with a lower carbon intensity. We believe there should be more discussion on this topic so that any benefits for innovative technology are consistent with the rest of the regulation.
- The Worldwide Average Approach (Option 5) does have the advantage that it does not promote shuffling. However, Option 5 goes further by also evaluating changes to global refinery GHG. For simplicity, we recommend that this option focus only on the upstream emissions to be consistent with the other options.
- While option 3 (CA Average) is similar to Option 5 (Worldwide Average), we believe that a CA average is too small a pool to prevent the actions of one refinery significantly impacting the entire CA refining industry.
- All of CARB's proposed options (1-5) are one-sided on the treatment of the carbon intensity of crudes. Crudes that are either higher in carbon intensity, or are considered past a HCICO threshold, incur additional deficits. However, there is no equivalent treatment for a crude that is lower in carbon intensity to generate credits (with the exception for the above mentioned innovative technologies like CCS). This is entirely unique among all fuels under the LCFS. It questions CARB's belief of the value of carbon reductions on the crude production emissions. If crude CI increases truly are important enough to penalize, shouldn't crude production carbon reductions be equally rewarded? It would be conceivable that refineries may have the option to fully meet the LCFS targets many years into the regulation through low CI conventional crude purchases, rather than alternative fuels. It appears that this is not allowed because the focus of the LCFS is encouraging alternative fuels rather than shifting petroleum operations. We agree that the LCFS should focus on the development of low CI fuels and not focus on the production of petroleum.

BP supports a crude treatment in the LCFS in which all gasoline and diesel receive their respective existing carbon intensities that are in the Look-Up Table (as used currently to calculate the Base Deficits). We believe that all petroleum products should receive the same CI values for reporting so as to prevent shuffling, and do not believe that the CI values need to be updated.

It is our position that the proper policy would be to focus the LCFS on encouraging low carbon fuel development rather than attempt to regulate crude sourcing. We believe that attempts to differentiate crudes will not result in overall GHG reductions, and greatly complicates an already challenging and complex regulation.

We look forward to continuing to participate in the resolution of this vitally important issue.

Sincerely,

Ralph J. Moran
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Cc Bob Fletcher
Virgil Welch