



April 1, 2014

Ms. Katrina Sideco
Air Resources Engineer
Fuels Section

Re: Feedback for March 11, 2014 LCFS and iLUC Workshops

Dear Ms. Sideco:

Thank you for the opportunity to comment on the proposed LCFS revisions. It was clear from the presentations at the workshops on March 11, 2014 that ARB is committed to the program and desires to redesign it to be more effective. Hopefully comments from stakeholders like Calgren will help achieve that goal.

Calgren produces renewable fuels, principally fuel ethanol. Since the inception of the LCFS we estimate we have single-handedly supplied almost 10% of the total LCFS credits generated. We have done so using a default carbon intensity value of 80.7 gCO₂e/ MJ. But because the amount of energy consumed in our production process is meager our actual carbon intensity is even lower; it may, in fact, be the lowest of any fuel ethanol plant in the country fired by conventional fuels. So that Calgren's California customers can begin to benefit from our low carbon intensity, we have recently filed a Method 2A pathway application. We calculate that our carbon intensity is 68.22 gCO₂e/ MJ when processing Midwest corn with pipeline natural gas and will drop to 67.24 gCO₂e/ MJ in September when our dairy digester, presently under construction, is on line. If our efforts to get California farmers to grow drought-resistant sorghum are successful, our carbon intensity will drop further to 64.06 gCO₂e/ MJ. At the latter value, the amount of carbon credits we can supply to our California customers will double. We see it as our way of supporting the LCFS.

Calgren's low carbon intensity was achieved in a variety of ways, including rigorous and dogged pursuit of incremental process improvements. Some of the improvements involved large projects, but many were quite modest in scope. We find the prospect that all renewable fuel producers will some day be herded into "bins" to be disheartening. One of the strengths of the LCFS is that it rewards innovation. We would not have had the same incentive to incrementally reduce our carbon intensity via a series of modest process improvements had we known we would be lumped into a category with other producers and assigned a median carbon intensity value.

In point of fact, the primary reason Calgren did not file a pathway application earlier is related to the current "5-10" substantiality rule. Few if any of our incremental process improvements meet the substantiality test on their own. Thus we delayed filing until the

majority of our improvements could be claimed, i.e. we did not want to “leave anything on the table.” In a similar manner, bins would discourage all incremental improvements except those that would allow a processor to qualify for a lower bin. Rather than encourage innovation, ARB would be designating only certain carbon intensity improvements as worth of recognition, i.e. those that allow a plant to qualify for a lower bin.

On page 5 of the LCFS Re-Adoption Concept Paper it is suggested that applicants using next-generation feed stocks such as cellulose will be able to avoid the bin concept and file for pathways. With all due respect, this is wrongheaded. One of the strengths of the LCFS over the RFS2 is its focus on carbon intensity rather than feed stocks. As reflected in Calgren’s recent pathway filing, we are able to achieve reasonably low carbon intensities using “first-generation” feed stocks. Correspondingly, Calgren has been approached by at least one purveyor of a cellulosic process that has extremely high carbon intensity – it is inaccurately assumed to be low-carbon solely because of its name. By compromising its agnostic approach to feed stock and its laser focus on carbon intensity in favor of trying to pick feed stock winners and losers, ARB risks inadvertently abandoning the fundamental goal of the LCFS.

We appreciate ARB’s desire to simplify and streamline the pathway process. Like many, we find the GREET model cumbersome. Several GREET factors, such as transportation of renewable fuel to market, are inconsequential. ARB is right to concentrate on “big ticket” factors, such as overall energy consumption for processing. While we believe there are other significant factors to also consider, we applaud the effort to streamline the pathway process by ignoring insignificant issues. As opposed to bins, such a formulaic approach will focus innovation efforts rather than stifle them. Both approaches, bins and formulaic, allow for streamlining. For the good of the program, we implore ARB to reject the former and adopt the latter.

In the same paragraph on page 5 of the LCFS Re-Adoption Concept Paper mentioned above, it is asserted that many of the Method 2 pathways are not widely available for use by regulated parties; pathways are viewed as helping applicants and not the industry. Thus, it is argued, pathways should be curtailed. But there may be better ways to address this issue. Why not adopt a concept similar to the tradeoff between full disclosure and property rights embodied in patent law? Under patent statutes, inventors can choose between keeping their innovations confidential or, alternatively, acquiring 17 years of exclusivity. Full public disclosure is required as part of the patent process so that others can use the invention after the period of exclusivity expires. Similarly, ARB could require that applicants for unique pathways make full disclosure. Those innovators who choose to keep their carbon intensity advances confidential would be resigned to using a default pathway.

Like others, Calgren designated certain exhibits in its pathway application confidential. In doing so Calgren has merely followed the crowd. We are willing to remove the confidentiality restrictions in exchange for a more comprehensive and rigorous review of our application.

Our comments regarding iLUC are less comprehensive as we have not commissioned an in-depth study of the issue. We would mention only that we were surprised to hear the Purdue GTAP researchers attending the workshop state that ARB has chosen not to follow some of their recommendations. We, of course, do not know if this is true. But we do feel ARB risks jeopardizing the credibility of the program if it chooses to employ experts and then disregards their advice.

Credibility of the LCFS is important. In fact it could be argued that the lawsuits attacking the LCFS are at their core an attack on program credibility. Calgren opposes the lawsuit(s) brought by renewable fuels trade groups and has declined to join organizations that sponsored this approach, even though they otherwise do very good work. We believe our industry should embrace ARB's strong support for low carbon intensity fuels and work closely with ARB to advance the goals of the LCFS. In our discussions with others in the renewable fuels industry, we sense the credibility of the LCFS is weakest in the area of iLUC. While adopting the recommendations of Purdue's GTAP researchers will not necessarily turn the tide regarding credibility, we believe it may help.

Thank you for your strong support for lower carbon intensity and for this opportunity to comment. If you have any questions, I am available via the contact information set forth below.

Very truly yours,



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