



Mr. Michael Waugh  
Chief  
Transportation Fuels Branch  
Stationary Source Division  
California Air Resources Board  
1001 I Street  
P.O. Box 2815  
Sacramento, California 95814

RE: Comments Regarding the March 11, 2014 Workshop on Low Carbon Fuel Standard Re-Adoption

Dear Mr. Waugh:

Pro Petroleum is an independent fuel distributor headquartered in Lubbock, Texas.

Pro Petroleum appreciates the opportunity to comment on the proposed revisions to the Low Carbon Fuel Standard (LCFS) regulation presented by the staff of the California Air Resources Board (ARB) during the March 11, 2014 workshop. Although Pro Petroleum welcomes some of the proposed revisions, others raise serious questions regarding the intent and purpose of the regulation, and there by create uncertainty regarding the ability of Pro Petroleum to continue doing business in California. Pro Petroleum's concerns and suggested remedies are summarized below.

### Downstream Transfers of Compliance Obligations by Fuel Producers and Importers

The current LCFS regulation allows for LCFS compliance obligations to be transferred downstream from fuel producers and importers to wholesale fuel purchasers like Pro Petroleum through contractual language and product transfer documents (PTDs). While it is important that this flexibility be provided in the LCFS regulations, what has happened in the marketplace is that fuel producers and importers are generally forcing downstream entities like Pro Petroleum to accept LCFS compliance obligations as a standard condition of fuel transactions in order to minimize the fuel producers' obligations. This practice puts the LCFS compliance burden on small wholesalers and terminal position holders, and is clearly contrary to ARB staff's

longstanding position that the compliance obligation should be placed “as far upstream of the consumers, distributors, and marketers as possible”.

Placing the LCFS compliance burden at the wholesale level can create practical compliance impossibilities. For example, Pro Petroleum does not have the ability to negotiate out of accepting compliance obligations from its large refinery suppliers, and cannot effectively generate LCFS credits due to infrastructure issues at the terminal level. This is because Pro Petroleum currently is a position holder at only one California terminal where biodiesel blending is possible, and the company’s ability to blend above B5 is limited by Federal Trade Commission (FTC) fuel pump labeling requirements.. Consequently, Pro Petroleum could be forced out of the California market because it cannot absorb the compliance costs of LCFS and it legally cannot generate an adequate quantity of LCFS credits.

Pro Petroleum recognizes that ARB staff is aware of this situation and that staff suggested revisions to Section 95848(a)(2)(B)(4) as a remedy at the May 24, 2013 workshop. While Pro Petroleum was generally in support of staff’s proposed language, if strengthened, prior to the March 11 workshop, we now strongly believe that the compliance obligation should remain upstream in the light of ARB’s current proposal to award refineries with additional credits for GHG reductions associated with fuel production processes. We believe that requiring a non-transferable upstream compliance obligation is in line with ARB’s LCFS regulatory policy as stated above and we further acknowledge that upstream LCFS compliance costs would be transferred to Pro Petroleum through fuel prices. Therefore, Pro Petroleum urges ARB to delete Section 95848(a)(2)(B)(5) and to modify Section 95848(a)(2)(B)(4) as follows:

*When a person who is the regulated party for diesel fuel or a diesel fuel blend transfers ownership of the diesel fuel or diesel fuel blend to a person who is not a producer or importer, the transferor remains the regulated party.*

### Identification of Biodiesel Blends

At present, biodiesel blends of up to B5 are fungible with conventional diesel fuel in California and the presence and amount of biodiesel in a fuel is not disclosed to fuel purchasers. The failure of ARB to require disclosure of the actual biodiesel content of fuels creates LCFS compliance problems for wholesale fuel suppliers. For example, as noted above LCFS effectively requires that Pro Petroleum be able to blend biodiesel into diesel fuel to generate LCFS credits. Given that any diesel fuel blend above five percent biodiesel will create liabilities under federal fuel pump labeling regulations, it is critical that the biodiesel content of all diesel fuels be identified, even for fuels containing five percent biodiesel or less. Pro Petroleum urges ARB staff to adopt requirements that will require fuel producers, importers, and suppliers to identify the biodiesel content of all diesel fuels. It should also be noted that federal labeling requirements also apply to fuels containing renewable diesel, and thus ARB may need to be similarly address this issue for fuels containing renewable diesel.

## Standardization of Requirements for Product Transfer Documents

Pro Petroleum understands that the LCFS regulation specifies information to be included in Product Transfer Documents (PTDs). However, based on direct experience, the current regulatory requirements are not adequate to ensure that PTDs include all of the precise information that ARB requires to be reported through the LCFS Reporting Tool (LRT). PTDs for conventional fuels are particularly problematic, because the majority of fuel providers include all or some of this information as part of their regular invoices. In particular, transaction ID, transaction date, and transaction volume are not clearly defined in the current regulation and it is unclear if the data provided on typical PTDs conforms to ARB's expectations with respect to reporting. This ambiguity forces Pro Petroleum to decide what information should be provided to ARB. Given this, Pro Petroleum urges ARB to clearly define what constitutes a transaction ID in a case when only an invoice is provided (invoice ID vs contract ID), what transaction date should be reported (date of purchase vs date of transfer) and whether it is the volume of fuel purchased or the volume of fuel transferred that should be reported. Further, we urge ARB to clearly specify that all information required for LCFS reporting be included on the PTD even if it is also provided in other documents such as purchase contracts.

## Cost-Containment Provisions

Pro Petroleum strongly opposes direct involvement by ARB in the LCFS credit market as has been proposed by ARB staff. The LCFS credit market should operate as a free market driven by supply and demand without price floors or ceilings. Credit prices should be determined by the cost of compliance with the LCFS regulation. We plan to follow the development of these provisions further and will submit comments in response to the April 4 cost-containment workshop.

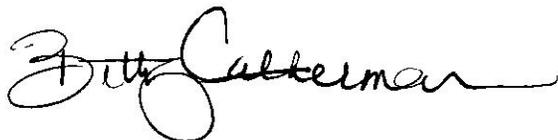
## Integrity of LCFS Credits

Pro Petroleum supports ARB staff's proposals to help ensure the integrity of credits generated under the LCFS regulation, but believes additional actions are necessary. More specifically, Pro Petroleum recommends that ARB staff consider enhancements to the LCFS Credit Bank and Transfer System (CBTS) similar to those that have been implemented to ensure the integrity of credits under ARB's Cap-and-Trade Regulation. Specifically, Pro Petroleum urges ARB to implement a robust CBTS auditing process. Clearly, it is essential that ARB ensure that the types of fraud that have plagued the federal Renewable Fuel Standard credit market do not occur in the LCFS credit market.

In conclusion, Pro Petroleum hopes that ARB staff will carefully consider the above comments and looks forward to working with ARB staff throughout the development of the revised LCFS regulation. To that end, Pro Petroleum would welcome the ability to participate in any stakeholder groups that are established that relate to our areas of concern. Please feel free to contact me if you

have any questions regarding Pro Petroleum's comments or positions on any issue related to the re-adoption of the LCFS regulation.

Sincerely,

A handwritten signature in black ink that reads "Betty Catherman". The signature is written in a cursive style with a large, looping initial "B".

Betty Catherman

Chief Financial Officer

Pro Petroleum