March 22, 2016

Ursula Lai
Lead Staff, Verification
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Ms. Lai:

The California Biodiesel Alliance (CBA) appreciates the opportunity to comment on the Proposed Framework for the LCFS Monitoring and Verification Program presented at the March 8th workshop and to offer recommendations, gathered after considerable industry discussion, on what we believe are key requirements for the success of such a program. CBA, the state's biodiesel industry trade association, represents every major commercial instate biodiesel producer — as well as over 40 businesses and industry stakeholders — and works to increase awareness about biodiesel as California's leading and widely available advanced biofuel that delivers significant economic, environmental, and energy diversity benefits.

In order for the LCFS program to maintain integrity, we make the following recommendations regarding a verification program:

<u>Foreign Pathways</u>

As stated in our previous comments on the pathway applications of Universal Biofuels Private, Ltd., and Eco Solutions Co. Ltd. (a copy of which is attached), a primary concern for our industry is the potential misrepresentation of CI scores for fuels by foreign producers. We are very concerned that foreign pathways continue to be approved without verification that is commensurate with the significant risk for fraud.

<u>Bonding Requirement</u>

ARB should require foreign pathway applicants to post a bond in order to generate LCFS credits. The bond requirement should be patterned after the federal program (40 CFR 80.1466(h)), which has been vetted by trade attorneys and has survived without challenges by foreign entities. However, given the high credit prices, the amount of the bond must be significant enough to actually deter the fraudulent players from entering the market. Otherwise, fraudulent players will simply post the bond and take their chances.

<u>Verification & Auditing</u>

We presume that ARB will have limited resources for travel and auditing of participants. As a result, we believe that the resource allocation should be commensurate with the potential for abuse. All producers, especially foreign entities, should be subject to random, unannounced audits from ARB. ARB should not approve a foreign pathway if it does not have the resources to conduct such audits. We understand that domestic participants should also be subject to scrutiny, but we are extremely concerned that if the burden falls more heavily on the domestic producers, the program will not do anything to curb the abuse from abroad.

Further, should ARB move forward with a QAP, it is extremely important that the program require that the QAP provider be a company that is based in the United States for enforcement purposes and to reduce the potential for corruption.

Mass Balancing

Another potential area for abuse in foreign pathways is from improper mass balancing of feedstocks, which is resulting in Palm-based biodiesel coming into the LCFS program.

Example: Producer produces 1 million gallons of biodiesel, 40% of which is UCO, and the remaining 60% is Palm Oil. Producer uses the mass balance system to qualify the production from UCO into California, Canada, and the EU. They then deliver 400,000 gallons into California 300,000 gallons to Canada, and 300,000 gallons to the EU. Each reporting entity looks at the volume delivered into its jurisdiction, and determines that they are in compliance because they only delivered the portion of the production that qualified for the respective programs. In actuality, someone received Palm-based Biodiesel.

We recommend that ARB limit the mass-balancing approach to production plants that do not utilize Palm-based feedstocks. If the producer utilizes multi-feedstocks, one of which is Palm-based, the mass balancing approach should be disallowed.

Chain of Custody

Another issue of great concern is the possible export of fuel without retirement of the LCFS credits. The concern is that the current LCFS Reporting Tool (LRT) does not follow the chain of custody of the fuel itself, but rather, just follows the CI credits.

Example:

Producer sells 7000 gallons of biodiesel to Trader with the obligation and CI credits. Each files a report in LRT, and the transaction balances. Trader then sells the CI credits to Obligated Party. Each files a report in LRT, and the transaction balances. Trader then sells 7000 gallons of biodiesel to Blender without obligation, and does not report that sale in LRT. Blender transports the fuel out of state. ***Currently, there is no transaction reported in the LRT for the sale of the biodiesel, so no deficit of CI credits is created. This could happen for months or even years before Trader is audited.***

It is our recommendation that the LRT system be enhanced to require a balancing transaction for the ***physical*** product in addition to the CI credits. This should make it much more difficult for unscrupulous market participants to cheat the system. To prevent further administrative burden, we recommend that ARB coordinate with the ADF team who will already be gathering chain of custody information through the ADF Reporting Form.

Renewable Diesel Pathways

We believe that the vague definition of "waste oils" and "recovery oils" in the regulation is allowing for the use of Palm Fatty Acid Distillates (PFAD) as a feedstock in Renewable Diesel (RD) pathways. The EPA has specifically excluded the use of PFAD to generate D4 RINs (D4s have a 1.5 equivalence value, used by advanced biofuels). However, grandfathered facilities that use PFAD can generate a D6 RIN (this is the lower valued RIN that corn-based ethanol can generate). There is a significant amount of RD being imported in to California that is generating a D6 RIN and an LCFS credit. ***Since D6 RINS are much less valuable than D4 RINS, this signals that the RD is made with PFAD.*** Once the PFAD is turned into Renewable Diesel, it is indistinguishable from any other renewable diesel, so it is impossible to test.

It is our recommendation that ARB specifically <u>exclude</u> all Palm Oil products (with the exception of UCO) from being utilized as feedstock for any fuel under the LCFS program. This would provide assurance that there is no economic gain for the Palm Oil industry resulting from the LCFS program.

Thank you for your close consideration of these recommendations. We look forward to working with you to develop the best possible LCFS Monitoring and Verification Program. Please feel free to contact me with any questions at 619-236-8588.

Sincerely,

Jennifer Case
Chair
California Biodiesel Alliance