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August 8, 2016

California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Clean Energy and the Bioenergy Association of California (BAC) Comments to Proposed LCFS Amendments-July 2016 Workshop

Dear ARB Staff,

Clean Energy and the Bioenergy Association of California (BAC) appreciate the opportunity to submit comments on the most recent edition of LCFS amendments and verification program proposals presented at the July 2016 workshop. Clean Energy has been a long-time advocate and participant in the LCFS program and we look forward to continuing our collaboration with the Air Resources Board to support the advancement of the LCFS.

ARB Alternative Proposals for LCFS Reporting and Verification Timeline

We believe that the ARB should design a verification program that minimizes duplicative effort by mirroring the structure and scope of the Quality Assurance Program (“QAP”) of the Federal Renewable Fuel Standard (“RFS”). The vast majority, if not all, of LCFS credit generators are already complying with this Federal program which provides third party verification of renewable fuel production. In addition, it is crucial that the LCFS verification program, once implemented, does not disrupt the current process for generation and sale of LCFS credits. The LCFS credit market liquidity is crucial to the cash flow and operations of low carbon fuel producers. We believe the proposals released at the July 2016 workshop will require significant modification to ensure that the LCFS verification program is efficient, does not unnecessarily duplicate or conflict with the RFS QAP procedures and does not disrupt the LCFS market in a manner that could severely and negatively impact low carbon fuel producers.

First Alternate Proposal

The first alternate proposal would be impossible to achieve for biomethane vehicle fuel (and likely other gaseous fuels) due to the reporting deadlines. Quite simply, it will be impossible for a biomethane fuel seller to report within 15 days after a transaction.

Biomethane is different from liquid fuels in that it is not typically sold in bulk transactions but is rather purchased on a 24 by 7 basis as produced and injected from each production facility. In addition, environmental credits for biomethane are not generated until the fuel is consumed in a transportation vehicle. Transactions are aggregated over a specified period of time (monthly for RFS and Quarterly for LCFS) for clear and concise reporting and credit generation based on third party meter records. **The third party utility statements that specify the volume consumed at each**



participating station are not typically available until twenty or more days following the calendar month of flow.

Clean Energy's portfolio of biomethane producers all have EPA approved RIN generation protocols that allow them to generate RINs on a monthly basis within five business days following the 15th day of the month after flow. This monthly generation protocol ensures accuracy in volume and credit generation reporting based on receipt of the utility bill that specifies the volumes consumed at the fueling station. Due to the aggregate nature of daily biomethane transactions, reporting 15 days after a transaction is simply not feasible.

The first alternate proposal also seeks to reduce the scope of the program by only requiring verification of the initial regulated party or the first reporter of the fuel. This proposed procedure does not appear to account for the chain of custody associated with production and sale of biomethane vehicle fuel.

Per the Regulation, the Regulated Party for biomethane is the upstream producer of the biomethane. However, the majority of Clean Energy's third party biomethane suppliers have (through contractual agreements) transferred Regulated Party status to Clean Energy. This allows Clean Energy to generate LCFS credits on behalf of the producer once the biomethane is consumed as a vehicle fuel and the volumes consumed have been verified via utility meter. LCFS credits for biomethane cannot be generated until the fuel is used in transportation, therefore it would seem that the scope of verification will have to cover the entire supply chain from production to consumption. Verifiers will need to validate title transfer of fuel from the producer to the consumer, especially in cases where producers transfer Regulated Party status to other counterparties. The verifier will not only have to verify that the biomethane was actually produced and injected but they will also have to follow the chain of title across various marketers to the final dispensing point. The dispensing party will then have to prove that the biomethane was consumed as a transportation fuel in order to validate the LCFS credit generated. Limiting the scope of the verification to the initial reporter will lead to increased invalidation risk and potential marketplace confusion as the downstream operations will be left unverified. In order to minimize invalidation risk we believe verifiers will have to audit the entire fuel pathway which will involve more parties in the supply chain than just the initial regulated party.

Second Alternate Proposal

We are concerned that the second alternate proposal (for annual verification) will impair liquidity and trading activity in LCFS credits, and impair the business operations of low carbon fuel producers. There is a significant risk that LCFS credits that are not "verified" or are pending verification will not be purchased, or will receive a significant discount in the market. This would reduce and delay critical cash flows for low carbon fuel producers. As drafted, we understand that credits may not receive verified status until the second or third quarter of the year following their generation. Essentially the second alternate proposal will limit the LCFS credit generator's ability to recognize the full – or any - economic benefit of the carbon reduction of their fuel in the year in which the fuel was produced. This second proposal will create increased market uncertainty which does not align with the overall goals of the verification program.

In order to avoid disruption of the current LCFS market and liquidity for LCFS credits, it is imperative that the verification program is implemented in a manner that does not delay or impede trading of credits while the verification procedures are conducted.

Clean Energy and the Bioenergy Association of California Alternate Proposal

We believe that that the LCFS verification program should mirror the established QAP program operated by the EPA under the RFS. Instead of requiring quarterly and annual verification reports the LCFS verification program should be maintained on an ongoing basis.

Under such a protocol, each Regulated Party and/or credit generator will be required to undergo a baseline (onboarding) production facility and transaction audit pursuant to the requirements outlined by the ARB in the proposal and the verification plan developed by the independent verifier. Upon successful completion of the baseline audit, which includes a verification of CI and physical pathway demonstration, a regulated party will receive an “LCFS Verified” designation for credits generated from that production facility and sold through that pathway. The Regulated Party would also be required to submit monthly and quarterly documents to the verifier including but not limited to: feedstock logs, production data, pipeline reports, allocation reports, product transfer documents, LCFS quarterly reports, credit sales contracts, utility consumption reports, bills of lading, etc. to support credit generation activity. If the Regulated Party fails to provide sufficient data for the verifier to conduct a verification in accordance with the regulatory requirements, the verifier will notify the Regulated Party and the Regulatory Party would be required to suspend LCFS credit generation until the verification procedures could be met.

The critical aspect of our proposed program structure is that, once a facility has received the “LCFS Verified” designation Regulated Parties will be able to generate verified LCFS credits and sell verified credits consistent with the current quarterly timeframe for generating LCFS credits. The program would allow producers to achieve the LCFS Verified status prior to the commencement of the LCFS verification program – so that when the verification program is launched Regulators that have completed the baseline verification will be able to continue to generate and sell credits in precisely the same manner as they are today. This will ensure that the LCFS credit market continues to function as it currently does as the verification procedures are put in place. Timely and accurate submission of the necessary data by the Regulated Party to their verification firm will maintain an entity’s “LCFS Verified” status without disrupting the established operation of the LCFS credit market.

We concur with the ARB’s assessment that annual site visits to production facilities should be a component of the verification program. However, we do not believe that the ARB should require annual CI verifications. CI verifications should be required every two years consistent with the ARB’s production data requirement for new pathway certification. This is a fair compromise between the proposed one year CI verification and the EPA’s three year requirement for an updated professional engineering report under the RFS.

Clean Energy's proposal will accomplish all the goals of the verification program by minimizing invalidation risk without impacting the current operation of the LCFS credit market. The scope of verification is large enough to cover the entire value chain while keeping the timing of reporting and credit issuance the same as it is under the current Regulation.

Clean Energy and the Bioenergy Association of California also support establishing credit IDs for LCFS credits. We recommend that LCFS credits have unique identifiers that represent the vintage (quarter and year) and the production facility of the fuel - which would be visible to credit purchasers. This provides the necessary transparency to buyers. Releasing credit IDs will serve to improve the integrity of the verification program and will provide more transparency to the LCFS program as a whole.

The LCFS verification program is a necessary addition to the current Regulation. We believe that the ARB should, consistent with our recommendations, endeavor to develop a program that is applicable and feasible for all fuel types covered under the LCFS. Furthermore, the ARB should seek to develop a verification program that addresses invalidation risk while maintaining the reporting and credit monetization schedules (and current market operation). Clean Energy's ongoing verification proposal satisfies the goals of the verification program and mimics the EPA's QAP program, which will reduce costs for producers that already comply with the EPA QAP. This proposal will allow regulated parties, most of who are already enrolled in a QAP program, the ability to seamlessly add the LCFS verification into their compliance responsibilities.

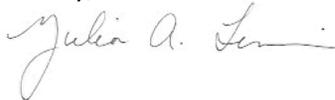
Please feel free to reach out to us if you have any questions.

Sincerely,



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Sincerely,



Julia Levin
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