October 16, 2024

Liane Randolph, Chair
Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Chair Randolph and Members of the Board,

Well, what can I say without sounding too cynical? The 2nd 15-day Notice is very disappointing. At the September 12 CARB-EJAC meeting, several Board Members clearly stated that they are concerned about crediting for crop-based biofuels and RNG projects. Board Members expressed a desire to see a more rigorous cap on lipid biofuels than staff proposed in the 1st 15-day Notice and a reevaluation of the duration of avoided methane crediting and deliverability requirements for RNG projects. CARB staff not only ignored this direction, but also reversed course by:

- giving all biomass-based diesel producers three years to comply with the already very weak limits on crop-based biofuels, and by
- shielding digester projects from a potential future regulation by guaranteeing 30 years of avoided methane credit for currently certified projects and 20 years for future projects that break ground prior to 2030.

It is disappointing to see staff siding with the liquid biofuel, RNG, and fossil fuel industry over warnings from the environmental and academic communities and concerns expressed by Board Members.

Moreover, staff continue to ignore warnings about the potential for future costs. Whether staff and some Board Members want to admit it or not, Pandora's box has been opened and the curse of pass-through costs has been released. Both the public and the legislature are rapidly coming up to speed on the potential for future costs from both the LCFS and the Cap-and-Trade programs. During the recent special session on gasoline prices, the legislature discussed freezing the LCFS targets and by October 11 more than 100 comments had been submitted to the LCFS docket by Californians complaining about the "65 cents per gallon LCFS tax". If they already don't like what they are hearing about the potential for gasoline price increases, what do you think their response will be when these costs come to fruition? What do you think their reaction will be when the cost of gasoline in California increases from $1 over the national average to more than $2 over the national average? And imagine what their response will be upon further learning that a good portion of the added cost is the result of CARB support for:

- Crop-based biofuels that may not reduce GHG emissions compared to gasoline and diesel, do not statistically reduce criteria pollutant emissions in new technology diesel engines, and very likely lead to tropical deforestation and increased hunger amongst the most food insecure populations of the world,
- Dairies that capture their own methane pollution and "deliver" it to California, even after staff have been informed by UC economist Aaron Smith and stakeholders (see

page 9 of 45-day comments) using data provided by the dairy industry that "after the first 10 years, once capital costs have been paid, there is little economic justification for digesters to receive prevented methane LCFS credits",

- Very liberal book-and-claim accounting requirements that allow dairies in Iowa and swine feedlots in Missouri to "deliver" RNG to California even though this results in hundreds of millions (and potentially billions) of dollars leaving the State annually for avoided methane reductions that do not count toward California's statutory GHG reduction targets,
- Very liberal book-and-claim accounting requirements that allow landfills in New York and Pennsylvania to "deliver" captured methane to California, even though the landfills were already capturing the methane prior to the LCFS adoption and would be sufficiently compensated by federal programs (without the LCFS) for delivering the fuel to NG vehicles in their own states,
- Direct air capture projects in Texas that will likely result in hundreds of millions (and potentially billions) of dollars leaving the State annually for emission reductions that will not count toward California's statutory GHG reduction targets, and
- Solar electricity projects in oil fields that are cost effective without the LCFS and "efficiency improvement" projects at petroleum refineries that were being planned even before the LCFS was adopted.

If I were a venture capitalist or fuel producer evaluating whether to invest in some of the projects described above, the current public uproar and reaction from some legislators (even democrats) over gasoline price impacts would make me pause to consider whether an investment with a payback of more than a few years is advisable. Will the legislature terminate the LCFS or freeze targets if pass-through costs from the LCFS and Cap-and-Trade get out of hand? Will a future governor step in and tell CARB to amend the regulation to get control over ever-increasing gasoline costs? Biofuel, RNG and fossil fuel stakeholders have successfully convinced staff to largely leave credit generation unmodified. They have done this by arguing that major changes to the regulation or limits on credit generation will inject significant uncertainty into the market and potentially strand assets. I argue that by not making strategic changes to the program to limit pass-through costs, by not cutting out unnecessary and ineffective credit generation, by not making changes necessary to convince the public and the legislature that CARB is a good steward of their money, CARB is injecting even more uncertainty into the market.

Unfortunately, transparency regarding LCFS costs has been somewhat lacking and the staff's recent efforts to obfuscate the issue have been disappointing. Based on the current status of the proposal, **I recommend that the Board seriously consider voting No on the amendments** and direct staff to start over next year with a proposal that addresses Board Member concerns about crop-based biofuels, RNG crediting and deliverability, and includes a fully transparent discussion of potential costs of the amendments and the pros/cons of various strategies for reducing these costs.

Respectfully,
James Duffy, PhD