September 28, 2023

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,

I am a retired staff member at the California Air Resources Board (CARB). During my 13-year career at CARB, I worked almost exclusively on the Low Carbon Fuel Standard (LCFS), including over a year as Branch Chief overseeing the program.[1] I helped develop and enthusiastically support the LCFS. A strong LCFS is critical to helping California achieve its zero emission goals.

In general, I urge CARB to adopt many of the recommendations from the Environmental NGO and Environmental Justice Communities. **In this comment letter, I highly encourage CARB to focus much more on equity when developing and discussing proposed changes to the LCFS regulation**. The costs for any climate program must be borne by someone, and in the case of the LCFS, the costs are borne by consumers of fossil gasoline and diesel through increased prices for these fuels at the pump. The potential increase in pump prices, or pass-through cost, can be readily estimated and is proportional to the percentage reduction in target CI and the credit price. In the early years of the LCFS program, these pass-through costs were low, even with high credit prices, because the percent CI reduction was small. However, as the percent CI reduction increases over time, each gallon of fossil fuel generates more deficits and the potential pass-through cost increases proportionally. In other words, the LCFS program acts as both a carrot (through credit value generated by low carbon fuels) and a stick (through pass-through cost to high carbon fuels). Over time as the CI benchmarks get lower, credit value generated by low carbon fuels decreases while pass-through costs to consumers of high-carbon fuels increase. In other words, the program shifts from being more of a carrot to being more of a stick. **Unless actively addressed by CARB, this LCFS stick will increasingly punish low-income Californians while corporations and high-income Californians dine on the carrot**.

Based on the stringency targets proposed by staff in the SRIA, the pass-through costs (in real dollars adjusted for inflation) could exceed $1.00 per gallon gasoline in 2030, $1.50 per gallon in 2035, and $2.50 per gallon in 2040. As stated previously, this cost will be borne by consumers of gasoline and diesel, which over time are likely to be more and more heavily weighted toward low-income populations (e.g., individuals who cannot readily afford to purchase an EV, who own a single vehicle and are concerned about

[1] I am writing this comment letter on my own behalf as a private citizen.

relying solely on an EV, or who live in an apartment and do not have access to at-home charging). **Unless the State can somehow ensure that low-income populations purchase EVs at a faster rate than higher income populations, the LCFS will become more and more regressive over time**.

The potential for pass-through costs in excess of $1 per gallon by 2030 is likely to create significant political headwinds for the LCFS in California and severely limit the potential for the regulation to expand to other jurisdictions. **In order to counter this narrative, I believe that CARB needs to pay much more attention to amendments that will limit the gasoline pass-through cost and provide substantially more LCFS value transfer to low-income populations**.

Therefore, I recommend considering the following changes to the program:

- **Require all electricity credits generated by utilities (both holdback credits and credits allocated to the Clean Fuel Reward program) to be used for equity projects for low-income residents and disadvantaged communities**. Currently only 20 percent of electricity credits generated by utilities is required to be used for equity projects. Requiring all credit value to be used for equity projects will go a long way toward ensuring that all low-income residents can afford suitable electric mobility options and/or benefit from the LCFS in some significant way. Based on quarterly reporting by CARB, over 2.8 million credits were generated by utilities for residential EV charging in 2022 and this number is expected to grow sharply in response to the Advanced Clean Cars II (ACC2) requirements. Currently the value of these credits is in the hundreds of millions of dollars annually and will likely exceed a billion dollars annually in a few years, especially if the credit price increases as expected in response to the amendments. **I also highly encourage CARB to replace the Clean Fuel Reward with a targeted program to get low-income "gasoline superusers" into new ZEVs.** Getting superusers, such as delivery persons and Lyft and Uber drivers, into ZEVs quickly is the surest way to rapidly reduce gasoline consumption in the state and achieve climate goals.

- **Allow pre-2011 fixed guideway systems to generate full credits using the fixed guideway EER multiplier**. Credits for pre-2011 ethanol consumption (i.e., 10% ethanol in gasoline) do not get docked, so why does the LCFS treat pre-2011 electricity consumption in fixed guideways differently? Currently, transit programs generate approximately 250,000 credits annually, much of which is likely for pre-2011 systems. Allowing fixed guideway systems to earn full credits would increase credit generation for these pre-2011 systems by approximately a factor of four. This change will significantly increase LCFS value received by transit authorities and help to provide better service. As many of you know, public transit in California is facing a fiscal cliff due to the loss of federal covid relief money and slowly recovering ridership following the pandemic. Increased LCFS funding could help to alleviate revenue shortfall until ridership is restored

and help provide better service after that point. This regulatory change can also be designed to be approximately credit/deficit neutral by incorporating the 2010 electricity consumption for fixed guideway systems in the 2010 Baseline CI for the diesel fuel pool, similar to how the 2010 Baseline CI for the gasoline fuel pool averages in 2010 ethanol consumption.

- **Include conventional jet fuel as a deficit generating fuel under the LCFS, preferably for both inter and intrastate flights.** By increasing the pool of deficits, the stringency of the LCFS program will not have to ramp up as quickly, thereby reducing the potential pass-through cost to low-income consumers of fossil fuels. Moreover, since use of aviation is weighted toward wealthier populations, the pass-through cost to aviation by including conventional jet fuel as a deficit generator will be borne primarily by wealthier individuals.
- **Limit, phase-out, or simply eliminate credit generation that is not necessary to help California transition to zero emission transportation fuels and achieve its transportation-related climate, air quality, and equity goals.** By reducing the eligible pool of credit generators, the stringency of the program will not have to ramp up as quickly to achieve desired outcomes, thereby reducing the potential pass-through cost to remaining low-income consumers of fossil fuels. Credit generation opportunities that I would include in this category are direct air capture projects, petroleum projects, electric forklift types that are already fully electric, avoided methane emissions for dairy and swine projects, and placing a cap on crediting for crop-based biofuels.

In conclusion, I cannot more strongly emphasize that CARB needs to make the LCFS regulation work for low-income residents of California and not allow the program to be further captured by big-money interests, including the oil companies, at the expense of low-income populations. I applaud CARB for scheduling a hearing with the Environmental Justice Advisory Committee and listening to their input. **Now is the time to not only listen to these community representatives, but to act on their suggestions, as they will likely be paying an increasingly disproportionate cost of the program.**

Sincerely,

James Duffy