

November 5, 2020
Arpit Soni
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted electronically to arpit.soni@arb.ca.gov and LCFSworkshop@arb.ca.gov.

Subject: BNSF Railway and Union Pacific Comments on October 14, 2020 LCFS Staff Presentation

Dear Arpit,

Union Pacific and BNSF Railway (“the Railroads”) appreciate the opportunity to comment on the California Air Resources Board’s (“CARB”) October 14th presentation, *Low Carbon Fuel Standard Potential Regulation Amendments*.¹ As staff considers regulatory amendments, we provide comments on: 1) changes to the first fuel reporting entity, and 2) changes to electricity credit proceeds spending requirements.

The Railroads support changing the first fuel reporting entity for eCHE, eTRU, and electric forklifts to the entity that owns the charging equipment used for fueling. Facility owners are responsible for installing, maintaining, and repairing the charging infrastructure to enable battery-electric and zero emission equipment, and therefore they should be able to generate LCFS credits to offset these costs. Such an approach is also consistent with CARB’s recent cost-effectiveness analysis for the TRU regulations (for example in CARB’s *TRU Preliminary Cost Document*²) where staff assumed that facilities could offset the cost of infrastructure with revenue generated from LCFS credits.

Second, the Railroads support additional clarification of electricity credit proceeds requirements. BNSF previously commented on Draft Guidance 20-03 and recommended revisions to the draft guidance to expressly allow for non-load serving entities (“non-LSEs”) to use LCFS credit revenue to offset total cost of ownership and to be used for, for example, the purchase, lease, or rental of electric vehicles, electric equipment, electric charging infrastructure, and electricity for use as a transportation fuel. BNSF also commented that the final Guidance 20-03 should explicitly affirm that non-LSEs can use LCFS credit proceeds for both past and future investments in technologies that increase the use of electricity as a transportation fuel. The Railroads recommend the regulatory amendment affirm the use of LCFS credit revenue for past and future investments in technologies that increase the use of electricity as a transportation fuel. We are available for discussions with staff and can provide recommended regulatory language as requested.

¹ See: https://ww2.arb.ca.gov/sites/default/files/2020-10/101420presentation_0.pdf

² See: <https://ww2.arb.ca.gov/resources/documents/tru-preliminary-cost-document>

Thank you for the opportunity to provide early comments. We look forward to collaborating with staff in the coming months.

Best,

A handwritten signature in black ink, reading "Margot Molloy". The signature is written in a cursive, flowing style.

Margot Molloy, CEA Consulting

On behalf of BNSF Railway and Union Pacific