March 15, 2023

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

Rajinder Sahota
Deputy Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: February 22, 2023 Public Workshop to Discuss Potential Changes to the Low Carbon Fuel Standard

Dear Chair Randolph and Deputy Executive Officer Sahota,

NLC Energy LLC (NLC Energy) appreciates the opportunity to provide written feedback on the California Air Resources Board (CARB) public workshop held on February 22, 2023, to discuss potential changes to the Low Carbon Fuel Standard (LCFS).

NLC Energy currently owns and operates anaerobic digester facilities that collect and process the manure from 12 dairies to create Renewable Natural Gas (RNG). NLC Energy currently imports RNG from its production facilities in Denmark, Wisconsin, to California and participates in the LCFS program. The revenue from this program is crucial to supporting not only NLC Energy but the 12 family dairies with whom we partner. NLC Energy is developing other biomethane projects, including planned projects in California.

NLC Energy supports California's decarbonization goals and believes the LCFS has been and remains a critical tool for achieving the state's objectives to reduce the carbon intensity of its transportation sector. We appreciate CARB's efforts to engage stakeholders as it considers updates to the LCFS program and respectfully submit the following comments for your consideration.

Increase the CI Stringency of the Program to Address Oversupply and Achieve State Decarbonization Goals

NLC Energy supports CARB's ongoing deliberations around accelerating greenhouse gas benefits by tightening the stringency of the LCFS 2030 target. NLC Energy strongly supports a more stringent program and recommends CARB implement a target of at least the 30 percent reduction in carbon intensity by 2030 and continue to consider more stringent targets such as the 35 percent reduction discussed in prior workshops.

The LCFS program has been successful at attracting increasing volumes of diverse low carbon fuels into the California. Based on the sustained overperformance of the program, including a 30 percent annual increase in the number of credits created over the last two years, CARB must ensure that the target it sets for 2030 and beyond creates a market signal for the development of new zero carbon fuels and captures the greatest amount of greenhouse gas benefits feasible. We urge CARB to continue to analyze the current state of the market and select a 2030 target that reflects the strong credit creation capabilities that the LCFS has unleased.

Step-Change and Acceleration Mechanism

As outlined in CARB's 2022 Final Scoping Plan, the State must now target a 48% reduction in GHGs by 2030 from a 1990 baseline.[1] The agency has been very successful at implementing the program to date and delivering on ambitious GHG reduction goals, but CARB can signal a clear intent to continue to meet this goals with a step-change reduction in 2024. For instance, modeling suggests that implementing as much as a 5% initial reduction in transportation fuel carbon intensity could easily be absorbed due to the current credit oversupply and would create a better balance between supply and demand. Without an initial step down, the LCFS market may stay in over supply for the next four years or more, creating further price instability and driving away fuel innovators.

Additionally, NLC Energy is supportive of CARB's proposal to consider an acceleration mechanism that would automatically create additional program reductions when the program meets specific over supply criteria. The adoption of an automatic adjustment mechanism would, in and of itself, assure investors that the program will remain stable regardless of future credit growth. An acceleration mechanism, combined with a stronger CI reduction target, will drive the investment needed for the State to meet its ambitious but necessary transportation decarbonizataion goals.

Do not end full Crediting of Methane Abatement Projects

During the recent workshop, staff presented scenarios that would cut off new methane abatement projects in 2030 and phase out all pathways based on avoided methane by 2040.
While NLC Energy is appreciative of the time CARB is providing for avoided methane crediting, we urge CARB to reject any timeline for limitations. Instead, we would urge CARB to allow methane reduction projects to continue with the restriction that parties not be able to secure LCFS credits for abatement projects required by any local, state or federal mandate. But in the absence of any mandate, CARB should continue to allow full credit for all methane reduced by these projects.

Recommendation: Reconsider the Proposal to Restrict Book and Claim RNG Delivery

NLC Energy is strongly opposed to the Staff proposal to eliminate RNG pathways that rely on book-and-claim delivery mechanisms starting in 2028, as suggested in Example Modelled Scenario II[2]. Not only is the book-and-claim accounting model commonly used in other North American and European clean fuels markets successfully, but the agency has not identified any programmatic or other issues to warrant this proposal. There are millions of dollars of investment that have been made already in the program that were financially modelled around accessing the LCFS program through this approach.

[1] CARB, Final 2022 Scoping Plan, November 16, 2022.
[2] CARB Presentation, slide 47.

NLC Energy sees several areas of concern with this proposal. First, while we understand that CARB's goal is to direct RNG to other, harder to decarbonize, end uses, there are not comparative opportunities that are available now and provide the same level of financial support necessary to make these expensive projects feasible.

In addition, the growing fleet of natural gas vehicles on the road in California will still largely be in service in 2028. If the State eliminates the supply of RNG at that point, these vehicles will turn to fossil natural gas, leading to an increase in emissions.

The use of Book and Claim RNG delivery has accelerated methane abatement projects all over the country and provided California with a needed transportation fuel for truck and buses. We strongly urge CARB to retain this mechanism beyond 2028.

If CARB does intend to proceed with ending book-and-claim delivery mechanisms, NLC Energy requests clarification from the Agency on its intended phase out procedures for then existing pathways that were approved using this delivery mechanism. With a hard stop in 2028, the agency will disrupt many existing contracts and create significant uncertainty in the market for investors. These contracts, with CARB's explicit approval, are structured around a 10-year return timeframe and will become economically infeasible, stranded assets if CARB were to proceed without grandfathering in existing pathways. In our view, this arbitrary action would also undermine investor confidence in the LCFS program across the board as prospective investors will have to consider that CARB could at any time effectively cancel a project's pathway, regardless of expectations when the project was approved.

Again, we strongly urge CARB to not place any restrictions on Book and Claim RNG delivery and, in any case, to make any restrictions prospective only and exempt current pathways.

Thank you for your consideration of our comments.

Sincerely,

Jay Riker
Chief Operating Officer
NLC Energy, LLC