CALGREN
Renewable Fuels

February 18, 2024

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

Re: Proposed Amendments to the Low Carbon Fuel Standard

Dear Chair Randolph:

As you may recall from your visit to our facilities several years ago, Calgren has been producing low carbon intensity renewable fuels in Pixley, California since 2008, shortly before the LCFS start date of January 1, 2010. While others in the renewable fuels industry have occasionally questioned the wisdom of California's LCFS, both in the courts and otherwise, we have been among your strongest and most consistent supporters from the very start. In addition, we remain especially proud of the fact that we have been able to bring well-paid jobs and economic activity to an impoverished area of our great state.

With that background, we offer the following constructive comments to the 45-day language to amend the LCFS:

1. <u>*We are disappointed that the proposed changes fail to level the playing field for in-state producers of biomethane*</u>.

   In 2022 and 2023, CARB staff recommended that Book and Claim accounting for biomethane that is undeliverable to California be phased out. The changes now proposed have abandoned that approach and treat all out-of-state projects, even those that cannot possibly deliver into California, the same as we California producers.

   To give but one example of the uneven playing field, California biomethane producers face ever increasing standards for injection into California's pipeline system; California's biomethane injection standards are far more stringent than biomethane producers face in any other state. Yet biomethane producers in those more lenient states may use the same Book and Claim accounting without having to meet the same injection standards. In earlier comments to CARB, we suggested that out-of-state producers be required to meet California's injection standards to use Book and Claim, a concept we continue to support. California gets the vast majority of its pipeline natural gas from out-of-state, yet there is no mandatory testing of that gas as it enters our state. Hence a biomethane producer is actually (and no doubt inadvertently) encouraged to locate outside California's borders. That is at odds with the Independent Statement of Reasons (ISOR) provided in support of the proposed regulatory changes.

   As noted above, CARB staff took a slightly different tack in recommending a sensible restriction – that Book and Claim for out-of-state biomethane producers injecting into pipelines that do not serve California be phased out. The proposed changes to the LCFS have abandoned this sensible approach in favor of applying

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the same restrictions to in-state producers as are applied to out-of-state producers. Frankly, we think both requirements should apply, i.e. that out-of-state biomethane producers that wish to use Book and Claim accounting both meet California's biomethane quality standards and demonstrate deliverability into California.

In addition to cleaning up California's environment and encouraging in-state commercial activity, another of CARB's laudable goals is to encourage enactment of LCFS-type regulations in other states (ex., page 15 of the ISOR). Those goals are actually (and, again, no doubt inadvertently) thwarted by CARB's willingness to award California carbon credits for renewable fuel that is already in use in those other target states.

In fact, we now take this argument one step farther. Ultimately, LCFS costs get passed on to California residents via higher vehicle fuel costs. We applaud that willingness to pay what it takes to help clean up the air we breathe. But awarding LCFS credits for biomethane that cannot be delivered into California forces Californians to pick up the tab to help clean the air in other geographic regions. That's inappropriate.

It is a fact that new biomethane projects can achieve pipeline injection much quicker if they are out-of-state. While we don't agree with the logic, we have heard that one reason to initially award LCFS credits for out-of-state biomethane projects that cannot deliver into California was to encourage the growth of in-state biomethane production. If so, that goal has been achieved; California biomethane producers are now capable of meeting California's current, commercially attractive biomethane demand.

Continuing to offer LCFS credits for undeliverable biomethane is both unwarranted and detrimental to California biomethane producers.

2. *The proposed carbon intensity benchmarks should be stricter sooner, perhaps even this year.*

LCFS credits have recently been trading below $60 per MT. As CARB has heard from all quarters, that is too low. In fact, the recent announcement that CARB would delay adoption of the LCFS changes to "re-evaluat[e] the carbon intensity benchmarks" caused the spot price of carbon credits to jump almost 10%. That is a clear sign that the proposed step-downs need to be more aggressive.

We have consistently endorsed both a stronger step-down and the adoption of an Automatic Acceleration Mechanism (AAM). We hereby urge that the AAM triggers be moved up. As proposed, the mechanism cannot be triggered earlier than 5/15/2027. That is too late.

3. *Section 95482(g) prohibits dairy projects breaking ground after 12/31/2029 from generating credits by supplying CNG vehicles after 12/31/2040.*

It is difficult to see how this proposed change squares with the goal stated on page 4 of the ISOR of promoting investment in disadvantaged, low-income and rural communities. In California, those are the areas that have benefited from dairy digesters. Terminating credit generation for CNG vehicles before attractive alternatives are available is likely to halt all dairy digester projects that would otherwise break ground after 12/31/2029. For that reason, it is also likely to thwart the separate goal of supporting methane emissions reductions, also appearing on page 4 of the ISOR. In addition, using the LCFS in this manner to pick winners and losers is likely to make it more difficult for other jurisdictions to adopt LCFS-type programs, a goal that is stated on page 15 of the ISOR. We fervently believe that the capture of methane from dairies should be **supported**, for the overwhelmingly valid reasons stated beginning on page 29 of the ISOR and in SB1382, not **thwarted** as in this proposed change.

4. *Section 95486.1(g) assesses a penalty of four times the actual credit shortfall should a valid pathway holder receive a verified pathway higher than its certified pathway.*

The change proposed in Section 95486.1(g) is at odds with the accurate statement in Section 95488.4 that CIs will inherently vary and should not be penalized for such natural variance. It also potentially treats pathway holders worse than petroleum refiners, who have from January 1st through April 30th of each year to acquire Carryback Credits to satisfy prior year credit deficiencies under Section 95486(a)(5). As written, the corrective procedure of Section 95486(a)(5) is available to obligated parties, but it is not clear that it is available to pathway holders. On page 29 of Appendix E, Purpose and Rationale for Low Carbon Fuel Standard Amendments, the rational for the change to Section 95486.1(g) includes the statement that mechanisms exist to retroactively provide credits to fuel pathway holders when the verified operational CI is lower than the certified CI, but Section 95486(a)(5) is not mentioned. Pathway holders should either not be subject to the proposed penalty or should have a similar opportunity to acquire Carryback Credits.

The success of the LCFS is due in no small part to the enthusiastic support of California producers such as Calgren. We believe in CARB's goals and intend to continue to be among your most ardent supporters. If the comments above are adopted, we sincerely believe those shared goals will be greatly advanced.

Thanks again for all your far-sightedness.

Very truly yours,

Travis Lane, CEO