November 14, 2008

Christina Zhang-Tillman
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Re: Comments for Draft Low Carbon Fuel Standard Regulation

Dear Ms. Zhang-Tillman,

Thank you for the opportunity to comment on the draft Low Carbon Fuel Standard. Because this regulation will serve as a model for other states and countries, it is imperative that the Air Resources Board develops a rigorous standard based on best available science, and that contains significant protections against air quality and other environmental degradation. The undersigned organizations appreciate the comprehensive analytical work and significant attention to detail that the ARB staff and contracted UC and other university researchers are devoting to development of this important regulation. We are united in support of your continued forward momentum on development and implementation of the LCFS.

This letter serves as an overview of our core positions on the draft regulation. ARB must include the following key components in the regulation:

1. Include indirect land use change effects
2. Commit to adopting minimum environmental safeguards
3. Commit to an open, public process for establishing sustainability metrics, starting with reporting
4. Require fuel feedstock reporting
5. Include air quality anti-backsliding language for state, air basin, and local levels
6. Conduct interim localized impacts analysis before adopting regulation
7. Conduct ongoing public health analysis using updated tools and ensure mitigation of impacts.

More detailed discussion on each point continues below.

1. Include indirect land use change effects

An effectively designed LCFS for California has the potential to dramatically reduce both the greenhouse gas (GHG) intensity and criteria pollutant emissions of our transportation system. Such a system, however, must account not only for the GHG reduction benefits of a fuel, but also all significant GHG impacts, even if those impacts occur indirectly. For this reason, inclusion of indirect land use effects in the overall accounting for GHG emissions is a critical and necessary step in analyzing the GHG impacts of different fuels. Although we do not take a position on the numbers arrived at by ARB, we think the approach ARB has outlined is appropriate.

We concur that there is uncertainty over different quantification methods. What is certain, however, is that there *is* a significant effect and it must be counted. We support the ARB's careful scientific and analytical approach to this issue. We also support the use of the publicly available GTAP model, which ensures a critically important and transparent process allowing for full stakeholder discussion. ARB must move forward with plans to account for indirect land use effects based on best available science in the regulation to be adopted, allowing for updates as dictated by valid scientific evidence.

2. Commit to adopting minimum environmental safeguards within three years

To protect against unwanted environmental harm from the use of low carbon feedstocks, the LCFS must adopt minimum environmental safeguards that ensure protection for wildlife habitat, natural forests, native grasslands, and important public lands. These protections do not prohibit the use of fuels from these areas; rather, they avoid creating inappropriate incentives.

As noted in our February 2008 principles statement: "CARB should ensure that the LCFS design provides the greatest possible protection against the use of low carbon fuels that are produced in an unsustainable manner that damages or endangers air quality, biodiversity, wildlife habitat, sensitive lands, soil health, water quality, water consumption, and food security in California or other parts of the world."[1]

3. **Commit to an open, public process for establishing sustainability metrics, starting with development of a sustainability reporting system within two years**

In order to ensure the production of sustainable low carbon fuels, ARB must expressly establish a process by which quantifiable and measurable sustainability metrics are adopted. We recognize that the development of detailed sustainability metrics may be difficult at the outset of the LCFS, but failing to address sustainability is not an appropriate response. Rather, ARB should create in the current regulation a process by which such metrics will be developed through an open, public process, according to a specific timeline. By doing so, ARB signals to fuel producers that sustainably produced fuels will be required as part of the LCFS.

The first step in establishing sustainability metrics is the development of a detailed reporting system. This step must occur within two years. This system should take into account international efforts to create lifecycle reporting systems for fuels. In addition, the UC research team has outlined initial sustainability reporting indicators that track criteria such as biodiversity conservation, soil conservation, and sustainable water use, among many others.[2] We believe the indicators listed and the framework proposed by the UC team represent an appropriate and

[1] LCFS Principles, Joint comment letter to ARB, February 19, 2008

[2] "Sustainability and the Low Carbon Fuel Standard," Spatari, Sabrina, et. al., September 2008, Table 3: Near-term Qualitative Sustainability Reporting Indicators, pp.17-18

reasonable first step in this complex process and strongly encourage ARB to adopt a comparable framework.

4. Require fuel feedstock reporting

ARB should revise the proposed reporting requirements which are outlined in Table 4, of section 95423 (page 18). The reporting of *Blendstock Feedstock, Feedstock Origin,* and *Production Process* should not be optional, but instead be the minimum requirement for all fuels from the outset. We believe this reporting, even if it is not fully audited for use in obtaining a more favorable AFCI value (method 2), nevertheless provides critical basic data on the composition of our fuels. This data will enable external parties to conduct further research on the life-cycle impacts of California's alternative fuels, including indirect land use and sustainability metrics. We therefore strongly urge ARB not to miss this critical opportunity, and use the LCFS reporting to advance the state of knowledge and availability of data on existing and emerging fuel pathways.

5. Include air quality anti-backsliding protections at the state, air basin, and local level

To protect the state's air quality and comply with AB 32, ARB must ensure that the LCFS does not result in any increase in criteria emissions or toxic air contaminants, interfere with air quality attainment efforts, or disproportionately affect local communities. In order to carry out this charge, ARB must include specific language in the regulation to protect against air quality degradation. ARB must:

a. ensure that on a statewide basis, the criteria pollutant and air toxic contaminant emissions associated with each low carbon fuel pathway are less than or equal to the criteria pollutant and air toxic contaminant emissions associated with the baseline gasoline or diesel fuel pathway, as calculated in the fuel life cycle analysis.
b. analyze the emission impacts of fuels that may be used under the low carbon fuel standard at the air basin level to ensure no increase in criteria air pollutants or toxic air contaminants will occur from low carbon fuel production or use.
c. in coordination with local air districts, evaluate the potential for any adverse air quality impacts on local communities, especially toxic air contaminant impacts, from the development or expansion of fuel production facilities or infrastructure to comply with the LCFS. ARB must coordinate with the air districts and other local government agencies to mitigate any identified community air quality impacts and to prevent development of toxic hot spots.

6. Conduct interim localized impacts analysis before adopting regulation

ARB must prepare an analysis of the projected air quality, health, and emission impacts of the LCFS in 2010 and 2015 for at least three highly impacted communities in California, using the best available analytical tools, prior to board consideration and adoption of the regulation. Highly impacted communities would include those where there is likely to be expansion of existing fuel production facilities and infrastructure or development of new fuel production facilities and infrastructure to support the LCFS. The analysis must consider a range of fuel use scenarios to estimate the potential range of community impacts given the best available information about which fuels would most likely be used to meet LCFS requirements over the next decade.

7. Conduct ongoing public health analysis using updated tools and ensure mitigation of impacts

ARB staff must define in the LCFS regulation an ongoing process to update and expand the analysis of localized air quality, emissions, and public health impacts of fuel pathways utilized or proposed to be utilized in the LCFS. The first analysis should be completed within one year of adoption of the regulation, with revisions made periodically thereafter. This air quality and public health analysis must utilize the cumulative impacts assessment tool currently under development and clearly meet the requirements of AB 32 for analysis of any disproportionate impacts on local communities. ARB must coordinate with appropriate state agencies, air districts, and local governments to mitigate any identified adverse air quality and health impacts.

Thank you for your consideration. In addition to this letter, some organizations will submit technical comments on different aspects of the draft regulation.

Sincerely,

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Friends of the Earth

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