

Richard Corey, Chair
Michelle Buffington, Co-Chair
LCFS Advisory Panel
Air Resources Board
1001 I Street. PO Box 2815
Sacramento, CA 95812

May 6, 2011

Dear Mr Corey, Ms Buffington

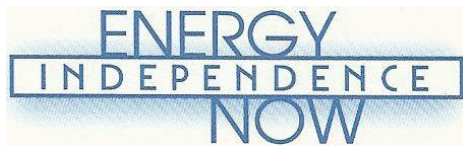
Thank you for the opportunity to provide input on the LCFS Advisory Panel process to date. Below is some specific feedback, as requested in the April 26th meeting, on the Draft Workplan in general, and the Outline of Topic 5: Ultra Low Carbon Fuels.

Draft Workplan Feedback

The Draft Workplan is very helpful in understanding the full scope of what will be covered by the Panel, and I recognize that the report will most likely need to be structured differently given the intersection of so many topics. The following are comments related to a few specific topics

1. **Topic 2: Compliance Schedule.** In discussing compliance at the April 26th meeting, I was surprised and concerned to hear staff say that there are no immediate plans to share the compliance report on the LCFS. I hope that this was a communication error. Since the LCFS program's inception, *Energy Independence Now* and many organizations have argued consistently to Staff and to the Board that transparency on the LCFS compliance is absolutely critical to the success of this program. We have also been assured on multiple occasions by staff that the LCFS compliance will be reported to the public, and that LCFS reporting information will, by default, be public information. As recently as November 2010, the Board's LCFS resolution provided a clear signal of this intent, stating that: "Ensuring public transparency about how regulated parties are in compliance with the LCFS is appropriate public policy and necessary to assure public confidence in the program"

Topic 1 begins with the question "What information is needed to assess progress, and is this information currently being submitted under the program?" I believe the answer to this question (as well as the similar first question of Topic 2) is clear: it is essential for the Advisory Panel and the public to be provided with a full report of LCFS compliance from the first quarter of 2011, including i) the volumes of fuels of each pathway used by each company to comply, and ii) the balance of credits banked to date. This should serve as the starting point for



evaluation of how the program is doing, and I therefore strongly suggest that CARB provide such a report as the basis for discussion of future topics.

2. **Topic 15. Credit Trading Market:** I strongly support and am very pleased to see the addition of Topic 15, dedicated to the LCFS Credit Trading Market, and would like to contribute to that topic as appropriate. In terms of the list of questions for that topic to address, I suggest that the following be added:
 - **"What can be learned from other relevant credit trading programs that can be used to inform the development of an LCFS credit trading platform, and the practical implementation and partnership needs?"** As I mentioned at the meeting, we should be sure to look not only at the RIN program for guidance as others have suggested, but also other related programs such as the RGGI and the Chicago Climate Exchange, as well as harmonization with the ARB's own Cap and Trade exchange.
 - **"What design elements need to be included to ensure a competitive exchange, and prevent abuses of market power?"** In a small market such as the LCFS, ensuring liquidity and limiting market power of both suppliers and buyers of credits will be essential, and needs to be considered carefully in the upfront design.

3. **Sustainability.** One additional area of concern is that there is little mention in the Draft Workplan of how or where the findings from the Sustainability Working Group will be incorporated into the Panel's assessment of the progress of the LCFS. While I recognize that the timelines from that group may be a constraint, the findings of the Sustainability group- like those of the HICIO and Expert Workgroup - are key elements of a successful regulation, and a placeholder for debate and recommendations should be considered.

Feedback on Outline of Topic 5: Ultra-low Carbon Fuels

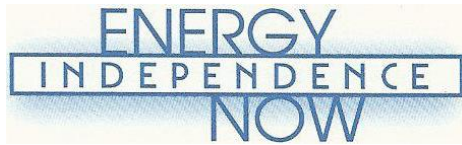
The outline for Topic 5 provides a good starting point to look at the questions posed for ultra low carbon fuels. The following are some suggestions on this chapter:

1. **Definition of Ultra Low Carbon Fuels**

In the hope that this chapter not get derailed by questions of a definition, I would suggest staff loosely define ULC fuels as those that are a) currently in very low usage and b) have the potential to play a significant role in meeting the 2050 State GHG targets. Listing the fuels which currently appear to meet that definition is sufficient at this stage. A formal definition may only be necessary if certain measures are proposed, which can be done at the end of this review.

2. **Separate Electricity from Hydrogen.**

Electricity and Hydrogen fuels should be treated independently, as almost all elements of their



respective pathways are different, including the production of the fuel, the companies involved, the regulations that oversee them, the infrastructure required, the vehicles they serve, and perhaps most critical of all in this context, the barriers they face for widespread adoption.

3. Focus the analysis on Fuel-specific barriers and needs

I support Staff's proposal to structure this chapter on a fuel by fuel basis. However I would urge you to do this not only in analyzing the availability of the fuel, but also in identifying the specific financial, market and regulatory barriers that each face. With the fuel-specific barriers identified, it would then also be good to also examine relevant incentives on a fuel-specific basis, and whether it would have an impact for that fuel. As I mentioned in my comments, giving extra credits to a specific fuel is only helpful if the barrier facing that fuel is financial, and the credits can be monetized to offset it.

At the end of the chapter, it would then be useful to synthesize this fuel-specific analysis to highlight if there are any barriers that the fuels have in common. This chapter should make recommendation not only on any changes that might be necessary in the LCFS context, but equally importantly, what barriers exist outside the LCFS that are preventing the regulation from achieving its intended outcome.

Thank you for the opportunity to provide input. I look forward to further discussion on these and other topics.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Garderet", with a long horizontal flourish extending to the right.

Remy Garderet

Policy Director

Energy Independence Now