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ARFVTP: 3103 Regulation Response Form

1. What are the possible impacts for your project with the credit discount provision and the timeframe for when you expect to generate credits.

Community Fuels may be generating credits as early as 2015. The 3103 Regulation would be detrimental to our business by pricing us out of the market and/or creating restrictions that prevent us from producing clean, renewable fuel.

Community Fuels biodiesel is sold primarily to obligated parties (major oil companies, petroleum refiners and importers) who blend our fuel at low levels with petroleum diesel. Because we sell primarily to obligated parties, our fuel is sold with all applicable credits attached. We do not separate or price credits as a line-item separate from the fuel. In fact, the EPA Renewable Fuel Standard (RFS) has significant restrictions on when a producer can separate Renewable Identification Numbers (RINs) from the fuel. Except for very limited circumstances, a producer is prohibited from separating RINs from the physical gallons produced, sold and transferred. Separating RINs from our fuel would put us in violation of the EPA Renewable Fuel Standard and is not an option for our business.

We do not charge a fee for California Cap and Trade and therefore could not apply a discount. Any value derived from biofuels being exempt from a portion of the Cap and Trade reported volumes would be realized by our customers, not by us. We do not have any method to require our customers to modify the Cap and Trade fees and/or savings associated with our fuel. CARB also prohibits a regulated party from profiting from Cap and Trade Fees. Even if we had a method to require our customers to discount the value of the credit, it may be in violation of the Cap and Trade regulation since it could appear that the customer was manipulating and/or profiting from the Cap and Trade fees.

The CARB LCFS credits can be separated from the fuel. However, our customers purchase our fuel because it provides them credits to meet multiple regulations. Our primary customers would not purchase our fuel without LCFS credits attached. We do not assign any value or line-item price to the LCFS credits transferred with the fuel.

If we were to identify a method to discount the value of the credits, that discount would benefit the obligated parties (major oil companies and petroleum refiners) and hurt us (the clean, biofuel producer). The fuel market operates with very narrow margins. Discounting at any level could cause us to move from a profitable margin to a negative margin. Any period of sustained negative margins would threaten the viability of our business. Enforcing the 3103 Regulation would be putting dollars directly into the pockets of major oil companies; something I thought was not intended under the ARFVT program.

The fuel and associated credits that we produce are the result of 10 years of effort and substantial equity, debt and trade credit financing as well as operating results. It would be very difficult to segment the precise gallons that are attributable just to CEC funding. Our projects have been incremental in nature – building upon the substantial efforts and foundation of the business over a decade.

As we consider our options on how to comply with the 3103 Regulation at a commercial scale, one option may be to not generate credits with a portion of our fuel. This may create fewer obstacles than developing mechanisms to discount the credits. However, if we do not generate credits we would be under-reporting production to EPA and CARB and undermining the very policies and regulations that our

company and fuel are designed to help. We also would be priced out of the market and the obligated parties are not likely to purchase our fuel without the various credits. Any modification to credit generation also would create complications with the EPA-required annual RIN attestation and various customer and regulatory audits.

Any discounting or modification of our standard business practices to comply with 3103 Regulation would result in additional administrative costs and be burdensome, and possibly very harmful, to our business. We look forward to working with CEC in a constructive manner to better understand the 3103 Regulation and how it applies to our projects.

2. We would also like to provide you the opportunity to provide a statement for our record.

The enforcement of the 3103 Regulation will put California biofuel producers at a significant competitive disadvantage relative to out-of-state and international producers. The enforcement of this regulation will be a direct financial benefit to major oil companies and other obligated parties at the expense of small, in-state biofuel producers.

Responses prepared and submitted by:

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Dated: October 23, 2014

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