



November 18, 2013

The Honorable Janea A. Scott, Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Investment Plan Update for AB 118 Program (Alternative and Renewable Fuel and Vehicle Technology Program)

Dear Commissioner Scott:

The Bioenergy Association of California strongly support the Alternative and Renewable Fuel and Vehicle Technology (ARFVT) Program. Many of our members have received ARFVT funding for projects that produce low carbon and carbon negative transportation fuels, providing immediate greenhouse gas reduction and other benefits for California. Unfortunately, the Investment Plan Update reduces funding for biofuels and recent program solicitations exclude waste to fuel projects altogether, despite increasing evidence that bioenergy helps to meet multiple state policy goals including greenhouse gas reduction, reduced landfill waste, mitigation of catastrophic wildfires, job creation and economic development. We urge the Commission, therefore, to consider the recommendations below to ensure that the ARFVT program maximizes immediate greenhouse gas reductions, leverages private sector investment, and provides immediate economic and environmental benefits in California.

The Bioenergy Association of California

The Bioenergy Association of California (BAC) is an association of companies, public agencies and local governments working to promote sustainable, community-scale bioenergy development. Its industry members include energy, waste management, agriculture, technology, investment and other companies. Its public sector members include local governments and public agencies from the cities of San Francisco, San Jose and Fresno to the Los Angeles County Sanitation District and Inland Empire Utilities Agency. Its public agency members include the California Association of Sanitation Agencies and numerous individual water, waste, air quality and environmental protection agencies across the state.

Since its inception, BAC members have partnered with the California Energy Commission in implementing many of the state's critical goals and objectives. BAC members have developed numerous alternative and renewable low carbon fuel production projects, worked successfully to optimize renewable fuels for existing engine technologies, produced low- and negative-carbon intensity renewable natural gas, and renewable electricity, expanded fueling infrastructure throughout the state of California, and established workforce training programs, public education, marketing and promotion and technology centers around the state of California.

Importance of ARFVT Program to Biofuel Development

The ARFVT program is critical to spur investment in the infrastructure needed to convert organic waste to biomethane for use as transportation fuel. According to the Air Resources Board, transportation fuels from organic waste and wastewater treatment gas are the lowest carbon fuels available and, in some cases, carbon negative because they destroy methane and displace fossil fuel use. The technology for biofuels is proven and the demand far exceeds the supply. The barriers to wide-spread development are uncertainty about the state's long-term commitment to low carbon fuels and the shortage of incentives needed to spur infrastructure development. The ARFVT program has been critical to fill these gaps.

Several BAC members have received ARFVT grants that made their waste to fuel projects feasible. Some examples include:

- As a direct result of AB 118 funding, Clean World has built two biodigesters in the Sacramento Area and is developing a third at UC Davis, creating 94 construction jobs and 12 operational jobs. The digester at the Sacramento Area Transfer Station is producing 700,000 diesel gallon equivalents per year of renewable natural gas.
- Waste Management received AB 118 funding for its Altamont Pass landfill facility, which converts landfill methane to 13,000 gallons per day of renewable CNG used to fuel Waste Management's fleet of heavy duty vehicles.
- Harvest Power has received AB 118 funding for a project in Tulare County that will convert 40,000 tons of food and green waste into 650,000 gallons per year of renewable natural gas, stimulating economic growth in Tulare County and reducing air pollution by providing a much cleaner alternative to diesel.
- In Riverside County, AB 118 funding will enable CR&R to convert 83,000 tons per year of organic waste into renewable natural gas to fuel its 700 recycling trucks and reduce landfilling of organic waste, further reducing greenhouse gas emissions. Although CR&R is providing the majority of funding for the project, the AB 118 grant made the project economically

feasible. 1,000,000 or more gallons of renewable CNG. This fuel will be used to power a fleet of waste trucks and street sweepers serving multiple municipalities. Running this fleet on renewable natural gas will reduce greenhouse emissions up to 100% over diesel powered fleet vehicles. AB 118 grant funding was critical to justifying CR&R's private investment in this project.

Biofuels from Organic Waste are the Lowest Carbon Fuels Available, Lower Carbon per Mile than Electric Vehicles.

The Staff Draft Investment Plan Update acknowledges that transportation fuels from organic waste are the lowest carbon fuels available, even lower carbon per mile than electric vehicles. As the Air Resources Board has found, transportation fuels from diverted organic waste and wastewater treatment gas are actually carbon negative in some cases because of the combined value of methane destruction and fossil fuel displacement.

For these and many other reasons, the funding for biofuels has been significantly oversubscribed in recent years, with \$404 million in project applications for \$100.4 million in funds awarded. As the Draft Plan states, funding for biofuels has been oversubscribed by quality projects and the volume of biofuels that could be produced as a result of ARFVT grants is "immense."¹

Yet the Draft Investment Plan reduces funding for biofuels from \$23 to \$20 million in the proposed Staff Draft. This makes no sense given the proven and immediate benefits of waste-derived biofuels over other potential program investments that are more speculative, longer-term and lower carbon reduction.

Recently Adopted Program Guidelines Exclude Biofuels Made from Organic Waste.

In addition, the Commission's most recent solicitation under the ARFVT program requires a minimum level of production that excludes most or all waste to fuel projects. PON 13-601 requires a minimum fuel production of 15 million gallons per year, a production level that even the largest waste to energy projects are unable to meet. Waste Management's landfill methane to CNG project at Altamont Pass, the largest of its kind in California, produces less than 5 million gallons per year. Most facilities that convert organic waste and biomethane to transportation fuels will produce 1 million or fewer diesel gallon equivalents per year. Given the greenhouse gas, air quality and other benefits of these facilities, they should not be excluded from program eligibility because they are smaller, more distributed facilities based on particular organic waste sources.

Finally, the Commissions regulations pertaining to the ARFVT grant process contain a provision that disadvantages grant recipients from securing maximum value for any credits that may be generated through the production of alternative

¹ 2014-2015 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program, Staff Draft. CEC-600-2013-003-SD (October 2013), at page 2.

fuels – CCR Title 20, Section 3103, which reads in part:

(b) A project that generates credits that the applicant plans to claim based on the reduction of criteria pollutants, toxic air contaminants, or greenhouse gases may not be eligible for funding unless all of the following occur:

- (1) the applicant seeks funding for only a portion of the project;
- (2) the applicant agrees in the funding agreement to discount emission credits at least in proportion to the amount of funding received;
- (3) the project satisfies one or more of the criteria in sections 3101 and 3101.5, as appropriate.

This language has led, in turn, to recent ARFVT grant solicitations that contain language such as:

“(if the grant recipient) is an obligated party or has opted in . . . to a credit generating program such as the LCFS or AB 32 initiatives and plans to claim credits generated by the proposed project, then the applicant will be required to agree to discount the value of those credits at the point of transfer in proportion to the funding received”. (Emphasis added)

Although not specifically mentioned, this restriction could also be interpreted to apply to credits generated under the federal Renewable Fuel Standard. This puts grant applicants in a very difficult position of having to potentially forgo the value of LCFS, AB 32, and federal RFS2 (RINs) credits that may be generated from the alternative fuels produced. For example, biomethane fuel has to compete directly with natural gas that is currently selling for around \$3.50/MMBTU. Renewable low carbon biomethane cannot be produced below a range of \$8 - \$15 per MMBTU. Thus, securing the full value of such credits is essential for such projects to move forward and be economically successful.

We believe that Rule 3103 is based on a misinterpretation of the ARFVT enacting legislation, which reads in part:

For the purposes of both of the programs created by this chapter, eligible projects do not include those required to be undertaken pursuant to state or federal law, district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents.²

In our view, this was intended to restrict ARFVT funding from going to parties that have a legal obligation to produce alternative fuels. This provision was never intended to apply to a party that voluntarily produces low carbon or alternative fuel and chooses to voluntarily “opt-in” LCFS or RFS2 to produce these fuels.

In order to encourage parties to produce voluntarily alternative low carbon and

² H&SC Section 44271 (c).

renewable fuels, the Commission should amend Section 3103 to allow voluntary producers of such fuel to secure full credit under the LCFS, RFS2, AB 32 or any other incentive program.

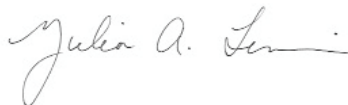
Recommendations to Improve ARFVT Investment Plan and Program

To maximize the ARFVT program's benefits, including immediate greenhouse gas reductions and other economic and environmental benefits, the Bioenergy Association urges the Energy Commission to:

1. Maintain or increase funding from the 2013-14 allocation for Biofuel Production and Supply (at least \$23 million).
2. Prioritize investments in biofuel development from organic waste in the Natural Gas Fueling Infrastructure, Natural Gas Vehicle Incentives, Medium- and Heavy-Duty Advanced Vehicle Technology Demonstration, and Emerging Opportunities funding categories.
3. Structure future program solicitations to ensure that minimum production and other requirements do not exclude biofuels produced from organic waste.
4. Conduct a comprehensive assessment of the cost-effectiveness, greenhouse gas reduction and other benefits per dollar invested by the program to date, to determine which investment types are providing greenhouse gas reductions, displacing fossil fuel use and providing other benefits at present and in the near-term. Future investment plans should be based on the metrics developed as a result of this assessment.
5. Coordinate the ARFVT Investment Plan with cap and trade revenues and other investments to leverage funding and maximize greenhouse gas reductions in the transportation sector.

We look forward to working with the Commission to ensure the successful implementation of the ARFVT program, including many projects to produce biofuels from organic waste and biomethane.

Sincerely,



Julia A. Levin
Executive Director