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State of Utah
Department of Commerce
Division of Securities

FRANCINE A. GIANI
Executive Director

THAD LEVAR
Deputy Director

KEITH WOODWELL
Director of Securities

September 8, 2008

Scott A. Moehrke
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601

Re: Blue Source Investment Company, LP, Blue Source, LLC and Blue Source CO2 Company, LLC, No-Action Request Letter

Dear Mr. Moehrke:

The Utah Division of Securities ("Division") has reviewed your August 21, 2008 request for a no-action letter concerning Blue Source Investment Company, LP ("BSIC"), Blue Source, LLC ("Blue Source"), and Blue Source CO2 Company, LLC ("Blue Source CO2") (collectively, the "Blue Source Companies"). Your request for a no-action letter from the Division is authorized by Section 61-1-25(5) of the Utah Uniform Securities Act ("Act") and Utah Administrative Code Rule R164-25-5.

Your letter requests that the Division take a no-action position with respect to BSIC's intended role as the manager of Carbon Infrastructure Investment Fund, LLC, a Delaware limited liability company (the "JV Entity"). Specifically, you request that the Division staff recommend no enforcement action if BSIC, as manager of the Fund, and BSIC's related companies, Blue Source and Blue Source CO2, are not licensed with the Division as investment advisers.

Based upon the representations made in your letter and our subsequent discussions with you and representatives of the Blue Source Companies, we will not recommend any enforcement or administrative disciplinary action should the activities proceed in Utah as outlined in your request.

In making this determination, we note several points. First, the organization and structure of the described activity more closely indicate that of sophisticated parties engaged in traditional venture capital activity rather than investment advisory business. As your letter indicates, the JV Entity will be jointly owned and managed by BSIC and a partner ("JP"). JP is wholly-owned by investment funds managed by a federal covered investment adviser and

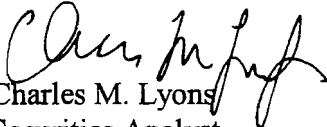
affiliated with a large reporting company listed on the New York Stock Exchange. Each partner will have open and unrestricted access to all financial information, contracts, business books and records of the JV Entity, equal representation on the board of directors, and nondilution of membership interest without prior contractual agreement.

Moreover, the core business function of the JV Entity is to invest in and manage assets and businesses in the carbon sequestration and greenhouse gas offsets industry, an area in which the Blue Source Companies specialize. These investments will primarily involve private securities, but may also include public securities which investments would be ancillary to the primary purpose of the JV Entity. While BSIC will manage the day-to-day operations of the JV Entity's investments, make recommendations to the board about potential investments, and receive performance-related compensation as agreed upon by the parties, both BSIC and JP will actively manage the ultimate decisions of the JV Entity through their board representation. JP will maintain significant input into such investments and will limit the investment discretion of BSIC. BSIC's primary role in the relationship is based upon its industry expertise, not its financial expertise in rendering advice about securities. Finally, BSIC is not holding itself out as an investment adviser, nor providing advice to any entity or person other than the JV Entity¹.

As this recommendation is based upon the representations made to the Division, any different facts or conditions of a material nature might require a different conclusion. Furthermore, this no-action letter relates only to the activities and parties described above, will not apply to future similar factual circumstances, and has no precedential effect for any other party. This response does not purport to express any legal conclusions regarding the applicability of statutory or regulatory provisions of federal or state securities laws to the questions presented. It merely expresses the position of the Division staff on enforcement or administrative actions. The issuance of a no-action letter does not absolve any party from complying with the anti-fraud provisions contained in Section 61-1-1 of the Act.

Very truly yours,

UTAH DIVISION OF SECURITIES


Charles M. Lyons
Securities Analyst

¹The request letter also asserts that JP is an accredited investor and that the sale of the JV Entity's securities will only be offered to the corporate entities and their officers and directors. Clearly, under the circumstances presented, any investors considering such offering should be accredited. However, JP's status as an accredited investor is irrelevant to our analysis because the Division views the proposed business formation as the venture capital activity of two sophisticated parties.

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AND AFFILIATED PARTNERSHIPS

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August 21, 2008

Keith Woodwell
Director, Department of Commerce
Division of Securities
State of Utah
160 East 300 South, 2nd Floor
Salt Lake City, UT 84111

Re: No-Action Letter on Behalf of Blue Source Investment Company, LP, Blue Source, LLC and Blue Source CO2 Company, LLC, Exemption from Licensing as an Investment Adviser

Dear Mr. Woodwell,

We represent Blue Source Investment Company, LP, a Delaware limited partnership (“BSIC”), Blue Source, LLC, a Utah limited liability company (“Blue Source”), and Blue Source CO2 Company, LLC, a Utah limited liability company (“Blue Source CO2”, and together with Blue Source and BSIC, the “Blue Source Companies”). On behalf of the Blue Source Companies, we respectfully request a no-action letter from the Utah Division of Securities (the “Division”) under Section 61-1-25(5) of the Utah Uniform Securities Act, as amended (the “Act”), and Rule 164-25-5 of the Utah Administrative Code. Specifically, we request that the Division declare that it will take no action if BSIC, as the manager of Carbon Infrastructure Investment Fund LLC, a Delaware limited liability company (the “JV Entity”), and its related companies Blue Source and Blue Source CO2, are not licensed with the Division as investment advisers.

I. Background

Blue Source is headquartered in Utah and holds a leading North American climate change offset portfolio consisting of publicly registered, third party-verified, greenhouse gas (“GHG”) offsets that vary by location, vintage, and source. Blue Source works with Fortune 500 companies and industry leaders to identify, create, acquire, and aggregate GHG emission reduction benefits. After aggregation, Blue Source markets and sells the GHG offsets to retail, wholesale, and industrial markets, as well as to financial markets leading in the development of new products that manage emissions.

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Blue Source and its management team are also leaders in the development of carbon capture and storage (“CCS”) projects in North America, having developed, owned, or operated five such systems in the last 20 years. Blue Source has historically conducted these operations through Blue Source CO2 and presently conducts such operations through BSIC. Neither BSIC nor Blue Source CO2 have dedicated full-time employees; rather, Blue Source “loans” certain employees to Blue Source CO2 or to BSIC, as necessary, pursuant to an intercompany employee-and cost-sharing policy. The Blue Source Companies are utilizing their CCS development experience to lead in the development of a new energy infrastructure in North America – a new “carbon highway” for transporting CO2. The Blue Source Companies have also expanded their transactional, design, and operational expertise in CCS into a variety of other GHG emission reduction project categories.

BSIC intends to enter into a joint venture arrangement through the creation of the JV Entity, which would be jointly owned by BSIC and BSIC’s joint venture partner. BSIC’s joint venture partners (“JP”) will be entities wholly owned by investment funds that are managed by an investment adviser that is (a) registered as a federally registered investment adviser and (b) affiliated with a public company whose stock trades on the New York Stock Exchange (“Public Co”). Public Co operates through partnerships that are based in the United States with multiple international offices and that employ over 100 investment professionals. The operating partnerships of Public Co directly and indirectly have over 700 investors and approximately \$33.3 billion of assets under management as of July 1, 2008.

JP will hold approximately 95% of the membership interests in the JV Entity and BSIC will hold approximately 5% of the membership interests in the JV Entity. Under the JV Entity’s organizational documents, each partner’s respective membership interest will not be diluted unless agreed upon in advance by contract. Both BSIC and JP will have, upon reasonable notice, open and unrestricted access to all financial information, contracts, and business books and records of the JV Entity. BSIC will be primarily responsible for the management of the affairs and day-to-day operations of the JV Entity, although due to the JV Entity’s management structure, both BSIC and JP will actively manage the ultimate investment decisions of the JV Entity. The JV Entity’s board of managers will consist of four managers: two BSIC managers that, taken together, will own not less than 66% of BSIC and currently own 100% of Blue Source CO2, and two JP representatives appointed by JP. All investments of the JV Entity would require approval of a majority of the board of managers, and once such approval is given such investments would be funded through contributions from JP and BSIC, based upon their respective membership interests in the JV Entity. According to a predetermined formula set forth in the partnership agreement, BSIC will be entitled to receive from the JV Entity an annual management fee, and BSIC will be entitled to a carried interest distribution (i.e., a performance related payment) based on a percentage portion of certain distributions made by the JV Entity to JP. Blue Source and Blue Source CO2 have places of business in Utah, and the JV Entity will also have a place of business in Utah.

The purpose of the JV Entity is to directly or indirectly identify, source, execute and manage investments in assets and businesses or interests in businesses that derive significant

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value from the management or reduction of GHG emissions or increases in sequestration of greenhouse gases, including investments in assets and businesses or interests in businesses¹ that develop, own and operate carbon capture and storage projects in North America. The JV Entity's potential investments may include assets or businesses or interests in businesses involved in the development of new, or the purchase of existing, CO₂ pipelines for the separation, capture, transportation and/or sequestration of CO₂, and other landfill gas, coal mine methane, wastewater treatment, nitrous oxide, and wind projects that would generate GHG offsets, and other projects related to carbon sequestration. The JV Entity expects to principally invest in private securities.²

JP is an "accredited investor", as such term is defined in Rule 506 of the Securities Act of 1933, as amended (the "Securities Act"), and the JV Entity's sale of securities will be conducted in accordance with Rule 506 and other applicable federal securities laws. The securities of the entity will only be offered to JP, Blue Source CO₂ and BSIC, and any individuals that invest in BSIC or the JV Entity will be officers or directors of BSIC or JP. The JV Entity will file Form D with the Securities and Exchange Commission (the "SEC") and the Division in accordance with the requirements of applicable federal and state law.

Additionally, to the extent they would otherwise meet the definition of "investment adviser" under the Investment Advisers Act, of 1940, as amended (the "Advisers Act"), the Blue Source Companies would be eligible for an exemption from federal investment adviser registration. Section 203(b)(3) of the Advisers Act exempts from registration those investment advisers that during the preceding twelve months have had fewer than fifteen clients and that do not hold themselves out generally to the public as an investment adviser. The Blue Source Companies would not hold themselves out to the public as investment advisers.

II. Analysis

Under Section 61-1-13(1)(o) of the Act, a person is considered an "investment adviser" that must be licensed by the Division if such person (a) for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities; or (b) for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities.³ With respect to BSIC in particular and the Blue Source Companies in general, the two relevant questions raised under Section 61-1-13(1)(o) of the Act are whether the Blue Source

¹ Such interests could include minority interests in companies.

² It is possible that the JV Entity could invest in public securities, including through direct investments in public companies or through investments in private companies which later make public offerings, although such investments in public securities would be ancillary to the primary purpose of the JV Entity.

³ See Section 61-1-13(1)(o) of the Act.

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Companies are engaged in the business of advising others for compensation as to securities, or whether the Blue Source Companies issue or promulgate reports concerning securities for compensation and as part of a regular business.

The Blue Source Companies do not and will not issue or promulgate, either to individual investors of JP or to the public in general, analyses or reports regarding securities for compensation.⁴ Furthermore, although BSIC would manage the JV Entity's investments and receive certain fees and carried interest for such services, BSIC's services would only be provided to the JV Entity itself, not to the individual investors of JP or the public in general. Neither BSIC nor the Blue Source Companies would hold themselves out as investment advisers or provide advice to any entity or person other than the JV Entity.

Additionally, the partnership agreement of the JV Entity will provide that JP will maintain significant input into the investments of the JV Entity and limit the investment discretion of BSIC. The partnership agreement provides that any investment of the JV Entity must be approved by a majority of a four-person board of managers, of which two members are appointed by JP and two members by BSIC. As such, because at least one representative of JP or BSIC must ultimately approve of all of the JV Entity's investments, the JV Entity is a collaborative enterprise that is similar to a traditional venture capital arrangement in which both partners actively manage the investments of the business.

Lastly, the role of BSIC in managing the day-to-day operations of the JV Entity's investments is only one aspect of their core business function with respect to the JV Entity, which is primarily to pursue opportunities to invest or participate in measures, operations or actions aimed at reducing emissions and enhancing removal of greenhouse gases. As such, advising the JV Entity as to investments in operating companies that may benefit from GHG management, as well as receiving compensation for such advisement, would only be one facet of the core business of BSIC, which is to actively participate in the GHG emissions reduction industry, including the purchase and/or development of existing CO2 pipelines and the development and operation of carbon capture and storage projects.

III. Conclusion

We respectfully submit that none of the Blue Source Companies should be required to license with the Division as an investment adviser. The offering of interests in the JV Entity will

⁴ The Managers will provide initial evaluations of and recommendations to the Board of the JV Entity regarding potential investments in assets, businesses, or interests in businesses. However, as explained in the remainder of this request, such activities are only one aspect of the Managers' regular business with respect to the JV Entity.

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be restricted to JP and BSIC, and BSIC will provide services solely to the JV Entity and will not hold itself out to any other person or entity as an investment adviser. Moreover, the parent company of BSIC and affiliates of JP, who are sophisticated investors with expertise in alternative asset management, will actively manage the investment and business decisions of BSIC and the JV Entity. The JV Entity and each member of the JV Entity will have, upon reasonable notice, unrestricted access to BSIC's financials, and each member of the JV Entity will exercise control over the JV Entity through the appointment of two members of the JV Entity's four-person board of directors.

As required by Rule 164-25-5 of the Utah Administrative Code, each of the Blue Source Companies affirms that there is no legal action, judicial or administrative, which relates directly or indirectly to the facts set forth here.

* * * * *

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We ask that the Division contact Scott A. Moehrke, P.C., at 312-861-2199 or Omar R. Akbar at 312-861-3444 with any comments or questions before issuing a final response.

Sincerely,

Kirkland & Ellis, LLP

Scott A. Moehrke, P.C.

cc: Matt Harmer
Omar R. Akbar