

January 16, 2025

Chair Randolph  
California Air Resources Board  
1001 I Street Sacramento, CA 95814

Re: Responses to Comments on Tier 2 Pathway Application No. B0695

Dear Chair Randolph,

FirstElement Fuel (FEF) is pleased to provide the following responses to the Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch (collectively, “Commenters”). Most of the objections are related to CARB’s methodology and strategy and should be addressed at the Board level regarding policy, not at the implementation of the LCFS pathways. Furthermore, the same objections raised have already been rebutted in our previous response (B0430<sup>1</sup>). Also, the comments made by the Commenters was addressed previously by our Joint Applicant, U.S. Venture, Inc., by their responses to the Commenters’ comments to their previous applications (B0345<sup>2</sup>, B0346<sup>3</sup> and B0347<sup>4</sup>). Regardless, FEF addresses each of the five Commenters’ claims below.

1. “First, the application incorporates an unlawfully truncated system boundary that ignores upstream emissions from feedstock production at the source factory farms - Lakeshore Dairy, Lamb Farm, and Boxler Dairy in New York, which, as of 2022, confined a total of 8,400 cows—and downstream emissions such as those from storage and disposal of digestate, resulting in artificially low Carbon Intensity (CI) values and inflated credit generation.”

“Thus, the gas generated at these facilities is an intentionally produced product and cannot be claimed as “captured” or “avoided” to secure a lucrative negative CI value.”

These statements are inaccurate. The analyses have been conducted according to the LCFS requirements and verified by CARB staff. FEF has fully utilized the CA-GREET3.0 life cycle analysis tool for our pathway application. We understand that this tool will continue to evolve over time due to changing technology and continually improving emissions inventory accounting. Perhaps the Commenters take issue with the CA-GREET3.0 tool, but it is the most-accurate and comprehensive well-to-wheel tool available today.

Also, the comments made by the Commenters was addressed previously by our Joint

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<sup>1</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0430\\_response2.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0430_response2.pdf)

<sup>2</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0345\\_reponse.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0345_reponse.pdf)

<sup>3</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0346\\_response.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0346_response.pdf)

<sup>4</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0347\\_response.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0347_response.pdf)

Applicant, U.S. Venture, Inc., by their responses to the Commenters' comments to their previous applications (B0345, B0346 and B0347).

2. "Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met."

Again, this statement is inaccurate. The analyses have been conducted according to the LCFS requirements and verified by CARB staff. The life cycle emissions are calculated using the GHG assessment boundary defined in Chapter 4 of the Compliance Livestock Offset Protocol, which delineates the Sinks, Sources, and Reservoirs that must be included or excluded when quantifying the net change in emissions associated with the installation and operation of a dairy digester. The life cycle analysis includes an assessment of the baseline manure management practices at the dairies and because methane emissions from dairy operations are not regulated, reductions from these facilities exceed regulatory requirements and are therefore additional.

Also, the comments made by the Commenters was addressed previously by our Joint Applicant, U.S. Venture, Inc., by their responses to the Commenters' comments to their previous applications (B0345, B0346 and B0347).

3. "Third, this application is a good example of how CARB's flawed approach is rewarding the biggest factory farm polluters and incentivizing further expansion and herd consolidation, which does more climate harm than good."

The comments made by the Commenters was addressed previously by our Joint Applicant, U.S. Venture, Inc., by their responses to the Commenters' comments to their previous applications (B0345, B0346 and B0347).

4. "Fourth, applications B0345, B0346, and B0347 are so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate them, as the life cycle analyses redact information critical to understanding CI calculations."

The comments made by the Commenters was addressed previously by our Joint Applicant, U.S. Venture, Inc., by their responses to the Commenters' comments to their previous applications (B0345, B0346 and B0347).

5. "Finally, the CI values work an additional environmental injustice on Californians who will be exposed to higher levels of pollution from fossil transportation fuel and dirty vehicles made possible by excessive credit generation at factory farms."

Again, the analyses were conducted according to the LCFS requirements and verified by CARB staff. The Commenters offer no analysis that communities will be further harmed through this pathway, specifically quantifying the higher levels of pollution from fossil transportation fuel and dirty vehicles. If such data exists, these should be evaluated and used to change the CA-GREET 3.0 model inputs.

# FIRSTELEMENT FUEL

FirstElement Fuel Inc. | 5281 California Ave, Suite 260, Irvine, CA 92617

FEF appreciates the opportunity to respond to the public comments received for the Tier 2 Pathway Application No. B0695. However, the Commenters do not present any factual basis to oppose the application. FEF respectfully requests the CARB proceed with the certification as recommended by staff.

Sincerely,



Matt Miyasato  
Chief Public Policy and Programs Officer  
FirstElement Fuel, Inc.