



March 16, 2022

California Air Resources Board
Low Carbon Fuel Standard
1001 I Street
Sacramento, CA 95814

Re: Responses to comments submitted on Tier 2 Pathway Application B0216 ("Project")

Dear Chair Randolph,

DTE Energy Trading, Inc ("DTE") is responding within the scope of the Low Carbon Fuel Standard ("LCFS") program §95488.7(d)(5)(A) to the following commenters, hereafter collectively referred to as "Commenters": The Association of Irrigated Residents, Leadership Counsel for Justice & Accountability, Animal Legal Defense Fund, and Food & Water Watch (together, "Coalition"); Midwest Environmental Advocates ("MEA"); Mr. Stephen Rosenblum; and Mr. and Mrs. David Page.

DTE has reviewed the comments submitted, responds to them below, and believes that no revisions to its pending application are needed following sufficient review and approval of its responses by the California Air Resources Board ("CARB").

Two comments from individuals were received that objected to subsidization of projects located outside California.

As a California taxpayer, I strongly object to California taxes being used to subsidize projects in Wisconsin which involve sending bio-gas via pipeline to Arizona, liquefying it, and trucking it to California. Such funds should be used to set up California dairies with this technology so we can avoid the environmental deficits of long distance transport and liquefaction. The gas should be piped directly from dairies in California to the eventual consumers in our state. – Mr. Stephen Rosenblum

I strongly object to subsidizing projects in Wisconsin which involve sending bio-gas via pipeline to Arizona, liquefying it, and trucking it to California. The gas should be piped directly from dairies within California. – Mr. and Mrs. David Page

DTE is not in a position to comment on whether California taxes are being used to subsidize projects outside of California generally, or to subsidize the Project specifically. However, the LCFS regulation does allow for participation of non-California projects. For any such project, including DTE's Project, the emissions impact associated with the production, transportation, liquification, and compression of the renewable natural gas products is accounted for and reflected in each fuel's carbon intensity score. In this way, projects located in California generally have lower emissions associated with transportation of the fuel than projects located outside of the state.

MEA and Coalition comments raise concerns about Kinnard Farms, Inc.'s ("Kinnard") manure spreading practices and cite instances of issues that occurred during the operation of the Project. Kinnard is aware of the allegations, disputes them, and has responded to the Wisconsin Department of Natural Resources concerning each issue. Importantly, these allegations remain contested and there has been no final finding or resolution. See Exhibit A for a letter from Kinnard that provides further detail.

MEA and Coalition also speculate that participation in the LCFS could lead Kinnard to expand its herd. Although DTE is unable to comment on such speculation, it does wish to call out that MEA also said that Kinnard "stated that it did not have plans for expansion when it applied for an amendment to its WPDES permit to add sampling points for its digesters." Coalition also noted that Kinnard isn't expressing intent to expand.

Coalition comments that, in short, were CARB to certify this pathway, it would be knowingly violating the LCFS regulation and corrupting the integrity of the LCFS program by failing to apply a "well-to-wheels" life cycle analysis.

Certification of this pathway would not violate the LCFS regulation or corrupt the integrity of the program. The Project application has had a life cycle analysis prepared according to the guidance laid out in the 2014 California Livestock Projects Compliance Offset Protocol. The Project established a baseline that considered the applicable dairy operation and quantified the additive emissions from the capture and purification of methane for beneficial use. The baseline assumed that without the use of an anaerobic digester, the Project would deposit dairy manure into lagoons, as is common practice amongst dairy farms. The Project quantified the avoided methane from the diversion of dairy manure from lagoons and the purification and use of this methane as a vehicle fuel. As a result of this process, the Project showed avoided methane emissions from the baseline, resulting in the generation of credits by diverting methane from the farm.

Coalition comments also state that certifying this pathway would perversely reward factory farming, which generates the manure feedstock for this project.

Certification of this pathway would not perversely reward the farm. The primary business of this farm is the production of milk and milk products. Dairy manure, and the associated methane, is a by-product of this process. The Project has designed systems to divert and upgrade this methane for use in the California vehicle fuel market. This results in both avoided dairy farm emissions and reduced emissions from vehicle fuels relative to other vehicle fuel alternatives. The Project has not taken any action to increase the amount of methane produced by the farms. The farm operations exist wholly separate from the fuel production process. Furthermore, the LCFS program awards credits for continued emissions reductions compared to a baseline, a process that is reviewed annually by independent verifiers to ensure projects are continually reducing greenhouse gas pollutants.


Last, Coalition comments that CARB's "unlawful" administration of the LCFS program is causing environmental and public health harms not just in California, but to communities and ecosystems across the United States – in this case Wisconsin – by incentivizing and rewarding some of the worst factory farm practices.

This LCFS pathway application focuses exclusively on the addition of a biogas upgrading facility to collect and purify methane for beneficial use. As stated previously, the addition of the Project does not impact the operation of the dairy. DTE believes this pathway benefits communities and ecosystems in both California and Wisconsin through the avoided dairy farm emissions and the economic activity that surrounds the farm operations in Wisconsin, and the reduced emissions

from vehicle fuels in California. The incentive that the LCFS program provides to farms reduces the greenhouse gas emissions associated with milk production.

In summary, while DTE is thankful for the opportunity to address the Commenters for their interest in the Project, we contend that no changes to the pending application under CARB review are required and see no reason to deny or stay a certification decision on this pathway.

Sincerely,



[John M Harris \(Mar 16, 2022 16:59 EDT\)](#)

John Harris
Vice President
DTE Energy Trading, Inc.


CK

Exhibit A

DTE Energy Trading, Inc.
One Energy Plaza
400 WCB
Detroit, MI 48226

March 16, 2022

Re: comments submitted to CARB regarding Tier 2 Pathway Application B0216

To whom it may concern,

Kinnard Farms, Inc. ("Kinnard") has become aware that comments were filed as part of the 10-day comment period for Pathway Application B0216 ("Project") that oppose the participation of Kinnard in the Low Carbon Fuel Standard ("LCFS"). These comments raise concerns, among other things, about the manure spreading practices at Kinnard.

Kinnard acknowledges the allegations; however, in each case Kinnard has disputed these allegations and there have been no final findings concerning these allegations. They remain contested and as such have not been proven or otherwise established.

Throughout the Project's operation, Kinnard has maintained a valid Wisconsin Pollutant Discharge Elimination System (WPDES) permit, as well as all other applicable permits, and has operated in material compliance therewith. Kinnard is proud of its environmental record and operates in accordance with all applicable state and local regulations.

Should you have further questions, please do not hesitate to contact us.

Thank you,



Lee H Kinnard
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