

August 25, 2022

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

Re: Responses to Comments on Tier 2 Pathway Application No. B0360

Dear Chair Randolph,

FirstElement Fuel (FEF) is pleased to provide the following responses to the Association of Irrigated Residents, Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch (collectively, “Commenters”). As with the Commenters’ previous opposition letter to our Application No. B0373, 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. Regardless, FEF addresses each of the four Commenters’ claims below.

1. “...the application applies an unlawfully truncated system boundary that ignores feedstock production at the source factory farm and other emissions such as those from storage and disposal of digestate, resulting in artificially low Carbon Intensity (CI) values and inflated credit generation.”

“Concurrently, this application overcounts environmental benefits by ignoring that this is, in Deer Run Dairy LLC’s own words, ‘lucrative’ feedstock production.”

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.

The Commenters also oppose the application because Deer Run Dairy has opted to make its digester gas available for book and claim accounting which is more economic than combusting the gas in a 16-cylinder generatorⁱ. The financial attractiveness of a pathway should not disqualify an application, but rather it should be considered a positive example of the LCFS program working to incentivize low carbon fuel production and utilization.

ⁱ <https://cowsmo.com/news/deer-run-dairy-wins-outstanding-dairy-farm-sustainability-award/>

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2. “CARB has failed to ensure that the additionality requirements of Health and Safety Code § 38562 are met.”

Again, this statement is inaccurate. The analyses have been conducted according to the LCFS requirements and verified by CARB staff. The purpose of the LCFS pathway application is to calculate the methane emissions that would have occurred in the absence of the digester project. 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.

3. “...this application is a good example of how CARB’s flawed approach is rewarding the biggest factory farm polluters and incentivizing their further expansion, which does more climate harm than good.”

This is an editorial comment on the policy, not the application pathway and is therefore not addressed.

4. “...the inflated Carbon Intensity values CARB proposes here work an additional environmental injustice on California citizens 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 analyses 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 exist, these should be evaluated and used to change the CA-GREET 3.0 model inputs.

FEF appreciates the opportunity to respond to the public comments received for the Tier 2 Pathway Application No. B0360. 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,

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Vice President
Strategic Growth & Government Affairs
FirstElement Fuel, Inc.