

September 28, 2022

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

Re: Responses to Comments on Tier 2 Pathway Application No. B0373

Dear Chair Randolph,

As required in the Applicant Response to Public Commenters notice received Friday July 29, 2022, FirstElement Fuel (FEF) provides 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”). 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. Regardless, FEF addresses each of the five Commenters’ claims below.

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

“Concurrently, this application overcounts environmental benefits by ignoring what is essentially 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.

Further, AmpRenew Offtake I LLC (Amp) has previously indicated how they comply with the LCFS calculations for the pathway application¹ following the approved modeling methodology. The CARB Tier 1 Simplified Calculator includes methane emissions from project digestate storage in Sections L4 and L5, which accounts for the emissions as part of the Pathway application. Therefore, the pathway boundaries account for digestate storage emissions. The Bakkaloglu et al., June 2022 paper referenced by the commenters discusses the potential range of methane emissions from organic waste digestate storage, which is not

¹ https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0250_response.pdf

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specific to manure digestate, nor is specific to any factual or methodological errors in the pathway application. As such, Amp follows the approved CARB modeling methodology, which was reviewed and approved by CARB Staff and a third-party validation body.

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 further expansion and herd consolidation, 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. “this application is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it.”

The information referenced by the Commenters is business confidential, was identified in accordance with section 95488.8., sub-section (c) Designation of Confidential Business Information under the Low Carbon Fuel Standard Regulation, and was reviewed by CARB staff.

5. “the inflated CI value CARB proposes here 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 farm gas projects.”

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.

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Finally, digestate is not transported offsite. After the digester, digestate goes to the effluent pond or is used for onsite cattle deep bedding as is described in the pathway application. The Pathway conforms to the CARB approved methodology, and Amp confirms that there is no digestate handling, transport, or application associated with offsite usage. In addition, RNG is not trucked from the site but is injected into a pipeline, so there are no offsite transport emissions for the digestate or RNG.

FEF appreciates the opportunity to respond to the public comments received for the Tier 2 Pathway Application No. B0373. 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, Ph.D.
Vice President
Strategic Growth & Government Affairs
FirstElement Fuel, Inc.