

3/27/2023

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

**Re: Tier 2 Pathway Application No. B0382**

To Whom it May Concern,

Public comments were submitted during the 10-day public comment period for the Madera Renewable Energy, LLC Tier 2 pathway for the Electricity from Dairy Manure Biogas for the use as a transportation fuel in California. Per section 95488.7(d)(5)(A) of the LCFS Regulation this document provides responses to the comments received explaining why no revisions to the fuel pathway application are necessary.

Ag Methane Advisors provides responses on behalf of Madera Renewable Energy, LLC within the scope of the LCFS Regulation section 95488.7(d)(5)(A) to the following commenters: Stephen Rosenblum, William Brieger, and Emily Stewart.

Per section 95488.7(d)(5)(A) of the LCFS Regulation, “only comments related to potential factual or methodological errors will require responses from the fuel pathway applicant.” The comments received do not point out any factual or methodological errors in the fuel pathway application, however, Ag Methane wishes to address the commenter’s claims below.

Sincerely,

Patrick Wood  
Founder  
Ag Methane Advisors, LLC

## Responses to Public Comments

### Comment 1

Ag Methane provides a response to the comment from Stephen Rosenblum with the subject “Concerns about pollution under this permit” below.

*“The air pollution monitoring proposed under this permit is wholly inadequate for the San Joaquin Valley AQMD which is not in compliance with EPA standards for criteria air pollutants. There is only a once in 24-month measurement requirement under condition 19 of the air pollution permit “Source testing to measure NO<sub>x</sub>, CO, VOC, and ammonia (NH<sub>3</sub>) emissions from this unit shall be conducted at least once every 24 months. [District Rules 1081, 2201, and 4702]” To have a useful effect, monitoring needs to be continuous. To avoid this problem, methane fuel cells should have been chosen rather than a combustion driven generator.”*

*“Secondly, there is no requirement to measure methane leakage. If 10% of the methane were to leak this would completely invalidate any benefit to the climate of this activity. Please do not grant this application until these defects are remedied.”*

The commenter’s response regarding the facility’s air permit addresses perceived deficiencies in the requirements set forth by the San Joaquin Valley Air Pollution Control District’s (SJVAPCD) current rules and Regulations pertaining to entities under their jurisdiction, but does not address any actual issues regarding the facility’s compliance under such rules and Regulations. Therefore, the commenter’s response is outside of the scope of the fuel pathway application. Since beginning operations, the facility has not been issued any citations for issues of noncompliance with any permit requirements or Regulations set by the SJVAPCD. Per section 95488.7 and 95488.8 of the LCFS Regulation, Madera Renewable Energy, LLC provided all required information and supporting documentation necessary to certify the tier 2 fuel pathway application to both CARB staff and to an approved third-party verifier, which were vetted prior to public posting.

The comment about the lack of a requirement to measure methane leakage is also outside of the scope of the fuel pathway application. Fugitive methane leakage is factored into the determination of the carbon intensity (CI) score through the use of the CA-GREET3.0 model. The CI score determined for this fuel pathway represents the CI after the emissions associated with fugitive methane emissions have already been accounted for.

## Comment 2

Ag Methane provides a response to the comment from William Brieger with the subject “Suggested pathway approval conditions” below.

*“1. There be a robust leak detection and repair protocol to find and immediately fix gas leaks from the processing and upgrading equipment. Otherwise the leaks cancel other emission reductions.*

*2. There be a condition that the dairy be operated in compliance with all local, state and federal environmental standards. Otherwise the dairy's neighbors are burdened by production of California fuel.”*

The comment regarding recommendation to introduce methane leakage monitoring is outside of the scope of the fuel pathway application, as it is the San Joaquin Valley Air Pollution Control District that sets forth the air monitoring requirements for any facility under their jurisdiction, and the facility has not been issued any citations for issues of noncompliance with any permit requirements or Regulations set by the SJVAPCD since beginning operations.

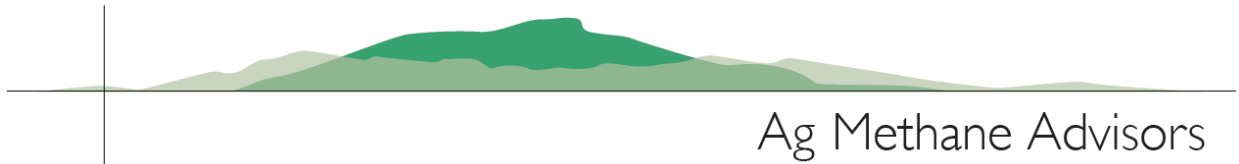
The comment regarding introducing a condition that the dairy “be operated in compliance with all local, state and federal environmental standards” is a comment on policy conditions, and is outside the scope of the fuel pathway application, therefore it is not addressed. In addition, since beginning operations, the facility has not been issued any citations for issues of noncompliance with any permit requirements or Regulations set by the SJVAPCD.

## Comment 3:

Ag Methane provides a response to the comments from Association of Irrigated Residents, Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, Center for Food Safety, and Food & Water Watch with the subject “Re: Tier 2 Pathway Application No. B0382” below.

*“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farm—Philip Verwey Dairy in Madera, California, which confines 6,400 cows— and other emissions such as those from storage and disposal of digestate, resulting in artificially low Carbon Intensity (CI) values and inflated credit generation.”*

We believe the above comment to be inaccurate. The determination of the CI score for the project was conducted in accordance with the LCFS Regulation, utilizing the approved CA-



REET3.0 model, which accounts for all of the emissions within the scope of the project’s clearly defined system boundary. The implementation of the CA-REET3.0 model along with all of the associated inputs used to determine the CI of the project have been verified both by CARB and by a third-party auditor, which included a site visit of the facility to ensure that all of the respective sources of emissions were correctly accounted for in accordance with the LCFS Regulation.

*“Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met.<sup>5</sup> If CARB had done so, it would have concluded that the methane capture at issue is patently not additional.”*

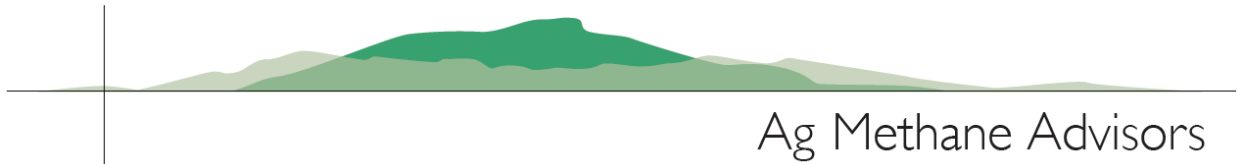
The above comment is addressed to CARB related to policy conditions, and is therefore outside of the scope of the fuel pathway application. Additionally, per section 95488.7 and 95488.8 of the LCFS Regulation, Madera Renewable Energy, LLC provided all required information and supporting documentation necessary to certify the tier 2 fuel pathway application to both CARB staff and to an approved third-party verifier, which were vetted prior to public posting.

*“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 above comment is addressed to CARB related to policy conditions, and is therefore outside of the scope of the fuel pathway application. Additionally, per section 95488.7 and 95488.8 of the LCFS Regulation, Madera Renewable Energy, LLC provided all required information and supporting documentation necessary to certify the tier 2 fuel pathway application to both CARB staff and to an approved third-party verifier, which were vetted prior to public posting.

*“Fourth, this application is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it.<sup>9</sup> The lifecycle analysis redacts information critical to understanding the CI calculation.”*

As per section 95488.7 and 95488.8 of the LCFS Regulation, Madera Renewable Energy, LLC provided all required information and supporting documentation necessary to certify the tier 2 fuel pathway application to both CARB staff and to an approved third-party verifier, which were vetted prior to public posting. Both CARB and a third-party auditor reviewed and approved the complete unredacted fuel pathway application and the supporting documentation.



*“Fifth, the certification of this pathway would result in a discriminatory impact, in conflict with CARB’s obligations under California Government Code 11135 and Title VI of the Civil Rights Act, which impose an affirmative duty on CARB to ensure that its policies and practices do not have a discriminatory impact on the basis of race. ”*

The above comment is addressed to CARB, and is therefore outside of the scope of the fuel pathway application. Additionally, as per section 95488.7 and 95488.8 of the LCFS Regulation, Madera Renewable Energy, LLC provided all required information and supporting documentation necessary to certify the tier 2 fuel pathway application to both CARB staff and to an approved third-party verifier, which were vetted prior to public posting. Included as part of this documentation that was verified by both CARB and by a third-party auditor were the relevant permits for the digester and engine at the facility implemented by the San Joaquin Valley Air Pollution Control District’s (SJVAPCD). Since beginning operations, the facility has not been issued any citations for issues of noncompliance with any permit requirements or Regulations set by the SJVAPCD.

*“Finally, the inflated CI 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.”*

The above comment is addressed to CARB, and is therefore outside of the scope of the fuel pathway application.