
EEC Market Group LLC

June 09, 2023

10 Tara Blvd., Suite 501
Nashua, NH 03062

Dear Mr. Cliff:

EEC Market Group, LLC ("Pathway Applicant") is responding per Low Carbon Fuel Standard ("LCFS") program §95488.7(d)(5)(A) to the 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 (collectively "Commenters"), in Commenters letter submitted June 07, 2023 ("Comments") regarding the Pathway Applicant's Tier 2 Pathway Application (B0383) (the "B0383 Pathway Application").

Per §95488.7(d)(5)(A), commentors may provide, and CARB should accept "only [C]omments related to potential factual or methodological errors . . . requir[ing] responses from the fuel pathway applicant." The Comments are not related to factual or methodological errors and incorrectly claim adverse environmental damage results from the B0383 Pathway Application dairy manure project ("Project"). To the contrary, the Project results in long-term air quality improvements and greenhouse gas ("GHG") emission reduction.

While the Comments are false, inconsistent, and unactionable per CARB regulation, Pathway Applicant nonetheless addresses and dispels the Comments, below.

1) To Comment assertions that B0383 Pathway Application:

- a. **". . . incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farms. . . and other emissions such as those from storage and disposal of digestate, resulting in artificially low Carbon Intensity (CI) values . . ."**
- b. **". . . overcounts environmental benefits . . . [because] "lagoons" [are] not an unavoidable and natural consequence of animal agriculture operations."**

Pathway Applicant Response:

Pathway Applicant demonstrates the B0383 Pathway Application to be complete, accurate and consistent to all LCFS requirements as published, without revisions.

Certification of the B0383 Pathway Application will not violate the LCFS regulation or corrupt the integrity of the LCFS program. Rather, the Project achieves the beneficial outcomes for which the LCFS program was designed. The Project life cycle analysis is prepared and presented directly to the 2014 California Livestock Projects Compliance Offset Protocol ("LCOP").

The Project establishes a "baseline" that considers the dairy operation and quantifies the

additive emissions from the capture and purification of methane for beneficial use. The baseline assumes that without the use of an anaerobic digester, the project would deposit dairy manure into lagoons as is common (and then existing) dairy farm practice. The Project quantifies the avoided methane from the diversion of dairy manure from lagoons, anaerobic digestion, biogas capture, biogas refinement into renewable natural gas (“RNG”), and use of this RNG as a transportation fuel.

As demonstrated in the B0383 Pathway Application process, the Project achieves methane emissions avoidance from the baseline and associated generation of LCFS credits. Absent the Project, methane would be emitted with or without the implementation of the LCFS program, as the primary business of the supplying dairies is the production of milk and milk products of which manure, and associated methane release is a byproduct. All source farms are otherwise permitted to store manure in lagoons in full compliance with all applicable state and local waste management requirements.

LCFS program incentives to dairy farms and RNG producers are exclusively to reduce methane, one of the most potent GHGs, emissions that dairy operations otherwise result in. Credits generated (and monetized) under the LCFS program enable dairy farmers and RNG producers to cover costs associated with technologies, facilities and processes to capture and provide for beneficial use, the otherwise inevitable methane emissions from preexisting dairy operations. The Project captures and refines dairy waste methane into RNG, which would otherwise be emitted.

- 2) **To Comment assertions that “CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met. . . that methane capture at issue is patently not additional [because]. . . the digester system (and associated emission reductions) . . . has existed since 2020 and would continue to exist without the LCFS. . . any purported emission reductions associated with these digesters have already been occurring and presumably will continue to occur with or without being subsidized by the LCFS program. . . [Project] emission reductions that “otherwise would occur.” . . . this proposed CI value would openly violate section 38562 by crediting nonadditional reductions.”**

Pathway Applicant Response:

The B0383 Pathway Application is consistent with, and demonstrates compliance to, all applicable sections of the LCFS regulation and Health and Safety Code. California Code HSC § 38562 (b)(3) provides that the Board will “Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.” Consistently, the LCFS program incentivizes reductions (and *not* punish preexisting emissions mitigation efforts).

Commenters falsely assert that emission reductions associated with the Project “will continue with or without being subsidized by the LCFS program.” The Project, participating in the LCFS incentive programs, is the only practical means for smaller dairy operators (family owned, some having less than 1000 head herd counts) to avoid GHG emissions and provide a beneficial purpose for waste. Collecting manure, operating a digester system, operating a gas clean up skid, maintaining pipelines are prohibitively expensive with large ongoing operations expenses, capital

expenditures and financing costs. Absent the LCFS participating Project, the individual farms in the B0383 Pathway Application would immediately revert to baseline operating and emissions profiles.

- 3) To Comment assertions that B0383 Pathway Application “. . . is rewarding the biggest factory farm polluters and incentivizing further expansion and herd consolidation. . . The source factory farms are not sustainable family farms, they are large industrial operations that confine a total of 5,270 cows. Further, these farms do not employ environmentally sound waste management practices. For example, in 2021, Rolling Hills II paid a \$144,000 settlement to the state and constructed additional runoff controls to resolve its violations of Wisconsin’s wastewater laws. CARB should not allow these factory farms—or the applicant—to profit from the LCFS.”**

Pathway Applicant Response:

All B0383 Pathway Application source farms are multi-generational family dairy operations, whose expertise, personal effort, dedicated staff, animal care and management practices enable them to survive difficult economic conditions. Notably, Commenter misleadingly attributes a single herd count number, without allocating across the *seven* B0383 Pathway Application contributing farms.

As Commenter alludes to, all B0383 Pathway Application source farms are regulated by, and exert efforts to meet local regulatory and legal requirements. The Project provides not only GHG related benefits but further mitigates potential runoff and water contamination harms. Manure returned from the Project to the source farms has a much lower contamination potential as volatile organics are consumed in the Project process before returning digestate.

The primary business of all seven source farms is the production of milk and milk products, not methane emissions avoidance or RNG production. Source farms manage herds and herd sizes to dairy product market demand and regulatory allowances. Dairy manure, and the associated methane associated with its decomposition, is a byproduct of milk production. The Project provides systems to divert otherwise released methane to the California vehicle fuel market. The Project has not taken any action to increase the amount of source farms methane releases. The source farm dairy operations exist wholly separate from the Project fuel production process. Furthermore, the LCFS program awards credits on the continued emissions reduction compared to a baseline, reviewed annually through independent verification to ensure that no false benefit is conferred to Pathway Applicant.

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- 4) **To Comment assertions that B0383 Pathway Application “is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it. The lifecycle analysis redacts information critical to understanding the CI calculation.”**

Pathway Applicant Response:

The only redactions describe well-recognized confidential business information categories such as specific volumes, cow counts, and production values. CARB staff and independent verifiers have validated the unredacted B0383 Pathway Application. Notably, Pathway Applicant relied on factors and conservative default values as provided by LCFS regulation, CARB staff, and the LCOP.

- 5) **To Comment assertions that B0383 Pathway Application “CI values 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 farms. CARB has acknowledged that pollution from transportation fuels inflicts a racially disparate impact, so this continued certification of fuel pathways with extreme negative CI values to allow more pollution from deficit holders contributes to this injustice.”**

The Project benefits communities and ecosystems in California, Wisconsin, and beyond through reduced emissions from dairy operations and vehicle operation. Notably, most of the B0383 Pathway Application RNG fuel use displaces diesel truck fueling. Further, the Carbon Intensity (CI) score, the bedrock of the LCFS, is a rigorous calculation. The B0383 Pathway Application follows all CARB algorithms to establish the CI score, as validated by CARB and an independent third-party validator.

Through the LCFS, California seeks a 20% reduction in the CI of California’s transportation fuels by 2030 with further reductions thereafter. The Project and CI score as demonstrated in the B0383 Pathway Application is a real, substantial, and sustainable contributor to California’s GHG reduction goals.

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- 6) **To Comment assertions that B0383 Pathway Application “highlights, CARB’s unlawful and unjust 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 by making them more “lucrative.” . . . the applicant apparently intends to truck manure and digestate back and forth between the source factory farms and the digester—up to 25.3 miles each way. This will also harm Wisconsin residents by increasing emissions, traffic, and the risk of spills. If California is serious about being a climate leader, this is not the example to set.**

This Project benefits communities and ecosystems in both California and Wisconsin. Beyond the quantified, avoided dairy farm emissions (represented in the CI score) and the reduced diesel-fueled vehicle use in California. Land application of digestate rather than unprocessed manure reduces groundwater and runoff contamination risks. The exclusive LCFS program incentive to these family-owned source farms is to reduce the GHG emissions from milk producing operations. The Project (and *any* effort to extend LCFS participation and benefits to small source farms, which are too low throughput and insufficiently funded for on-site digestion, biogas capture, RNG refinement, and pipeline injection) inherently requires manure and digestate transport. Pathway Applicant is incentivized and aligned to minimize transportation as each mile costs money. Pathway Applicant does not suggest that the Project delivers pure benefit without cost, travel, or workload but does work to minimize such burden while extending the LCFS program benefits to all parties involved.

EEC Market Group, LLC appreciates Commenters interest in the B0383 Pathway Application and maintains that no changes to the pending B0383 Pathway Application under CARB review are required and there is no reason to deny or stay B0383 Pathway Application certification as a Provisional LCFS pathway.

Sincerely,