



MAAS
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June 28, 2023

Liane M. Randolph, Chair
California Air Resources Board
Low Carbon Fuel Standard
1001 I St #2828,
Sacramento, CA 95814

Re: Tier 2 Pathway Application No. B0396; Response to 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.

Dear Chair Randolph:

Maas Energy Works, LLC on behalf of Lakeside Pipeline, LLC ("Pathway Applicant") is responding within the scope of the Low Carbon Fuel Standard ("LCFS") program §95488.7(d)(5)(A) to the commenters, 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 a letter submitted June 27, 2023, regarding the Tier 2 Pathway Application (B0396) (the "Application").

According to §95488.7(d)(5)(A), "only comments related to potential factual or methodological errors will require responses from the fuel pathway applicant." After careful consideration, we have found that the public comments received on the Application are not related to factual or methodological errors and instead provide suggestions for adding pathway approval requirements. Nonetheless, the Pathway Applicant will address the Commenter's statements below. Furthermore, we believe

that no revisions to our pending Application are needed following sufficient review and approval of our response by the California Air Resource Board (“CARB”).

“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the five source factory farms in Hanford, California—Lone Oak #1 Dairy, Dixie Creek Dairy, River Ranch Dairy, Decade Dairy, and Richard Westra Dairy—and other emissions such as those from storage and disposal of digestate, resulting in artificially low Carbon Intensity (CI) values and inflated credit generation.”

The Carbon Intensity (CI) score for the project was determined using the approved CA-GREET3.0 model, which accounts for all emissions within the designated system boundary based on existing LCFS regulations—including emissions from storage and disposal of digestate. Both CARB and a third-party verifier have confirmed the accuracy of all inputs, the project boundary, and the CA-GREET3.0 model utilized to establish the project's CI score. Additionally, the third-party verifier conducted a site visit to ensure that all emissions were accounted for in compliance with LCFS regulations.

To determine the project's CI score, a life cycle analysis was conducted in keeping with the 2014 California Livestock Offset Compliance Protocol, which established a baseline that considered emissions from dairy operations and calculated emissions from the capture, purification, and transport of methane for use as vehicle fuel. The baseline indicated pre-existing emissions from manure operations, which is a widespread practice among dairy farms. These dairy emissions pre-date the project and as such are in no way generated by or for the project. However, the project successfully diverted dairy manure from lagoons to an anaerobic digester, where methane is captured, purified, and utilized as vehicle fuel. This process reduces methane emissions and generates credits according to the rules of the LCFS program.

“Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met.⁵ If CARB had done so, it would have concluded that the methane capture at issue is patently not additional. The applicant acknowledges that the digesters at Lone Oak #1 Dairy, Dixie Creek Dairy,

River Ranch Dairy, and Decade Dairy have existed since 2021, without taking advantage of the LCFS.⁶ All of these digesters were funded by the Dairy Digester Research and Development Program,⁷ and this project also participates in the federal RFS program.⁸ As we explained in both of our petitions, both CARB and the California Department of Food and Agriculture (CDFA) have already claimed the purported methane emission reductions from these digesters. These purported methane emission reductions would have occurred without the LCFS and are not additional. Certification of these pathways with this proposed CI value would openly violate § 38562.”

The Low Carbon Fuel Standard (LCFS) program has been designed to incentivize greenhouse gas emission reduction efforts. The expenses for installing, operating, and maintaining the equipment for dairy manure methane capture and purification are significant. *But for* the financial incentives made available by the LCFS program, the project owners would not have built these digesters and captured these emissions. The project applied for an LCFS pathway as soon as it was eligible under the program. It has never operated without the intention of generating LCFS credits. The fact that the digester has existed since 2021 all the while pursuing its LCFS pathways simply reflects the highly scientific and rigorous process necessary to achieve LCFS certification.

“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. These source factory farms are not sustainable family farms—they are large industrial operation that confine a total of 40,600 cows. CARB should not allow these factory farms—or the applicant—to profit from the LCFS.”

The above comment is addressed to CARB and does not fall within the scope of the fuel pathway application. As per sections 95488.7 and 95488.8 of the LCFS Regulation, Lakeside Pipeline, LLC provided all the required information and supporting documentation necessary to certify the Tier 2 fuel pathway application to both CARB staff and an approved third-party verifier.

It's worth noting that Decade Dairy Farm, Dixie Creek Dairy Farm, Lone Oak 1 Dairy Farm, Richard Westra Dairy Farm, and River Ranch Dairy Farm's primary business is the production of milk and other milk products, with dairy manure and associated methane as by-products. The LCFS program only provides incentives to reduce GHG emissions from milk-producing operations. The expenses associated with installing, operating, and maintaining the technical equipment necessary to capture and purify associated methane are significant. Therefore, the incentives offered by the LCFS program do not contribute to increasing methane production but instead, help capture emissions from waste that would be cost-prohibitive without the program's incentive. The incentives thus support protecting the environment.

All the dairies involved in the application are family-owned dairies that, without the incentives of the LCFS program, would not be able to implement the environmental preservation equipment installed and run on these farms. The pathway applicant believes that these family owned and operated dairy farms as well the local communities should also benefit from the incentives provided by the LCFS program in order to transform these dairies into more environmentally friendly operations.

“Fourth, this 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.”

Lakeside Pipeline, LLC provided all the required information and supporting documentation per sections 95488.7 and 95488.8 of the LCFS Regulation to certify the Tier 2 Fuel Pathway application to CARB and a third-party verifier. The third-party verifier is selected and approved before their involvement in the process. The fuel pathway application and all required supporting documentation have been thoroughly examined, reviewed, and approved by both CARB and a third-party verifier.

“Fifth, the certification of these pathways 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 facilities are located in Hanford, which has significantly higher Latino/a/e/ population than California (approximately 51% compared to approximately 40%) according to US Census Data. Additionally, Hanford has a higher poverty rate than California as a whole, and its residents have lower incomes compared to others in the state.”¹²

The community that these facilities occupy already faces substantial and disproportionate pollution burden, including extreme and disproportionate impacts from ozone, PM 2.5, drinking water contamination, and groundwater contamination,¹³ all of which are caused and exacerbated by dairy operations. As explained in the Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program,¹⁴ the fact that this pathway applicant intends to burn the factory farm gas onsite to generate electricity will further worsen air quality in this community—and not without consequence. According to a study by UC Davis, Kings County already has one of the highest asthma-related emergency room visit rates for children in the state.¹⁵

The certification of these pathways would do nothing to address this disproportionate impact. Rather, it would incentivize the most polluting herd and manure management practices and incentivize the expansion of herd populations. It would also incentivize applicants to combust the factory farm gas onsite, further degrading air local air quality. Further, it would violate section 38562 by failing to ensure that such certification would not disproportionately impact low-income communities (§ 38562(b)(2)) and by failing to ensure that it would not interfere with efforts to achieve and maintain federal and state ambient air quality standards (§ 38562(b)(4)).”

Lakeside Pipeline, LLC provided all the required information and supporting documentation per sections 95488.7 and 95488.8 of the LCFS Regulation to certify the Tier 2 Fuel Pathway application to CARB and a third-party verifier. The third-

party verifier is vetted prior to public posting. CARB and the third-party verifier reviewed and approved the unredacted and complete fuel pathway application. CARB and the third-party verifier have examined, reviewed, and approved the complete and unredacted fuel pathway application as well as all the necessary supporting documentation. The fuel pathway applicant also provided relevant permits for the digester and upgrading facility implemented by the San Joaquin Valley Air Pollution Control District (SJVAPCD). These documents were verified by both CARB and the third-party verifier. Since the startup of operations, none of the dairies or the upgrading facility have received any citations for non-compliance with any regulations or permit requirements as set out by the SJVAPCD.

The comment warns of impacts from combustion of biogas to generated electricity, but this is incorrect. All biogas from this application will be upgraded into RNG for delivery into natural gas utility pipelines. This pathway is solely for the production of pipeline-injected RNG to be used as CNG transportation fuel, and does not involve any burning of biogas to generate electricity.

“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. 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 above comment is addressed to CARB and not to the fuel pathway applicant and thus falls outside of the scope of the fuel pathway application. The dairy digesters on each farm, as well as the upgrading facility, do not add to any environmental injustice to surrounding communities or California citizens. Instead, the applicant believes the installation of manure digesters and upgrading facility have had a positive impact on the surrounding communities and ecosystems including the reduction in dairy farm emissions and the resulting economic benefits of the digester operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Daryl Maas". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Daryl Maas

CEO

Maas Energy Works, LLC