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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. B0438; 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 Lone Oak 2 ("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 26, 2023, regarding the Tier 2 Pathway Application (B0438) (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. 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 source factory farm—Lone Oak Farms #2 in Fresno, California, which confines 7,000 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.”

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

A life cycle analysis was conducted following the 2014 California Livestock Offset Compliance Protocol. It established a baseline for emissions from dairy operations and calculated emissions from methane capture and utilization as vehicle fuel. The baseline showed pre-existing emissions from manure operations, a common practice on dairy farms. These dairy emissions pre-date the project and as such are in no way generated by or for the project. The project successfully diverted dairy manure to an anaerobic digester, capturing and purifying methane for use 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 digester has existed since 2021, without taking advantage of the LCFS.⁶ Further, the digester at Lone Oak Farms #2 has an application pending with the federal RFS program.⁷ Accordingly, any purported emission reductions associated with this digester have already been occurring and presumably will continue to occur with or without being subsidized by the LCFS program. Stated differently, these are emission reductions that “otherwise would

occur.”⁸ Thus, certification of this pathway with this proposed CI value would openly violate section 38562 by crediting nonadditional reductions.”

The goal of the Low Carbon Fuel Standard (LCFS) program is to incentivize efforts to reduce greenhouse gas emissions. 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 this digester 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. Lone Oak Farms #2 is not a sustainable family farm— it is a large industrial operation that confines 7,000 cows.⁹ CARB should not allow this factory farm—or the applicant—to profit from the LCFS.”

Lone Oak Farms #2 employs industry best practices to effectively manage the dairy operation, ensuring adherence to sustainability principles while complying with all applicable laws regarding the prevention of pollution and other environmental regulations. It is indeed owned and operated by a family, and the comment that it is a “factory farm” is simply an aspersion with no relevance to ownership, environmental practices, or greenhouse gas reductions.

“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.

Lone Oak Farms #2 submitted all the necessary information and supporting documents according to sections 95488.7 and 95488.8 of the LCFS Regulation to

obtain certification for the Tier 2 Fuel Pathway application. The application and accompanying documentation underwent a comprehensive review by both CARB and a verified third-party entity. The third-party verifier is selected and approved before their involvement in the process. The fuel pathway application, along with all the required supporting documentation, was thoroughly examined, reviewed, and approved by both CARB and the third-party verifier.

“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 facility is located in Fresno County, which has significantly higher Latino/a/e/ population than California (approximately 55% compared to approximately 40%) according to US Census Data. Additionally, Fresno County has a significantly higher poverty rate than California as a whole, and its residents have lower incomes compared to others in the state.

The community that this facility occupies already faces substantial and disproportionate pollution burden, including extreme and disproportionate impacts from ozone, PM 2.5, drinking water contamination, and groundwater contamination, 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, 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, Fresno County already has one of the highest asthma-related emergency room visit rates for children in the state. This application is particularly pernicious, as the applicant intends to truck the gas more than seventy miles from Fresno to Pixley, California—a preposterous plan that will further degrade the already dangerously poor air quality in this region.

The certification of this pathway 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. 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)).”

The project does not add cows to the dairy, since the dairy is a previously existing, permitted operation. The project reduces emissions at the dairy, improving the emissions profile of the dairy. If there are any impacts to the local communities, they are positive impacts in emissions reductions, as well as economic benefits. Any potential negative impacts from the project have been thoroughly analyzed by both the LCFS process and the various jurisdictional regulatory agencies.

Lone Oak Farms #2 submitted all the required information and supporting documents as outlined in sections 95488.7 and 95488.8 of the LCFS Regulation to obtain certification for the Tier 2 Fuel Pathway application from CARB. The third-party verifier is required to conduct a thorough review of Lone Oak Farms #2. The verifier undergoes a vetting process before their involvement is finalized. CARB and the third-party verifier thoroughly reviewed and approved the complete and unredacted fuel pathway application. They carefully examined all the necessary supporting documentation. In addition, the fuel pathway applicant provided permits for the digester and upgrading facility issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD), which were verified by both CARB and the third-party verifier. It is important to note that since the startup of operations, the dairies and the upgrading facility have not received any citations for non-compliance with regulations or permit requirements from the SJVAPCD.

The comment warns of impacts from combustion of biogas to generated electricity, but all biogas from this project will be upgraded into RNG for delivery into the natural gas pipelines. Lone Oak Farms #2 has no capacity to combust any raw biogas or RNG onsite to make electricity, nor does the requested LCFS pathway certify any such usage, and so the comments made regarding those emissions do not apply to this project. All biogas is transported via truck for injection into a common carrier pipeline. To mitigate the associated risks of trucking, we strictly adhere to industry best practice safety standards, ensuring a comprehensive approach to minimize potential hazards and prioritize the well-being of our workers and the surrounding community. All greenhouse gas emissions created by the

trucking of biogas have been accounted for in the project's lifecycle carbon assessment.

“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 (including as a result of trucking the factory farm gas from Fresno to Pixley, California) 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 statement is directed towards CARB and does not pertain to the fuel pathway application. The dairy digester and upgrading facility on Lone Oak Farms #2 do not contribute to any environmental injustice towards nearby communities or California residents. On the contrary, the installation of the manure digester and upgrading facility has had a positive impact on the surrounding communities and ecosystems including the reduction in emissions from the dairy farm and the resulting economic advantages of the digester operations.

Sincerely,



Daryl Maas
CEO
Maas Energy Works, LLC