

March 13, 2024

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

Re: Tier 2 Pathway Application No. B0515; Response to comments received from Claude Duss, as well as Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, Center for Food Safety, and Food & Water Watch.

Calgren Dairy Fuels, LLC (C1007) on behalf of Channel Islands Dairy (F00439) (“Pathway Applicant”) is responding within the scope of the Low Carbon Fuel Standard (“LCFS”) Program §95488.7(d)(5)(A) to comments submitted by Claude Duss, as well as comments attributed to the Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, Center for Food Safety, and Food & Water Watch, submitted by Animal Legal Defense Fund (“ALDF”). The above referenced parties are separately and collectively referred to throughout the document as “Commenter(s)” in the sections of the document related to their respective comments. The comments were submitted before the public deadline of March 12, 2024, in reference to Tier 2 Pathway Application B0515.

In accordance with §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 are not related to factual or methodological errors and instead provide either suggestions for RNG use or provide suggestions for adding pathway approval requirements. Nonetheless, the Pathway Applicant will address the Commenter’s statements below. We believe no revisions to this pending application are needed following sufficient review and approval of our response by the California Air Resource Board.

Commenter, Claude Duss – Transformation on site vs. Truck Transport

“The idea to use biomass from dairy manures has merits, but it should be transformed on site and for example electricity produced rather than polluting more with truck transport. Micro turbine would generate electricity fed to the grid, hence reducing impact on the environment and overall cost.”

Response: The original digester at Channel Islands Dairy processed RNG into electricity via turbine and participated in the Cap-and-Trade Offset Program during the periods of January 2015 through December 2018, as mentioned in the Life-Cycle Carbon Intensity Analysis Report (“LCA”.) The choice to revamp the digester system, which became fully operational in January of 2021, was made considering a variety of factors, including participation in the LCFS program. A goal of the LCFS program is to incentivize efforts to reduce greenhouse gas emissions. The expenses for revamping the digester and 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 may not have developed this digester and captured these emissions. Nonetheless, we acknowledge

that other end uses of produced RNG onsite, or even offsite, may have merits for projects depending on the scope and goals of the project.

Commenter, ALDF - LCFS System Boundary

“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farm—Channel Islands Dairy in Corcoran, California, which confines 16,300 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 . . . Yet, CARB and the pathway applicant ignore these and other emissions. In other words, this application dramatically undercounts the greenhouse gas emissions associated with this fuel by failing to apply the required “well-to-wheel” analysis. . .”

Response: The LCA, which applies the required “well-to-wheel” analysis, was performed and the Carbon Intensity of this project was determined using a modified version of the Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Dairy and Swine Manure (DSM Calculator). The calculator has been approved by CARB and, as noted in the Staff Summary, “has been determined to be equivalent to CA-GREET3.0 pursuant to § 95488.7(a)(1) of the LCFS regulation”. The CA-GREET3.0 model considers all emissions within the system boundary, including the emissions from storage and disposal of digestate. CARB approved the project boundary and model, and a third-party verifier verified the accuracy of the inputs in the model. The third-party verifier also conducted site visits of the project and injection facility to confirm the accuracy of the modified model and calculator to ensure regulatory compliance under the LCFS program. The emissions captured, purified, and utilized/sold as vehicle fuel are eligible for certified pathway approval and the generation of LCFS credits under the rules and regulations of the LCFS program.

Commenter, ALDF - Health and Safety Code / Crediting Non-additional Reductions

“Second, CARB has failed to ensure that the additional requirements of Health and Safety Code section 38562 are met. 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 2013, and was upgraded in 2021, without taking advantage of the LCFS.⁶ Further, this project participates in the federal RFS program and has participated in California’s Cap-and-Trade Offset 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.”

Response: According to CARB’s response to a 2022 rulemaking petition, the Health and Safety Code § 38562 does not apply to LCFS as it was “not developed based upon that section’s authority and is not bound by its requirements.”¹

The LCFS program has incentivized the development of numerous GHG reducing projects, Channel Islands included. As mentioned in the lifecycle analysis, while the dairy operations at the Channel Island location previously had a digester that participated in California’s Cap-and-Trade Offset Program, that participation ended in December 2018 and that digester was nonoperational from that time forward and methane was emitted to the atmosphere. The digester was fully revamped in 2021 and began capturing methane emissions becoming an eligible pathway under the LCFS program. The project promptly applied for an LCFS pathway, and has operated post-revamp under the

1. <https://ww2.arb.ca.gov/sites/default/files/2022-04/LCFS%20Reconsideration%20Petition%20Response.pdf>

notion of future credit generation under the LCFS program. Without the LCFS program the project would have likely not been developed.

Commenter ALDF - Incentivization of Methane Production

“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. Channel Islands Dairy is not a sustainable family farm—it is a large industrial operation that confines 16,300 cows.⁹ CARB should not allow this factory farm—or the applicant—to profit from the LCFS.”

Response: 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, the pathway applicant 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.

The Commenters speculate that the LCFS program incentivizes expansion and consolidation of dairies but fail to recognize that dairy industry consolidation is a trend that has been occurring for decades, not only in California, but all over the country. Additionally, the project is a separate entity than the dairy operation. The dairy’s main source of revenue is from the production and sale of milk to be processed into consumer grade dairy products, where herds are managed based on product demands, not gas production. Methane and other gases are biproducts of this process. 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 otherwise be cost-prohibitive without the program’s incentive. The incentives thus support protecting the environment.

Commenter ALDF - Redaction and Clarity

“Fourth, this application is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it.¹⁰ The lifecycle analysis redacts information critical to understanding the CI calculation.”

Response: The pathway applicant has provided all required information and documentation applicable to the public review. Calgren Dairy Fuels, LLC has followed the “LCFS Guidance 20-05” and its examples of ‘Over-redacted’ and ‘More reasonably redacted’ examples for reference. Any information redacted is considered confidential business information and is permitted under sections 95488.7 and 95488.8. The fuel pathway application, along with the required supporting documentation, was thoroughly examined and reviewed by both CARB and the third-party verifier.

Commenter ALDF - Discriminatory Impact

“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 Kings County, which has a significantly higher Latino/a/e/ population than California (approximately 57% compared to approximately 40%) according to US Census Data.¹¹ Additionally,

Kings County has a significantly higher poverty rate than California as a whole, and its residents have lower incomes compared to others in the state.¹²

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,¹³ all of which are caused and exacerbated by dairy operations. According to a study by UC Davis, Kings County already has a significantly higher rate of asthma-related emergency room visits for children than the state average.¹⁴

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 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."

Response: 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, the pathway applicant 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. The fuel pathway applicant provided permits for the digester and upgrading facility, as well as the dairy operations, issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD), which were reviewed by both CARB and the third-party verifier.

The project does not add cattle to the dairy. The dairy is a pre-existing and permitted operation. The project seeks to reduce the dairy's emissions profile and improve the impact of methane emissions on the local communities and population and introduce economic and various other benefits.

Commenter ALDF - Carbon Intensity Values

"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 (including trucking factory farm gas 20 miles from Corcoran to the pipeline interconnection facility in Pixley)¹⁵ 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.^{16"}

Response: The above comment is addressed to CARB and does not fall within the scope of the fuel pathway application. Nonetheless, the pathway applicant offers comments as follows.

The digester system, as well as the upgrading facility, do not contribute to environmental injustice within the surrounding community nor to the residents of California. The Channel Islands Dairy was legally operating without an operational digester prior to the revamping and commissioning of the current project. Placing this digester and upgrading facility into service has served as a means to reduce overall emissions, thereby having a positive impact

on air quality and the surrounding environments, populations, and ecosystems. Truck transportation of the RNG to the injection site is a consideration, the emissions of which, have been fully provided for within the LCA well-to-wheel analysis and the resulting CI score.

Calgren Dairy Fuels has always been in full support of moving toward new methods of sustainable energy and the transition away from excessive use of fossil fuels. The project at Channel Islands Dairy is a testament to and promotion of new methods of creating clean, renewable, and high-quality gas to be used in vehicle transport. We continue to support CARB for their efforts toward making a sustainable future an achievable reality and continue to support and invite criticism that will refine the rules and regulations of a constantly expanding industry.

Respectfully,

A handwritten signature in blue ink, appearing to read "Travis C. Lane".

Travis C. Lane
Chief Executive Officer