



September 23, 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. B0543; Response to comments received from Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch.

Calgren Dairy Fuels, LLC (C1007) ("Pathway Applicant") is responding within the scope of the Low Carbon Fuel Standard ("LCFS") Program §95488.7(d)(5)(A) to comments submitted by Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch. The above referenced parties are separately and collectively referred to throughout the document as "Commenter(s)". The comments were submitted before the public deadline of September 20, 2024, in reference to Tier 2 Pathway Application B0543 for the following project locations: Vintage Dairy (F00493), Hettinga Farms (F00495), V2 Cattle (F00500), Williams Family Dairy (F00501), JR Dairy (F00535) and Mario Simoes Family Dairy (F00578) (singularly "Project" and collectively "Projects".)

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 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.

#### **LCFS System Boundary**

***"First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farm—Vintage Dairy in Pixley, California, which confines 6,900 cows, Hettinga Farms in Tipton, California, which confines 6,900 cows, Avenue 128 Dairy in Tipton, California, which confines 5,300 cows, V2 Cattle in Tipton, California, which confines 2,470 cows, Williams Family Dairy Pixley, California, which confines 14,750 cows, JR Dairy in Tipton, California, which confines 6,300 cows, Mario Simoes Family Dairy in Tipton, California, which confines 4,600 cows, and Joe M. Simoes Family Dairy in Tipton, California, which confines 2,700 cows; 49,920 cows in total<sup>1</sup>—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 these projects were 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 each of the Projects’ boundary and model, and a third-party verifier verified the accuracy of the inputs in the model for each of the Projects. The third-party verifier also conducted site visits of the Projects 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.

#### **Health and Safety Code / Crediting Non-additional Reductions**

***“Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met.<sup>6</sup> 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 were installed between 2021 and 2022, without taking advantage of the LCFS.<sup>7</sup> Further, all eight dairies have participated in the federal RFS program.<sup>8</sup> 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.”<sup>9</sup> 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.”<sup>1</sup>

The LCFS program has incentivized the development of numerous GHG reducing projects, the Projects included. As mentioned in the lifecycle analysis, the Projects’ digesters began capturing methane emissions between 2021 and 2022, becoming an eligible pathway under the LCFS program. The Projects promptly applied for an LCFS pathway and have continuously operated under the notion of future credit generation under the LCFS program. Without the LCFS program the project would have likely not been developed.

#### **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. The eight dairies are not sustainable family farms—they are large industrial operations that confine between 2,470 and 14,750 cows each, with an average size of 6,240 cows.<sup>10</sup> 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

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

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, each Project is a separate entity than the dairy operation. Each 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.

#### **Redaction and Clarity**

***“Fourth, this application is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it.<sup>11</sup> 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 considered confidential business information is redacted as specified 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.

#### **Carbon Intensity Values**

***“Fifth, 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.<sup>12</sup>”***

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 digester systems, as well as the upgrading facility, do not contribute to environmental injustice within the surrounding community nor to the residents of California. All of the Project dairies were legally operating without an operational digester prior to the commissioning of the current project digesters. Placing these digesters 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.

### **Discriminatory Impact**

***“Finally, 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 Tulare County, which has a significantly higher Latino/a/e/ population than California (approximately 67% compared to approximately 40%) according to US Census Data.<sup>13</sup> Additionally, Tulare County has a significantly higher poverty rate than California as a whole, and its residents have lower incomes compared to others in the state.<sup>14</sup>***

***The unincorporated disadvantaged community that this facility occupies, Pixley, already faces a substantial and disproportionate pollution burden, including extreme and disproportionate impacts from ozone, PM 2.5, drinking water contamination, and groundwater contamination,<sup>15</sup> all of which are caused and exacerbated by dairy operations. According to a study by UC Davis, Tulare County already has one of the highest asthma-related emergency room visit rates for children in the state.<sup>16</sup> Pixley residents are surrounded by over 25 dairies, yet the County does not have mitigation measures to keep manure from seeping into their groundwater or to prevent spillage and runoff of manure. According to CalEnviroScreen, Tipton and Pixley rank in the 92nd and 96th percentile of the overall pollution burden, respectively. Residents of Pixley report continuous odors of ammonia and issues with flies that are a result of heavy air pollution formulated by a mixture of agriculture, dairies, transportation, and industrial land use around them.***

***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)).”***

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 digesters, 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 Projects do not add cattle to the dairies. The dairies are pre-existing and permitted operations. The Projects seek to reduce each dairy’s emissions profile and improve the impact of methane emissions on the local communities and population and introduce economic and various other benefits.

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 Projects are 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 black ink, appearing to read "Travis C. Lane". The signature is fluid and cursive, with the first name being the most prominent.

Travis C. Lane  
Chief Executive Officer