



MAAS
ENERGY WORKS

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June 18, 2024

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. B0547; Response to Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air (Defensores), Animal Legal Defense Fund, and Food & Water Watch (collectively, "Commenters").

Dear Chair Randolph:

Maas Energy Works, LLC on behalf of Oak Valley Energy, LLC ("Pathway Applicant") is responding within the scope of the Low Carbon Fuel Standard ("LCFS") program §95488.7(d)(5)(A) to the commenters, Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air (Defensores), Animal Legal Defense Fund, and Food & Water Watch (collectively, "Commenters"), in a letter submitted June 13, 2024, regarding the Tier 2 Pathway Application (B0547) (the "Application").

Regulation §95488.7(d)(5)(A) states, "Only comments pertaining to potential factual or methodological errors will require responses from the fuel pathway applicant," We have carefully reviewed the public comments received on the Application and have determined that they do not pertain to factual or methodological errors.

However, the Pathway Applicant will respond to the remarks made by the Commenter below. Furthermore, we believe that after the California Air Resource Board ("CARB") has sufficiently reviewed our response, there is no need to make any changes to our pending application.

“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farms—Oak Valley Dairies in Burley, Idaho, which confine a combined herd of 14,500 head for purposes of this application—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 approved CA-GREET3.0 model, which considers all emissions within the specified system boundaries based on current LCFS regulations—including emissions from digestate storage and disposal—was used to calculate the project's Carbon Intensity (CI) score. The accuracy of the project boundaries, the CA-GREET3.0 model, and all inputs have been reviewed by CARB and verified by an independent verifier. These factors were used to determine the project's CI score. The third-party validator also visited the location to confirm that all emissions were reported in accordance with LCFS guidelines.

In accordance 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 transportation of methane for use as vehicle fuel, a life cycle analysis was carried out to determine the project's CI score. The baseline showed pre-existing emissions from manure operations, a common dairy farm reality. Since these dairy emissions existed before the initiative, they were not produced by or on behalf of the project. Dairy manure was effectively redirected from lagoons to an anaerobic digester because of the initiative, where methane is extracted, cleaned, and used as fuel for vehicles. In accordance with the LCFS program's regulations, this process produces credits by reducing methane emissions.

“Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 or that the terms of Operating Condition 3 are met.¹⁰ It appears that CARB has no idea if these are

emission reductions that “otherwise would occur”¹¹ or whether Oak Valley Dairy, Oak Valley Energy, LLC or other another entity is claiming these environmental attributes elsewhere for “any other purpose” such as utility/consumer promotional programs in Idaho, other state low carbon fuels programs, product marketing, et cetera. Thus, CARB is potentially allowing this applicant to generate illegitimate LCFS credits. CARB cannot certify this pathway without making this assessment.”

Section 95488.8(i)(2) of the Low Carbon Fuel Standard (LCFS) regulation includes measures to prevent double claiming of credits as the LCFS program has been designed to incentivize greenhouse gas emission reduction efforts and does not allow applicants to create credits or market the same reductions in other programs. On the other hand, the equipment for dairy manure methane capture and purification comes with significant costs associated with its installation, operation, and upkeep. The owners of the project would not have constructed these digesters or captured these emissions if it weren't for the financial incentives that were made available through the LCFS program to cover these costs. The digesters were built and are operated for the purpose of reducing emissions and participating in the LCFS program.

“Third, this application is a good example of how CARB’s flawed approach is rewarding the biggest factory farms and incentivizing further expansion and herd consolidation, which does more climate harm than good. Oak Valley Dairy is not a sustainable family farm—it is a very large industrial operation that confines 14,500 head or more.¹² CARB should not allow this factory farm—or the applicant—to profit from the LCFS for intentionally operating an intensely polluting facility.”

The above comment is addressed to CARB and does not fall under the application of the fuel pathway. Oak Valley Energy, LLC submitted all the information and supporting documentation required to certify the Tier 2 fuel pathway application to CARB and an approved third-party verifier in accordance with sections 95488.7 and 95488.8 of the LCFS Regulation. It is essential to keep in mind that the production of

milk and other dairy products are Oak Valley 1 & 4 and Oak Valley 5's primary business, and the methane associated with dairy manure is a by-product. The LCFS program gives these milk-producing businesses specific incentives to reduce greenhouse gas emissions. These incentives offset the significant costs of putting in, running, and maintaining the technical equipment required to capture and purify methane. Therefore, the incentives provided by the LCFS program enable the capture of waste-derived emissions, which would be prohibitively expensive without the program's assistance. Environmental protection relies heavily on these incentives.

Both dairies engaged with the application are family-owned and, without incentives from the LCFS program, would not be able to implement and operate the methane capturing and processing equipment on these farms. The pathway applicant believes that the LCFS program's incentives to assist these family-owned dairy farms in becoming more environmentally friendly businesses should be to the benefit of the communities in which they operate.

“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.”

In accordance with sections 95488.7 and 95488.8 of the LCFS Regulation, Oak Valley Energy, LLC supplied all the information and supporting documentation necessary to certify the Tier 2 Fuel Pathway application. CARB has reviewed, and the third-party verifier has verified the complete and unredacted fuel pathway application and all the necessary supporting documentation.

“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 goes beyond the scope of the fuel pathway application because it is addressed to CARB rather than the applicant and also claims local impacts on Californian citizens. The farm's dairy digester and upgrading facility are located in Idaho and do not contribute to environmental injustice affecting Californians or nearby communities. On the other hand, the applicant asserts that the manure digester's installation and the upgrading facility have positively impacted the communities and ecosystems surrounding it by reducing emissions from dairy farms and generating economic benefits from digester operations.

Sincerely,

A handwritten signature in cursive script that reads "Daryl Maas".

Daryl Maas

CEO

Maas Energy Works, LLC