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September 24, 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. B0615; 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 FC Jerseys 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 September 20, 2024, regarding the Tier 2 Pathway Application (B0615) (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," Upon conducting a comprehensive review of the public comments received on the Application, we have determined that they do not pertain to any factual or methodological errors.

However, the Pathway Applicant will provide a formal response to the remarks raised 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 modifications to our pending application.

“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farms—FC Jerseys Dairy in Dalhart, Texas , that confines a total of 4,500 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 calculation of the project's Carbon Intensity (CI) score was conducted using the approved CA-GREET3.0 model, which accounts for all emissions within the system boundaries outlined by current LCFS regulations. This includes emissions related to digestate storage and disposal. The accuracy of the system boundaries, inputs, and the CA-GREET3.0 model have been thoroughly reviewed by CARB and verified by an independent third-party validator. Furthermore, a site visit was conducted by the third-party validator to ensure all emissions and materials were properly reported in line with LCFS requirements.

Additionally, in accordance with the 2014 California Livestock Offset Compliance Protocol, which sets a baseline that includes emissions from dairy operations, a life cycle analysis was performed. This analysis evaluated emissions from the capture, processing, and transportation of methane to be used as vehicle fuel. The baseline accounted for pre-existing emissions from manure management activities, which are standard practice on dairy farms. Since these emissions existed independently of the project, they were not created by or attributable to it. As a result of this initiative, manure was diverted from lagoons to an anaerobic digester, where methane is captured, processed, and used as renewable fuel. Under LCFS program regulations, this process generates credits by mitigating methane emissions.

“Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 or the terms of Operating Condition 3 are met. It appears that CARB has no idea if these are emission reductions that “otherwise would occur” or whether FC Jerseys Dairy, FC Jerseys Energy, LLC, or other another entity is claiming these environmental attributes elsewhere for “any other purpose” such as utility/consumer

promotional programs in Texas, 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 contains specific provisions to prevent the double claiming of credits, ensuring that reductions incentivized by the LCFS cannot be counted or marketed under other programs. The LCFS program has established rigorous requirements for reporting, and third-party verification, and it prohibits applicants from generating credits or claiming the same emission reductions in other programs.

It is crucial to recognize that the establishment, operation, and upkeep of dairy manure methane capture and purification systems require significant financial resources. Absent the financial incentives offered through the LCFS program, the project owners may not have undertaken the development of these digesters or engaged in the capture of these emissions. The primary aim of these digesters is to achieve emissions reduction environmental goals while ensuring compliance with the LCFS program's regulatory framework.

“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. FC Jerseys Dairy is not a sustainable family farm—it is a large industrial operation that confines 4,500 cows. 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 directed at CARB’s policy and does not pertain directly to the specifics of this fuel pathway application. FC Jerseys Energy, LLC has fully complied with the requirements for certifying the Tier 2 fuel pathway by submitting all necessary information and supporting documentation to CARB and an approved third-party verifier, as outlined in sections 95488.7 and 95488.8 of the LCFS Regulation.

The commenter claims that the LCFS program incentivizes the expansion of dairy farms, but this ignores the long-standing trend of dairy industry consolidation, which has been driven by market demands for dairy products

over several decades, not limited to California. Moreover, each project operates independently from the dairy business itself. The primary revenue for dairies comes from milk production, which is processed into consumer dairy products. Herd sizes are determined by market demands for milk and dairy products, not by the potential for biogas production.

It is important to note that FC Jerseys Farm's primary business is the production of milk and other dairy products, with methane from dairy manure being a natural by-product of these operations. The LCFS program provides targeted incentives to reduce greenhouse gas emissions from such by-products. These incentives help offset the substantial costs associated with installing, operating, and maintaining the equipment needed to capture and purify methane emissions. Without this financial support, the capture and mitigation of these emissions would be economically unfeasible.

“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 compliance with sections 95488.7 and 95488.8 of the LCFS Regulation, FC Jerseys Energy, LLC has provided all the required information and supporting documentation needed for the certification of the Tier 2 Fuel Pathway application. CARB has conducted a thorough review, and a third-party verifier has independently assessed and verified the complete, unredacted fuel pathway application and all associated documentation.

All relevant data has been made available to CARB and the third-party verifier to ensure a transparent and rigorous evaluation of the CI calculation. Furthermore, FC Jerseys Energy, LLC adheres strictly to all LCFS regulatory requirements, including accurate reporting and tracking of emissions data. We implement robust monitoring systems to ensure compliance and transparency throughout the lifecycle of the project.

“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.”

This comment is beyond the scope of the fuel pathway application, as it is addressed to CARB rather than the applicant. The project’s CI values are derived from an accurate and transparent life cycle analysis and calculated using the approved CA-GREET3.0 model. Additionally, the concerns regarding negative impacts on surrounding residents are not applicable.

The installation and operation of the manure digester and upgrading facility have yielded significant positive outcomes for local communities. These benefits include a reduction in greenhouse gas emissions from dairy operations, which contributes to improved air quality and public health. Additionally, the economic advantages generated from the digester operations, such as job creation and local investment, further enhance the community's well-being.

By capturing and mitigating methane emissions, this project aligns with California's broader climate goals and demonstrates a commitment to responsible environmental stewardship. The positive impact of the project on emissions reduction and community welfare underscores its alignment with the objectives of the LCFS program.

Sincerely,



Daryl Maas

CEO

Maas Energy Works, LLC