



MAAS
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December 9, 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. B0678; Response to Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch (collectively, "Commenters").

Dear Chair Randolph:

Maas Energy Works, LLC on behalf of Merced Pipeline, 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 November 18, 2024, regarding the Tier 2 Pathway Application (B0678) (the "Application").

Regulation §95488.7(d)(5)(A) states, "Only comments related to potential factual or methodological errors will require responses from the fuel pathway applicant." We have conducted a careful review of the public comments submitted regarding the Application and have determined that none pertain to factual or methodological errors.

However, the Pathway Applicant will address the remarks made by the commenter below. Furthermore, we are confident that, following a thorough review of our response by the California Air Resources Board (CARB), there will be no need to amend our pending application.

“First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farms in Merced, California—Meirinho Holsteins Dairy, which confines 7,350 cows, and Homen Dairy, which confines 5,000 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 calculated using the CA-GREET3.0 model, which complies with current LCFS regulations and includes all relevant emissions, such as those from digestate storage and disposal. The California Air Resources Board (CARB) reviewed the application, and the application was verified by an independent third-party validator. A site visit further confirmed adherence to LCFS requirements.

Additionally, following the 2014 California Livestock Offset Compliance Protocol, a comprehensive life cycle analysis was performed to evaluate emissions from the capture, processing, and transportation of methane as vehicle fuel. This analysis accounted for pre-existing emissions from standard manure management practices, which are not attributable to the project. By diverting manure from lagoons to anaerobic digesters, this initiative captures methane for conversion into renewable fuel, effectively reducing emissions and generating environmental credit under LCFS regulations, thereby promoting sustainable dairy practices.

Meirinho Holstein Dairy and Homen Dairy's primary focus remains on milk and dairy production, with methane from manure being a by-product. The LCFS program offers critical incentives for dairy producers to invest in technologies that effectively reduce greenhouse gas emissions, significantly mitigating the costs of implementing and maintaining methane capture systems. The financial support from the LCFS program has been vital in enabling Meirinho Holsteins Dairy and Homen Dairy to adopt sustainable practices.

“Second, CARB has failed to ensure that the additionality 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 applicants acknowledge that the digesters were installed between 2021 and 2023. These digesters were funded by the Dairy Digester Research and Development Program, and this project also participates in the federal RFS program. As we explained in both of our petitions, both CARB and the California Department of Food and Agriculture (CDFA) have already claimed the purported methane emission reductions from these digesters. In addition, the pipeline infrastructure upon which this project relies was funded by the California Public Utility Commission (CPUC). Thus, the CPUC and investor-owned utilities associated with the investments have also claimed the purported methane emission reductions. These purported methane emission reductions would have occurred without the LCFS and are not additional. Certification of these pathways with this proposed CI value would openly violate § 38562 by crediting nonadditional reductions.”

Section 95488.8(i)(2) of the Low Carbon Fuel Standard (LCFS) regulations contains provisions to prevent the double claiming of credits, ensuring that the program effectively incentivizes greenhouse gas emissions reductions without allowing applicants to simultaneously create credits or market the same reductions in alternative 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.

Furthermore, as part of the verification process the operational CI, and the reported fuel volume are verified by an independent third-party validator. The operational integrity of the project is regularly monitored to ensure compliance with all applicable regulations, thus safeguarding against any illegitimate credit generation. The pathway certification process includes thorough evaluations by

CARB, ensuring that all emissions reductions are legitimate and contribute positively to California's environmental goals.

“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. These source factory farms are not sustainable family farms—they are large industrial operations that confine a total of 12,350 cows. CARB should not allow these factory farms—or the applicants—to profit from the LCFS.”

This comment addresses regulatory concerns related to CARB rather than the specifics of the fuel pathway application. Merced Pipeline, LLC has submitted all necessary documentation to CARB and an approved third-party verifier in accordance with sections 95488.7 and 95488.8 of the LCFS Regulation.

A complete life-cycle analysis was performed for this pathway. The pre-existing manure management practices and the herd counts were accounted for to evaluate pre-existing emissions. This was reviewed by CARB and verified by independent third-party validator – ensuring its accuracy. The commenters also suggest that the LCFS program promotes the expansion and consolidation of dairies, but they do not recognize that this has been a nationwide trend for decades.

As mentioned above, Meirinho Holsteins Dairy and Homen Dairy primarily focuses on milk and dairy production, with methane being a byproduct. The LCFS program provides essential incentives, helping offset the costs of methane capture systems. This financial support has enabled Meirinho Holsteins Dairy and Homen Dairy to adopt more sustainable practices and reduce greenhouse gas emissions.

By participating in the LCFS program, Meirinho Holsteins Dairy and Homen Dairy not only contributes to substantial emissions reductions but also exemplifies how farm operations can effectively balance productivity with environmental responsibility. The farm’s participation in this program is in line with the program’s goal of promoting sustainability in the agricultural sector and achieving meaningful 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.”

In alignment with sections 95488.7 and 95488.8 of the LCFS Regulation, Merced Pipeline, LLC has provided comprehensive information and supporting documentation required for the certification of the Tier 2 Fuel Pathway application. CARB reviewed the complete and unredacted application and the application was verified by an independent third-party validator, ensuring transparency and adherence to regulatory standards.

Furthermore, the lifecycle analysis was conducted following established methodologies, and all pertinent data has been made available on the CARB website to ensure the public can assess the Carbon Intensity (CI) calculation and related supporting materials. We are committed to transparency and are open to addressing any specific questions or concerns raised by commenters to enhance understanding of our application.

“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.”

“Finally, the certification of these pathways 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. Both of source factory farms are located in Merced County, which has significantly higher Latinolalel population than California (63.2% versus 40.3%) according to US Census Data. Additionally, Merced County has a higher poverty rate than California as a whole, and its residents have lower incomes compared to others in the state.”

These comments appear to extend beyond the relevant scope of the fuel pathway application, primarily commenting on CARB rather than focusing on the applicant's actions. Methane capture technology not only reduces harmful emissions but also contributes positively to the surrounding community and environment where the facility is based by preventing methane from escaping into the atmosphere.

Moreover, the implementation of the manure digester and upgrading facility has yielded significant benefits for the local community. By capturing and processing methane emissions, these operations contribute to lower overall greenhouse gas emissions, enhancing air quality and public health in the surrounding area. Furthermore, the project supports local economic development and promotes sustainable agricultural practices. By capturing methane emissions from dairy manure, this project plays a crucial role in reducing the overall carbon footprint of the transportation sector, contributing to statewide greenhouse gas reduction efforts.

Sincerely,



Mark Vincelli
EC Manager
Maas Energy Works, LLC