

Feb 21, 2025

Submitted via ca.gov

Liane M. Randolph, Chair  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: Tier 2 Pathway Application No. B0681

Dear Chair Randolph,

Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Food and Water Watch, and Animal Legal Defense Fund (collectively, “Commenters”) write in opposition to Anew RNG, LLC’s Tier 2 pathway application. As Commenters have explained through numerous comments, the Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program (included and incorporated here as Exhibit A), and the Petition for Reconsideration (included and incorporated here as Exhibit B), the California Air Resources Board’s (“CARB”) treatment of factory farm gas under the Low Carbon Fuel Standard (“LCFS”) is flawed, and staff’s assessment of this application is no different. CARB cannot certify this application—especially now that it has directed the Executive Officer in Resolution 24-14 to “prepare a plan for initiating, developing, proposing, and implementing a livestock methane regulation[.]”<sup>1</sup>

Commenters oppose this application for several reasons. First, the application incorporates an unlawfully truncated system boundary that ignores feedstock production at the source factory farms in Perryton Farm in Texas—which spans three square miles and confines **176,500 pigs**<sup>2</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. A fuel pathway life cycle analysis must take into account “feedstock production” and “waste generation, treatment and disposal.”<sup>3</sup> In addition to the evidence provided in Exhibits A and B, more recent research indicates that emissions from factory farm gas production are significantly higher than currently appreciated, with especially high emissions from digestate storage.<sup>4</sup> This recent study did not consider additional emissions from digestate handling and application, which is another potentially large source of emissions resulting from factory farm gas production that must be included in the pathway life cycle analysis.<sup>5</sup> Yet, CARB and the pathway applicant ignore these and other

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<sup>1</sup> CARB, PUBLIC HEARING TO CONSIDER PROPOSED LOW CARBON FUEL STANDARD AMENDMENTS, RESOLUTION 24-14 at 7 (Nov. 8, 2024), <https://perma.cc/V4UV-YFW6>.

<sup>2</sup> Application B0681 CARB Staff Summary at 1.

<sup>3</sup> Cal. Code Regs. Tit. 17 §§ 95481(a)(66), 95488.7(a)(2)(B).

<sup>4</sup> Semra Bakkaloglu et al., *Methane Emissions Along Biomethane and Biogas Supply Chains Are Underestimated*, 5 ONE EARTH 724–736 (June 17, 2022), <https://www.sciencedirect.com/science/article/pii/S2590332222002676>.

<sup>5</sup> *Id.* at 728; Michael A. Holly et al., *Greenhouse Gas and Ammonia Emissions from Digested and Separated Dairy Manure During Storage and After Land Application*, 239 AGRIC. ECOSYSTEMS & ENV’T 410, 418 (Feb. 15, 2017), <https://doi.org/10.1016/j.agee.2017.02.007>; Roger Nkoa, *Agricultural Benefits and Environmental Risks of Soil Fertilization with Anaerobic Digestates: a Review*, 34 AGRONOMY FOR SUSTAINABLE DEV. 473 (2014), <https://link.springer.com/article/10.1007/s13593-013-0196-z>; F. Montes et al., *Special Topics — Mitigation of methane and nitrous oxide emissions from animal operations: II. A Review of Manure Management Mitigation Options*, 91 J. OF ANIMAL SCI. 5070 (2013), <https://academic.oup.com/jas/article/91/11/5070/4731316>; Kurt Möller & Walter Stinner,

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.

Concurrently, this application overcounts environmental benefits by ignoring that this is, in one factory farm owner’s words, “*lucrative*” feedstock production.<sup>6</sup> Liquified manure rotting anaerobically in massive waste “lagoons” is not an unavoidable and natural consequence of animal agriculture operations. This system and the methane emissions that it causes are the result of the source factory farms’ intentional management decisions designed to maximize profits and externalize pollution costs. CARB cannot ignore that the emissions the pathway applicant claims as captured from the factory farms’ lagoons are intentionally created in the first place. The manure handling practices at these factory farms is an integrated part of generating and using factory farm gas. Thus, the gas generated is an intentionally produced product and cannot now be claimed as “captured” to secure a lucrative negative CI value.

Second, CARB has failed to ensure that the additionality requirements of Health and Safety Code section 38562 are met.<sup>7</sup> Without an additionality analysis, it is unclear whether these digesters would have been built regardless of the LCFS incentives.

Third, this application is a exemplifies 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 source factory farm is not a sustainable family farm—it is a massive industrial operation that spans three square miles and confines **176,500 pigs**.<sup>8</sup> Seaboard Foods, which owns the Perryton farm, is a vertically integrated corporation that confines over **1.3 million pigs**.<sup>9</sup> CARB should not allow this factory farm—or its applicant—to profit from the LCFS.

Fourth, this application is so opaque that it is impossible for Commenters or other stakeholders to meaningfully evaluate it.<sup>10</sup> For example, the lifecycle analysis redacts information critical to understanding the output of the applicant’s CI calculation.<sup>11</sup>

Fifth, the inflated CI values CARB proposes here impose additional environmental injustices 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

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*Effects of Different Manuring Systems with and without Biogas Digestion on Soil Mineral Nitrogen Content and on Gaseous Nitrogen Losses (Ammonia, Nitrous Oxides)*, EUROPEAN J. OF AGRONOMY (2009), <https://www.sciencedirect.com/science/article/abs/pii/S1161030108000695?via%3Dihub>.

<sup>6</sup> Stacey Smart, *Deer Run Dairy Wins National Sustainability Award*, DAIRY STAR (June 27, 2022), <https://dairystar.com/Content/Home/Home/Article/Deer-Run-Dairy-wins-national-sustainability-award/80/254/18626> (emphasis added) (“Installed in 2011, the digester supplied power to nearly 600 homes. In 2020, the farm converted over to renewable natural gas that is injected into the pipeline, which Duane said is a more lucrative option.”).

<sup>7</sup> See Ex. A, Petition for Rulemaking, section III.A.2; Ex. B, Petition for Reconsideration, section III.A.3.

<sup>8</sup> *Id.* at 1.

<sup>9</sup> *Our Connected System*, SEABOARD FOODS (last visited Feb. 11, 2025) <https://www.seaboardfoods.com/how-we-work/sbf-rng/> [<https://perma.cc/K6V8-E7TN>].

<sup>10</sup> Publicly posted application materials “must provide sufficient information to allow for meaningful stakeholder review.” CAL. AIR RES. BD., LOW CARBON FUEL STANDARD (LCFS) GUIDANCE 20-051 (Apr. 2020), <https://perma.cc/856Y-CVVZ>.

<sup>11</sup> See B0681 Lifecycle Analysis Report, Figure 5 (redacting all individual values for GHG emissions, carbon intensity, and grams of CO<sub>2</sub> equivalent to joules produced for the carbon intensity calculation details).

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>

As this application highlights, CARB's unlawful and unjust administration of the LCFS program is causing environmental and public health harms in California and elsewhere—in this case Texas—by incentivizing and rewarding some of the worst factory farm practices by making them more “*lucrative*.” If California is serious about being a climate leader, this is not the example to set.

Commenters request that CARB deny the application. To do otherwise will violate California law, further destroy the integrity of the LCFS market, undermine the state's climate change mitigation efforts, and harm California communities.

Respectfully,

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<sup>12</sup> See 2020 Mobile Source Strategy at 26–27, <https://perma.cc/4P3H-HG3Z>.