



December 13, 2023

Governor Gavin Newsom  
California State Capitol  
Sacramento, CA 95814

Liane Randolph, Chair  
Members of the Board  
Steven Cliff, Executive Officer  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95814

*Submitted electronically via*

<https://ww2.arb.ca.gov/public-comments/lcfs-fuel-pathways-public-comments>

**Re: Low Carbon Fuel Standard Tier 2 Pathway Application No. B0520  
and PHILLIPS 66 COMPANY (4528); California**

To Responsible Officials:

Our organization Biofuelwatch appreciates the opportunity to submit this brief letter to the California Air Resources Board (CARB) as comment on the Low Carbon Fuel Standard (LCFS) Tier 2 Pathway Application No. B0520 of PHILLIPS 66 COMPANY (Application)<sup>1</sup>. Biofuelwatch<sup>2</sup> is an international organization that works to increase public understanding and civic engagement on the land-use implications of climate policy. We have a particular focus on the environmental harms and social inequities of large-scale industrial bioenergy projects, and we work extensively on addressing the negative ecological and social outcomes of policy and actions that are justified as being beneficial to the global climate, yet carry with them risks and threats to public health and safety, economic stability and natural resources. Our organization has been deeply engaged on what we assess to be the extremely irregular governance of the conversion of refineries in the San Francisco Bay Area to manufacturing liquid biofuels, the Phillips 66 Rodeo Renewed Project (Phillips 66 Project)<sup>3</sup> being one of those controversial refinery conversion projects.

Due to the following reasons CARB should refrain from approving this Application.

---

<sup>1</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520\\_cover.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520_cover.pdf)

<sup>2</sup> <http://www.biofuelwatch.org.uk/>

<sup>3</sup> <https://www.contracosta.ca.gov/RodeoRenewed>

***The Phillips 66 Project Is Apparently Operating in Violation of a Court Order and The Phillips 66 Project Must Complete Environmental Review Before Being Eligible for LCFS Credits***

CARB officials must be well aware that the California Environmental Quality Act (CEQA) review of the Phillips 66 Project was ruled deficient by the Superior Court in Martinez.<sup>4</sup> The Final Environmental Impact Report (FEIR) has been decertified by the Contra Costa County Board of Supervisors. It was only on Friday December 8, 2023, shortly after the publishing of this Application for public comment, that the public comment period on the court ordered Draft Revised Environmental Impact Report (Draft REIR) for the Phillips 66 Project was closed. Many stakeholders and independent experts requested that Contra Costa County (County) authorities extend the public comment period and hold a public meeting on the Draft REIR; despite numerous attempts the requests for the extension of public comment and the public meeting were denied.

Nevertheless, many comments were provided in a timely manner to the County expressing concerns about the Phillips 66 Project, the failings of the Draft REIR, and the ongoing irregular governance issues, not the least of which has been the previous granting of LCFS credits to Phillips 66 despite the environmental review process for the refinery conversion project not being completed, as happened in December of 2021, an incongruity that is at risk of repeating itself at the current time.

Importantly, the Superior Court in Contra Costa County ruled that “Construction” of the Phillips 66 Project could continue while the flaws in the CEQA process are addressed, but that “Operations” of the Phillips 66 Project were to be prohibited until the CEQA process has been satisfactorily completed. CARB runs the risk of violating a court order prohibiting the operation of the Project by approving this Application prior to the completion of the environmental review process.

This situation also begs scrutiny of the most basic fundamentals of environmental governance: in most instances it is assumed that a project would fulfill legal requirements regarding environmental review before a project can begin operations. That has not been the case with the Phillips 66 Project. Not only have operations commenced, a court of law ruled that the environmental review was deficient because of piecemealing and failure to adequately consider cumulative impacts, major issues that reflect fundamental flaws in the CEQA review. Why is CARB continuing a pattern of approving LCFS credits for fuels produced at a refinery conversion project that so clearly has failed to meet the requirements of bedrock environmental law and has not yet finished the environmental review process? These are grave irregularities that expose CARB to tremendous reputational risks and also undermine the confidence that the public has in the regulatory agencies that have a legal mandate to protect the public interest ahead of private profit.

***The Carbon Intensity, Environmental Repercussions and Climate Impacts of the Soy Oil Feedstock from Argentina Specified in the Application Are Grossly Underestimated***

It is unfortunate, in the year 2023 when the imperative of halting global deforestation has become more acute than ever, that such a grossly inadequate fuel pathway Life Cycle Analysis<sup>5</sup> has been submitted with the Application. As well, the assessment of Indirect Land Use Change (ILUC)<sup>6</sup> apparently tries to apply a methodology from the Midwest United States to Argentina, though the quality of the assessment is so

---

<sup>4</sup> <https://www.courthousenews.com/judge-halts-major-bay-area-refinery-project-for-state-environmental-review/>

<sup>5</sup> [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520\\_report.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520_report.pdf)

<sup>6</sup>

[https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520\\_attachment\\_b.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0520_attachment_b.pdf)

poor it is hard to discern exactly how the methodology was applied. This assessment of Indirect Land Use Change fails completely to address the most contemporary science when it comes to calculating ILUC.

The conclusion in the Application materials that deforestation from the expansion of the agriculture frontier is no longer an issue of concern for the soy sector in Argentina flies in the face of common knowledge. Indeed, this facile conclusion is refuted by simple and easy to find studies<sup>7</sup> from the Environment Ministry of the Government of Argentina that make it clear that the expansion of soy agriculture, which is closely related to the cattle industry, remains one of the major drivers of deforestation in the country. The assessments of the feedstock climate impacts as provided in the Application are woefully deficient.

Considering the urgency of the situation, an item that would serve CARB staff and leadership to take into consideration is the recently published report from the European organization Transport and Environment titled “Halt Deforestation-Driving Soy Biofuels Before it is Too Late.”<sup>8</sup>

In this report clear arguments are made that soy must be considered a high-ILUC risk feedstock, and that in order to protect global forests an aggressive phase out of palm and soy-based biofuels is needed immediately. There are many lessons to be learned from the European experience on these matters of global deforestation and biofuels, and CARB staff and leadership need to take measures to update the approach to assessing the climate impacts from high deforestation risk feedstocks like soy.

Much more research and analysis need to be done about the viability and environmental repercussions of granting a special climate value to making liquid biofuels from soy. The available evidence shows that this is not a climate solution. By rushing forward with these credit pathways for making liquid biofuels from commodities like soy CARB is running the risk of seeing California climate policy become a driver of global deforestation.

For these reasons CARB must refrain from approving the Application at this time.

Thank you for your attention to these comments.

Sincerely,



Gary Graham Hughes  
Americas Program Coordinator  
Biofuelwatch  
[garyhughes.bfw@gmail.com](mailto:garyhughes.bfw@gmail.com)  
+1-707-223-5434

---

<sup>7</sup> [https://www.argentina.gob.ar/sites/default/files/desmontes\\_y\\_alternativas-julio27.pdf](https://www.argentina.gob.ar/sites/default/files/desmontes_y_alternativas-julio27.pdf)

<sup>8</sup> <https://www.transportenvironment.org/wp-content/uploads/2023/12/Halt-deforestation-driving-soy-biofuels-before-it-is-too-late.pdf>