



September 24, 2020

California Air Resources Board
 1001 I Street
 Sacramento, CA 95814

Re: Tier 2 Pathway Application: Application No. B0072

To Whom It May Concern,

The undersigned organizations write in opposition to this dairy manure to energy project proposed by Iogen D3 Biofuel Partners II LLC and WOF PNW Threemile Project in Boardman, Oregon. The dairies in the project are Columbia River Dairy and Six Mile Dairy, owned and operated by Threemile Canyon Farms.

We are opposed for the following reasons: (1) information and data included in the application and relied upon for approval is redacted such that an independent review of the proponent's claims and the accuracy of calculations and impacts is impossible, (2) the project will increase and/or sustain air pollution and threats to water quality in the locality and region from these related dairy CAFO's, thus undermining universal climate, environmental justice, and equity goals which are also legislated in California, (3) it appears that the GHG calculations ignore both potential GHG emissions and double count alleged GHG reductions, (4) this project will actually incentivize the production of methane, and contribute to methane leakage from transport and use of gas.

Lack of Available Information and Data Transparency

The applicants and/or the California Air Resources Control Board (CARB) withheld and redacted information regarding dairy operations, energy production, and calculations related to GHG emission reduction such that it is impossible to determine both the air quality and water quality impacts that the project will produce, as well as the energy conversion and energy production rates which, along with information regarding dairy operations, is necessary to assess the veracity of the claimed project benefits and the carbon intensity value. In short, based on our review of the available documents there is no way to comment in any informed way on the proposed project or assess the accuracy and value of the justification presented. Below we have reproduced just one page that is illustrative of the amount and kind of data and information hidden from public review.

VI. GREET Results

Extracted results from Section 4 on the Biogas to RNG tab.

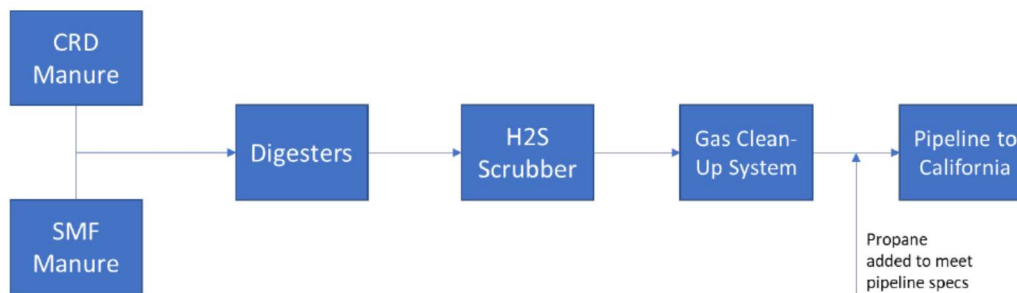
Exhibit 4. Total Carbon Intensity (gCO₂e/MJ) for Dairy Manure RNG Pathway

Process Stage	Carbon Intensity gCO ₂ e/MJ
Raw Biogas Production	██████████
Biogas Upgrading	██████████
Biomethane Transmission	██████████
Compression to CNG	3.50
Tailpipe - CNG	60.73
Methane Avoided Credit	██████████
CO ₂ Diverted Credit	██████████
Conservative Margin of Safety	██
Certified CI	-188.78

The materials available for review also leave out critical information regarding the demand for CNG and fail to take into consideration the availability of other, cleaner sources of energy for transportation fuels (e.g. solar, wind, etc.).

Additionally, CARB withheld the following information, alleging that they contain confidential business information: Attestation Letter, Utilities Invoices, a detailed Facility Process Flow Diagram, and Monthly Data and Calculation for GREET Input Values. Without access to data critical to allow an independent analysis of truly monumental carbon intensity values or environmental and ecological impacts of the proposed project, the application must not be approved. This greatly simplified flow diagram is all that exists and is clearly insufficient for any meaningful analysis of the proposed project:

Figure II-1. Simplified Process Flow Diagram



It is also clear that the simplified flow diagram above shows that the analysis of this project begins with the manure. It is therefore not a life-cycle assessment of this project. How can a life-cycle assessment begin with the existence of manure from two dairies and not look at how this manure came to be and how it was collected including all the alternatives?

It is stated in the Life cycle assessment that the following documents contain confidential business information and are not included:

- a. *Attestation Letter*
- b. *Renewable Fuel Standard (RFS) Third Party Engineering Review Report*
- c. *Supporting Calculations for Herd Count and Manure Fractions Input to Lagoon, Digester, and Effluent Pond*

Without all of this information the public can find out almost nothing about this project in relation to the LCFS even though it is publicly subsidized.

Finally, it is critical that there be up-to-date, accurate, verifiable, and ongoing monitoring of greenhouse gas emissions and air pollution along with water discharges from the subject dairy operations and related digester operations. No application should be approved without agreement from all applicants to participate in ongoing environmental monitoring that is available to the public and relevant agencies.

Environmental Issues with these Dairy CAFO's are Unaddressed

Threemile Canyon operates a huge complex of large dairies. It is generally accepted that these dairy CAFO's contribute to both local and regional environmental problems such as nuisance and local air quality issues plus nutrient runoff that pollutes local groundwater, streams and rivers. Let's look at the local struggle and comments against this corporation especially in regard to their methane production and capture projects designed to satisfy California requirements to reduce GHG emissions so that California fossil fuel companies can continue with business as usual.

Coalition urges DEQ to prevent Tillamook Mega-Dairy Supplier from Piping Methane Out Of State For Cash

April 25, 2019

(SALEM, Oregon) — A coalition of environmental, farming, and consumer groups is opposing a proposed permit from Threemile Canyon Farms mega-dairy. The permit would authorize a manure-to-energy project, greenwashing Threemile Canyon's air-polluting emissions as renewable energy. Threemile Canyon Farms, the industrial mega-dairy that supplies Tillamook, is seeking a permit and tax-exempt bonds to allow it to convert methane from their 70,000 cows into fuel and sell it at a premium as renewable energy.

*"If this permit is approved, Threemile Canyon Farms will be able to build a facility to pipe its manure methane to California, greenwashing the gas produced from its vast quantities of cow manure as a renewable energy source, and selling it at a premium. And the public will pay for it through tax-exempt bonds. If Oregon approves this proposal, it will be a step backwards for our commitment to stop climate change and will further entrench the factory farm system of livestock production. This is not in the public's interest," said **Tarah Heinzen, Senior Staff Attorney for Food & Water Watch**, one of the organizations that commented in opposition to the permit.*

The proposed permit comes just after the Oregon Legislature failed to pass three bills aimed at increasing regulation for industrial mega-dairies. The bills were in response to the environmental and economic disaster at Lost Valley Farms, another Tillamook supplier just miles from Threemile Canyon.

*"Oregon's commitment to the environment and the viability of our family farms is increasingly in question. This year, the Legislature bowed to pressure from industrial mega-dairy lobbyists and left the door open for another environmental catastrophe like the failed 30,000-cow Lost Valley Farm," said **Ivan Maluski, policy director for Friends of Family Farmers**, a sustainable agriculture non-profit that also signed the letter. "We can't support the state agency in charge of protecting our land, air and water approving yet another dubious plan that will line the pockets of the big mega-dairy operators as they put Oregon's family-scale dairy farms out of business."*

Mega-dairy methane digesters and manure-to-gas facilities do not address the many environmental and other problems these facilities cause, are a false solution to climate change, and are contrary to the public interest, the coalition of groups wrote in a public comment letter opposing the permit submitted to the Department of Environmental Quality on April 25.

"The need for bio-gas digesters wouldn't exist if we didn't confine farmed animals in concrete prisons with no access to pasture. It's naive and irresponsible to think that they

are a real, long-term solution. We need true change if we're to address our climate crisis, not a band-aid," said **Erin Eberle, Director of Engagement at Farm Forward**.

Additionally, the farm's general manager indicated the project would pivot the business from a mega-dairy to a fuel producer. "The most valuable product we have out there is natural gas," Threemile Canyon Farms General Manager Marty Meyers told a panel from the State Department of the Treasury last year as he sought permission for tax-exempt state bonds to pay for the project.

"Allowing Threemile to go into the dirty gas business will only lead to more sacrifice of clean air and water in Morrow County and the Gorge. Instead of granting this permit, we demand that the state take action to prevent toxic and environmentally-damaging air emissions from mega-dairies like Threemile Canyon, and to stop the continued pollution of groundwater with dangerous levels of nitrates, a problem only exacerbated by methane digesters and the expansion of mega-dairies in Oregon." **Amy van Saun, Senior Attorney at Center for Food Safety**.

Like other Oregon mega-dairies, Threemile Canyon Farms' air emissions are entirely unregulated, despite contributing to climate change, poor visibility in the Columbia Gorge, and risks to public health. The state's proposed permit would leave the vast majority of this pollution unregulated, paving the way for even greater pollution from the mega-dairy over time.

<https://standuptofactoryfarms.org/2019/12/04/coalition-comments-opposing-wof-pnw-threemile-project/>

Oregon's Largest Dairy Farm Wants to Cash In On Cow Shit. Environmental Groups Are Calling BS.

by Blair Stenvick • Apr 30, 2019 at 5:06 pm

A Tillamook-linked Oregon dairy wants to convert its cow manure to natural gas and ship it to California. Many Oregon environmental groups are taking action to stop the plan, which they say would unfairly reward the mega-dairy—and possibly lead to more pollution for Oregonians.

"We think this is a step in the wrong direction," says Amy van Saun, a senior attorney with the Center for Food Safety.

With 70,000 cows, Threemile Canyon Farms is Oregon's largest dairy farm. Located in Boardman, in the Northeastern corner of the state, Threemile has long caught the ire of environmental advocates for emitting ammonia and greenhouse gases, which experts believe have **caused haze and acid rain in the Columbia River Gorge National Scenic**

Area. Oregon doesn't currently track mega-dairy pollution, but the federal Environmental Protection Agency (EPA) found that Threemile's ammonia emissions were **among the worst in the country** in 2005.

In addition to being one of Tillamook's largest dairy suppliers, Threemile currently operates a **profitable side business** using a device called a "digester" to transform its cow manure to electricity. Now, the mega-dairy wants to take that operation a step further: As **OPB reported last week**, it plans to start using a digester to produce natural gas (instead of electricity), and ship that gas to California using the existing fossil fuel pipeline infrastructure. Under California's cap-and-trade system, in which use of renewable energy is financially incentivized, Threemile's natural gas would be a hot commodity.

"Threemile stands to make the most profit off of it if it can sell it into an existing cap-and-trade system," says Tarah Heinzen, the senior staff attorney at Food & Water Watch. "But this isn't renewable energy. This isn't clean energy."

Food & Water Watch and the Center for Food Safety are two of many Oregon environmental groups working to keep Threemile from selling its natural gas. Heinzen and van Saun say that classifying gas produced at a dairy as "clean energy" is misleading, because it fails to take into account the overall pollution farms like Threemile contribute to the Oregon environment.

Mega-dairies are known to contribute greenhouse gases and other dangerous pollutants like ammonia and hydrogen sulfide into the air. The environmental groups opposing Threemile's plan point to a **recent report** from the American Lung Association that gave Umatilla County—which is downwind from Threemile—an "F" for high ozone days, or days when air pollution is so bad that people are advised to stay inside.

Before it can proceed with its plan, Threemile must obtain an Oregon Title V Permit, which is required for projects that fall under the purview of the federal Clean Air Act. However, the permit would apply only to the environmental implications of the new digester itself— rather than considering the overall impact of Threemile's entire dairy operation.

That means that the day-to-day pollution that happens at the dairy can continue unchanged, and that only the new gas-conversion endeavor will be subject to regulatory scrutiny. The environmental coalition that opposes the plan pointed this out in its **public comment** on the permit application.

"We made an argument that the whole dairy is really the source, and it's illegal for the state to segment off this new construction, and make it the only segment that falls under the Clear Air Act," Heinzen says.

*This perhaps wouldn't be such a major point of contention, Heinzen and van Saun say, if Oregon already had sound regulatory practices when it comes to major commercial dairies. But Oregon currently does little to track and regulate air pollution at its mega-dairies— despite the work of a state task force earlier this decade, and many **failed legislative attempts** to change that status quo.*

“The complete failure of leadership on this issue in Salem has been really discouraging,” van Saun says. “Agribusiness is still extremely powerful in Salem.”

Van Saun and Heinzen worry that if Threemile is granted the permit to ship its gas to California, it will expand its operations in order to create more gas—in effect, it would be “using the animals as gas-producing machines,” Heinzen says. The permit Threemile is applying for would allow the dairy farm to grow to about 90,000 cows, meaning air pollution could get even worse.

<https://www.portlandmercury.com/blogtown/2019/04/30/26407016/oregons-largest-dairy-farm-wants-to-cash-in-on-cow-shit-environmental-groups-are-calling-bs>

California should not be doing business with bad actors whom are causing environmental disasters such as Threemile Canyon. We believe that the Low Carbon Fuel Standard requires that participating entities must be in compliance with both California environmental law and local environmental rules. On top of that they should not be causing avoidable environmental damage where they are located and a particular fuel pathway should not be making local environmental problems worse. CARB should be honest and state clearly that this is not the case if projects such as this proposal are approved. Threemile Canyon may be in current compliance with all of their permits but that does not automatically mean they are not polluting local air and groundwater at the same time.

In any case, CARB must verify that each applicant is conforming with all mandated environmental requirements prior to approving any application and must incorporate reporting procedures that ensure ongoing compliance with legal mandates.

Double Counting of Carbon Credits

Threemile Canyon has been using public money in Oregon, Cap and Trade funding in California, and now LCFS credits to pay for their dairy digesters and associated equipment. They don't deny that these subsidies and credits have been very lucrative. There is no attempt to show how different digester subsidies through the years have contributed to this project. Oregon itself seems to have a Low Carbon Fuel Standard and a cooperation agreement with California. How can the public be assured there is no double counting with all these intertwining projects and rules? Because the LCFS carbon credits in California are the most lucrative for the dairy Threemile Canyon seems to have forgone past projects such as generating their own heat or electricity for use locally. They seem to be going backwards from stopping the use of their own

manure generated methane in order to go to the most lucrative use of this methane in a neighboring state. This seems counterproductive if the goal is to actually reduce GHG emissions everywhere.

As stated in the application staff summary: “The biomethane and its environmental attributes claimed under this pathway shall not be claimed by any entity for any other purpose, nor under any other program notwithstanding the exceptions listed in LCFS Regulation section 95488.8(i)(1)(B)(3).” (underline added)

There should be a clear explanation in this application of past digester projects using Oregon tax incentives involving local electrical generation and how those projects fit into this one.

Incentivized Production of Methane

California should not be in the business of incentivizing the production of methane through the LCFS. The following statement in the application shows that this LCFS project will incentivize the production of methane beyond simply putting liquified manure from these dairies into digesters. “Threemile’s anaerobic digester works by providing an oxygen-free environment for microorganisms to break down the organics in the manure, as well as in vegetable waste trucked in from area food processing companies. That produces a biogas that’s about 60 percent methane and 40 percent carbon dioxide.” What was done with the vegetable waste before it was trucked to these digesters? Is this the best use of this waste? Does not this activity increase methane production because there is a lucrative demand for this climate heating methane in California?

Is TMC permitted for more animals than they currently claim are onsite with this application? If so, this project, if approved, will incentivize them to add even more cows to what is already a massive operation.

Other subsidies to produce methane at these dairies includes the following comments which were brought up at an Oregon Department of the Treasury panel meeting in 2018:

- The project has been approved for an Enterprise Zone tax abatement. That means it won’t pay any property taxes for five years.
- It will continue to receive Oregon’s Biomass Tax Credit until that program expires, Myers told the state panel.
- The biggest revenue stream will come from taking advantage of incentive structures like Oregon’s Clean Fuels Program and California’s Low Carbon Fuel Standard, Mary Macpherson, then an Equilibrium vice president, told the panel.
- Myers told the panel. It also will be profitable business, he said. “We think we’ve got a good runway for 5 to 10 years, Myers said. “It’s going to stabilize our dairy business.”

<https://www.statesmanjournal.com/story/tech/science/environment/2019/03/31/oregon-threemile-canyon-farms-dairy-natural-gas-manure/3247197002/>

Here are more examples of public subsidies for the production of methane printed in Bloomberglaw.com :

Farms' Plans to Make Gas From Manure Draw Environmentalists' Ire

June 14, 2019

Threemile entities received \$1.84 million in 2018 through Oregon's Bovine Manure Tax Credit in 2018, according to figures obtained through a public records request to the state Department of Agriculture.

The manure credit replaced a now defunct state business energy tax credit, which yielded about \$2 million in credits against state taxes, Marty Myers, Threemile Canyon Farms general manager, said.

Construction of the roughly \$30 million digester was subsidized by a grant of about \$6 million from the federal government under the American Recovery and Reinvestment Act.

The digester went online in 2013 and has been producing electricity for sale to Pacific Power.

But selling the electricity has never been a big moneymaker, and the dairy often didn't break even, Myers said.

Threemile also sells 35,000 to 40,000 offset credits per year under California's cap-and-trade program, which Myers said yields somewhere between \$200,000 and \$300,000.

Converting the project to pipeline bio-methane promises much better returns, in part because three California customers, whom Myers wouldn't identify, plan to use the gas for transportation fuel.

The return on each offset credit under California's Low Carbon Fuel Standard is much more lucrative than the return on credits through the cap-and-trade program, Myers said.

<https://news.bloomberglaw.com/environment-and-energy/farms-plans-to-make-gas-from-manure-draw-environmentalists-ire>

This project and similar projects do not just undermine California's climate and environmental justice goals, but actually incentivize increased production of methane (and the concomitant pollution that accompanies methane production). To the extent that dairy farms are making manure and waste management decisions to increase methane production – such as increasing herd size to increase, in whole or in part, manure production, opting out of solid separation to

increase methane, sometimes taking in food wastes for digestion, and even opting for liquefied manure management instead of methods that prevent production of methane in the first place – they should not reap the benefits of the LCFS program, designed to reduce greenhouse gases, instead of incentivizing production thereof.

The Life Cycle Assessment (LCA) fails to account for alternatives to dairy manure management. These industrialized milk operations are not forced to have liquid manure lagoons. Dry manure handling and placing animals on pasture can both reduce methane emissions. This project does not collect methane from all of the lagoons. The methane released to the air by these dairy operations must offset any methane collected and accounted for in the LCA. This methane is also not produced except with fossil fuel based inputs for raising the cows plus processing and exporting the milk. These inputs must be accounted for in the LCA.

The LCA must look at the totality of the methane released by these dairies. Not all of the methane produced at these dairies is collected. The additional methane emissions and other GHG emissions associated with these dairy operations must be calculated and applied as a negative offset against the collected methane.

The project will either maintain or increase current levels of methane use and leakage. This dairy methane will be blended with fossil fuel sourced natural gas allowing the use of this type of natural gas or methane to continue into the indefinite future. This dairy methane should not be a crutch to the fossil fuel industry in this way. Fossil fuel companies do not produce this dairy methane yet they advertise their support of dairy methane production since it will allow them to provide fossil fuel based energy forever. Nothing could be further from the truth as California looks at a zero carbon energy future within the next few decades.

<https://www.chevron.com/stories/chevron-calbio-biogas-partnership>

The use of this dairy methane as a negative carbon transportation fuel appears to be directly counter to California's GHG reduction goals. This and other similar LCFS projects forces California to accept and use fossil fuel based natural gas vehicles into the indefinite future as a replacement for diesel vehicles. The infrastructure of pipelines and natural gas fueling stations will be expanded because of projects like this. Leakage of methane is abundant throughout the natural gas system from production to pipelines to trucking to end use.

It should be obvious that the use of fossil fuel in internal combustion engines designed for transportation is not part of California's future. This contradiction with these LCFS projects collecting methane for vehicle fuel must be explained.

* * * *

In conclusion, this project should be denied because it will harm air quality in both Oregon and California, threaten air and water quality in Oregon, and fails to consider the full lifecycle emissions of methane production from the dairy farms and feedstocks. Furthermore, there is

inadequate data to determine the extent to which the project will reduce greenhouse gas emissions and fails to take into consideration how the project will incentivize production and emission of greenhouse gases. Also, the lack of information hides the fact there may be double counting of carbon credits. Unless and until there is publicly available and verifiable data demonstrating that this project will not produce negative local air and water impacts, and the extent to which this project will actually reduce greenhouse gas emissions that could not otherwise be reduced by other means, CARB must deny this application.

These comments also incorporate by reference the comments on this application that were submitted by Stand Up to Factory Farms.

Sincerely,

Tom Frantz, Association of Irrigated Residents

Ara Marderosian, Sequoia ForestKeeper

Rebecca Spector, Center for Food Safety

Tyler Lobdell, Food and Water Watch

Phoebe Seaton, Leadership Counsel for Justice and Accountability

Caroline Farrell, Center on Race, Poverty, and the Environment

Brent Newell, Public Justice

Catherine Garoupa White, Central Valley Air Quality Coalition

Hannah Connor, Center for Biological Diversity

Nayamin Martinez, Central California Environmental Justice Network